

SECTION 5-112. DEVELOPMENT AND SUBDIVISION REQUIREMENTS.

(Ord. 3199 - 11/16/98; Amd. Ord. 4412 - 9/2/08)

A. **Purpose.** It is the purpose of this Section to establish standards and regulations for the review and approval of the development and subdivision of land within the Village and its extraterritorial jurisdiction in accordance with the Village's Comprehensive Plan, Official Map, Capital Improvements Program, and other goals, policies and regulations of the Village. (Ord. 4412 - 9/2/08)

B. Jurisdiction and Applicability.

1. These procedures shall be applicable to:

- a. all lots of record, subdivisions and re-subdivisions, planned developments and development of land within the corporate limits of the Village and within one and one-half (1 1/2) miles beyond the corporate limits of the Village;
- b. in the event another municipality's extraterritorial jurisdiction overlaps the extraterritorial jurisdiction of the Village and there is a boundary agreement between the Village and that municipality, these subdivision regulations shall be applicable to the territory as described in the agreement;
- c. in the event another municipality's extraterritorial jurisdiction overlaps the extraterritorial jurisdiction of the Village and there is no applicable boundary agreement, these regulations shall be applicable to the territory from the corporate limits of the Village to a median line equidistant from its boundary and the boundary of the other corporate authority nearest the Village at any given point on the land;
- d. Not-with-standing the provisions of Subsection c, above, if a development or subdivision is primarily located within a neighboring municipality's extraterritorial jurisdiction, and where only a small percentage of the development or subdivision would be affected by the exercise of the Village's jurisdiction, the applicant would not be required to obtain development or subdivision approval by the Village. However, if the Village Manager determines that a substantial benefit to the Village would be achieved by such review, such as the review of significant drainage, streets or other development or subdivision-related issues, then the applicant shall be required to comply with the provisions of these regulations. The applicant may appeal the determination of the Village Manager to the Board of Trustees; and (Ord. 4412 - 9/2/08)
- e. the development or subdivision of any lot or parcel of land by use of metes and bounds description for the purpose of sale, transfer or lease for a period of time exceeding five (5) years. (Ord. 4412 - 9/2/08)

2. Except as provided in Subsection 3 of this Section, no land, structure or planned development within the Village or its extraterritorial jurisdiction may be developed, used, or occupied unless a final plan has been approved in accordance with the terms of these regulations. (Ord. 4412 - 9/2/08)

3. These development and subdivision procedures shall not be applicable to:

- a. the sale or exchange of parcels of land between owners of adjoining and contiguous land which does not involve any new streets or easements of access or create an unlawful condition on the property;
- b. the conveyance of parcels of land or interests therein for uses as rights of way for railroads or other public utility facilities which does not involve any new streets or easements of access;
- c. the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
- d. the conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
- e. conveyances made to correct descriptions in prior conveyances;
- f. additions, improvements, remodeling or renovation of less than 20% of the square footage of the original structure; and
- g. the development of a single family home on a single lot of record created after 1955.

C. General Procedures.

1. **Development Review.** For all development review procedures associated with the approval process refer to Section 5-101 of these regulations. (Ord. 4412 - 9/2/08)

D. Record Plat of Subdivision Procedure.

1. **Purpose.** The purpose of the record plat of subdivision review is to determine whether the record plat, and required subsequent plats as a result of the subdivision, are in substantial conformance with the approved final plan. This procedure shall include but not be limited to plats of vacation, dedication, easement, abrogation and consolidation. (Ord. 4412 - 9/2/08)

2. **Initiation.** An application for record plat of subdivision review may be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land proposed for subdivision. Topographical and profile studies must be submitted prior to plat approval. Park land shall be deeded to the Village prior to plat approval. All conditions of Village Board plan approval must be addressed and security provided for landscaping prior to plat approval. (Ord. 3070-10/20/9; Amd. Ord. 4412 - 9/2/08)

3. **Review and Recommendation by the Development Services Department.**After a final plan has been approved by the Board of Trustees, the petitioner shall prepare and submit an application and a record plat of subdivision on mylar or vellum to the Development Services Department. Said Department shall certify that the record plat conforms to the approved final plan. A recommendation will then be forwarded to the Board of Trustees. (Ord. 3672 - 8/5/02; Amd. Ord. 4412 - 9/2/08)

4. **Board Action.** Upon receipt of the recommendation of the Development Services Department staff on a record plat, the Board of Trustees shall review the application and approve, continue with conditions, or disapprove the record plat pursuant to Section 5-101.B.3.c. The Village President, the Village Clerk, and the Village Comptroller shall sign the approved record plat. (Ord. 3672 - 8/5/02; Amd. Ord. 4412 - 9/2/08)

5. **Recording of Plat.** All record plats shall be recorded by the Village with the Recorder of Deeds or Registrar of Titles in the County in which the land is located.

All record plats shall be recorded at a time specified by the developer, within one (1) year of approval of the final plan by the Village. No record plat shall be recorded until the developer has withdrawn the property from registration in Torrens pursuant to the procedures required by law, has satisfactorily complied with the provisions of Subsection E, below, regarding guarantees of improvements, has paid the fee of the Recorder or Registrar of Titles, and has paid any other applicable fees.

a. Plats should include the required school district statement within the owner's certificate;

b. Plats should include the authorization statement from surveyor authorizing the representative of the Village of Orland Park to record the plat.

E. Guarantees for Improvement Completion

1. **General.** In order to assure that growth in the Village will be orderly and to guarantee the completion of public or private improvements required by these regulations after final approval, no final engineering and no building permits shall be approved/issued, and no installation or construction of such improvements shall commence until the requirements of this Section have been met. This Section shall also apply to development within the Village's one and one-half (1 1/2) mile extraterritorial jurisdiction unless the Village obtains written documentation from the developer that he or she has provided the other applicable governmental unit with a performance guarantee, insuring the completion of such improvements. The provision of any performance guarantee does not in any way relieve the developer and/or owner from the obligation to complete all private or public improvements related to the development. (Ord.2746 - 6/5/95; Amd. Ord. 4412 - 9/2/08)

2. **Performance Guarantee.** A performance guarantee acceptable to the Village must be provided in accordance with the provisions of this Section and shall constitute part of the final approval required by the Board of Trustees. The guarantee shall constitute an agreement signed by the applicant and the Village Manager, and approved by the Village Attorney, that guarantees the completion of all required improvements within a specified time. The agreement shall indicate the title and date of the final engineering plans reviewed by the designee of the Engineering Department, for the purpose of establishing the guarantee amount, and that security as provided in this section, equal to 125% of the total projected costs of public improvements. This shall be submitted to the Village. (Ord. 3070 10/20/97; Ord. 4412 9/2/08; Amd. Ord. 5653 - 11/1/21; Amd. Ord. 5705 4/4/22)

3. **Security Methods.** One of the following security methods shall be utilized to guarantee the completion of public improvements:

a. Letter of Credit

1. **Form:** The applicant may file an irrevocable letter of credit issued by any local financial institution approved by the Village Manager and the Village Attorney, in accordance with guidelines established by the Board of Trustees. The letter of credit shall be in the same written form as the sample letter of credit that is provided by the Finance Department.

2. **Terms:** The letter of credit shall be in an amount sufficient to pay for the cost of construction of the public improvements, landscaping on private and public property for single family and multi-family residential developments and all non-residential developments, and all engineering costs if deemed necessary by the Director of Engineering. The Village will collect an additional 7% of the total cost of construction to recover for management and administrative time and expenses incurred by the Village staff in processing and administering the public improvements and landscaping. Any conditions that the applicant or issuing financial institution seeks to attach to collection or use of the funds, must be included in the terms of the letter of credit. The letter of credit shall provide that the issuing financial institution shall pay to the Village, or as the Village directs, such amounts as may be required to complete the improvements according to the approved specifications. The letter of credit should provide that its amount will be reduced from time to time as payments for improvements approved by the Director of Engineering are made, but at no time shall the available balance be less than fifteen percent (15%) of the total estimated cost of the improvements yet to be accepted by the Village. (Ord. 4125 – 4/17/06; Amd. Ord. 5653 - 11/1/21)

3. **Time Limit:** The letter of credit shall be irrevocable for at least twelve (12) months and shall have an expiration date of not less than sixty (60) days after the date of completion specified for the improvements. The letter of credit shall automatically be extended for additional periods of one (1) year unless the Village notifies the applicant at least thirty (30) days in advance of the expiration date that the Village will not accept an extension of the letter of credit. If any balance remains at the expiration of any time limit placed on the letter of credit, the applicant shall be notified that the current letter of credit must be renewed or that said balance must either be deposited with the Village in a cash escrow, or a new letter of credit must be provided.

(Amd. Ord. 5312 – 7/16/18)

b. **Other Guarantee Security Method.** The Board of Trustees may, at its discretion, approve any other security method.

(Ord. 4412 - 9/2/08)

4. **Insufficient Fund Balance.** If, at any time before the construction of all required improvements has been completed, the balance of funds remaining undisbursed under any guarantee provided in accordance with this section is not sufficient, in the judgment of the Director of Engineering, to cover the costs of construction of said improvements and all engineering costs (including the engineering and inspection fees of the Village) or if by reason of any order, decree or writ of any court, or for any other reason, the said undisbursed balance of funds shall be withheld, diminished or otherwise unavailable for the purposes provided herein, the applicant agrees to cause the balance to be increased to such amount as shall be required by the Village for such purposes, in the exercise of its judgment, or shall provide such other guarantee of performance as may be required by the Village. (Ord. 4412 9/2/08; Amd. Ord. 5653 - 11/1/21)

5. **Time Limit.** All performance guarantees shall provide that if the required improvements are not installed within two (2) years of approval of the final plan, or a period of time otherwise specified by the Village, or in an applicable agreement between the Village and developer, the Village may deem the applicant to be in default, and may proceed in accordance with Section 6 below. (Ord. 4412 – 9/2/08)

6. **Default.** In the event the Director of Engineering determines, in the exercise of his judgment, that the applicant has failed to install proposed improvements in accordance with the approved plans and specifications, or has failed to comply with the terms of the guarantees provided in this Section, the Board of Trustees may take any of the following actions:

a. **Disbursement of Letter of Credit** The Board of Trustees may advise the applicant in writing of the failure to install improvements, and give the applicant thirty (30) days to cure such failure. If the applicant fails to cure said failure, the Village may, at its option, declare the applicant in default, and all monies on deposit pursuant to the letter of credit shall be disbursed by the letter of credit provider upon authorization of the Director of Engineering.

b. **Disbursement of Other Security Guarantees.** The Board of Trustees may advise the applicant in writing of the failure to install improvements, and give the applicant thirty (30) days to cure such failure. If the applicant fails to cure said failure, the Village may, at its option, declare the applicant in default, and all monies on deposit pursuant to the specified security guarantee shall be disbursed by the guarantee provider upon authorization of the Director of Engineering.

(Ord. 4412 – 9/2/08; Amd. Ord. 5653 - 11/1/21)

7. **Guarantee Amount.** The guarantee amount required by the Village as stated in Section 5-112.E.2 Performance Guarantee shall include all public improvements and other improvements necessary to meet Village and other regulatory requirements, as approved and designated by the Director of Engineering.

(Amd. Ord. 5653 - 11/1/21)

Construction Cost:

a. One hundred twenty-five percent (125%) of the estimated construction cost of all public improvements, including public improvements on private property, as approved and designated by the Director of Engineering;

1. Note: The provisions of 8.a.3.a below plus the provisions of 8.a.3.b below equal to the above mentioned provision in 7.a

b. Plus one-hundred percent (100%) of the estimated cost of landscaping on private and public property. In single family detached developments, private foundation landscaping and lawn seeding are not included in the letter of credit.

(Ord. 4412 – 9/2/08; Amd. Ord. 4574 – 7/6/10; Amd. Ord. 5653 - 11/1/21)

8. **Reduction in Amount of Guarantee**

a. The applicant may from time to time as the public improvements are constructed, request a reduction in the amount of guarantee furnished. Said request shall be made by the applicant to the Engineering Department by filing the below documents. The Village Manager's Office shall provide final approval of the request for a reduction in the amount guarantee furnished.

1. A request for reduction indicating the requested amount;

2. A new or substitute letter of credit, or other approved security method for the reduced amount, if required (to be filed within seven (7) days after the approval of the reduction);

3. An estimate by the applicant's engineer containing the following information:

a. The estimated cost of construction as defined in Section 5-112.E.7.a;

b. The cost of contingencies and escalation of the cost of public improvements shall increase the above estimated amount by twenty-five percent (25%);

c. Fifteen percent (15%) of the cost of construction of the improvements constructed and in place shall remain in the letter of credit; and

4. Evidence acceptable to the Village Attorney that the cost of the public improvements is either paid or otherwise

adequately provided for.

b. The Engineering Department shall recommend to the Village Manager's Office approval or disapproval of said request. No reduction in the guarantee furnished shall be granted which would reduce said guarantee below a sum which is referenced in 5-112.E.8.a.3.

c. In the event the reduction in amount of guarantee is approved by the Village Manager's Office for a letter of credit, such approval shall not become effective unless a new or substitute letter of credit is received by the Village within seven (7) days after such approval.

(Ord. 4412 - 9/2/08; Amd. Ord. 5653 - 11/1/21)

9. **Inspection and Certification of Improvements.**

a. **General.** Unless otherwise specifically provided, inspection of the construction of the improvements shall be by the Director of Engineering or Village Consultant, and shall be paid for by the applicant should the Village require compensation for its efforts. No improvements shall be constructed, and therefore no improvements shall be inspected, prior to final plan approval.

b. **Certification.** Upon completion of all required construction, the applicant's engineer shall certify that the improvements comply in all respects with the plans and specifications approved by the Board of Trustees. All work shall at all times be subject to inspection by the Village Manager, the Director of Engineering, other Village officials, and their representatives. Regardless of contracts, agreements, or inspections performed, the final responsibility for the construction of all improvements in accordance with the applicable standards rests with the applicant. Certification by the applicant's engineer shall not constitute a waiver by the Village of the right to draw funds under the security provided herein on account of defects in or failure of any improvement that is detected or which occurs following such certification.

c. **Notice of Defects.** The Director of Engineering shall provide timely notice to the developer whenever inspection reveals that an improvement does not conform to the 1 standards and specifications required by these regulations. The developer shall have thirty (30) days from the issuance of such notice to cure or to substantially cure such defect. The Village may not declare a default during the thirty (30) day cure period on account of any such defect unless it is clear that the developer does not intend to cure the defect.

d. **Exemptions.** Because neighboring jurisdictions and other utility districts are responsible for inspecting construction sites within their territorial limits, and because the Village desires to avoid duplicating the inspection of these projects, the Village shall only inspect development located within its corporate limits. The Village shall be entitled to rely on the written inspection reports submitted by the engineers of such neighboring jurisdictions and utility districts. The Director of Engineering shall be entitled to verify any inspection report received from a neighboring jurisdiction or utility district, and shall be given access to the construction site to conduct such independent analyses. (Amd. Ord. 5653 - 11/1/21)

e. **Engineering Plan Review and Inspection Fee.**

1. **Engineering Plan Review.** The plans and specifications for all public and private improvements that shall be made under the provisions of these regulations shall be submitted to the Village Development Services Department for inspection and review. As compensation for Village staff plan review, a fee, if determined by ordinance of the Village Board of Trustees, shall be paid to the Village at the time the plans and specifications are finally approved by the Village. In addition, compensation for plan review by an engineering consultant for the Village shall be equal to the amount charged to the Village by the consultant and shall be paid by the applicant to the Village prior to the issuance of building permits.

a. Compensation for engineering plan review by Village staff shall be set by ordinance of the Village Board, and shall be paid by the applicant to the Village at the time of final engineering approval and before a building permit is issued. The compensation levels may be amended from time to time. For an updated schedule contact the Development Services Department. (Ord. 4412 - 9/2/08)

2. **Engineering Inspections.** All public and private improvements located within the Village's corporate limits that are guaranteed under the provisions of this Section shall be inspected during the course of construction by the Director of Engineering, the Village's Engineering Consultant, or their designee. As compensation for such inspection by Village staff, a fee if determined by ordinance of the Village Board of Trustees shall be paid to the Village at the time the final engineering plans are approved by the Director of Engineering. In addition, compensation for engineering inspection by an engineering consultant for the Village shall be equal to the amount charged to the Village by the consultant and shall be paid by the applicant to the Village prior to the issuance of building permits.

a. Compensation for engineering inspections by Village staff shall be set by ordinance of the Village Board, and shall be paid by the applicant to the Village. The compensation levels may be amended from time to time. For an updated schedule contact the Development Services Department.

(Ord. 4412 - 9/2/08)

3. **Landscape Plan Review and Inspections.** All preliminary landscape plans submitted to the Village in conjunction with single family and multi-family developments over two (2) units and with all non-residential developments, or for any other required landscape plans as detailed in Section 6-305, Landscape and Tree Preservation, shall be reviewed by the Plan Commission, the Committee of the Whole, if required by Section 5-101.A.4, before Village Board approval. All final landscape plans shall incorporate conditions of approval of the Board approved preliminary landscape plan, and shall be reviewed and receive final approval from the Development Services Department upon recommendation of approval by the

Village landscape consultant, if applicable.

Upon installation of required landscaping, the developer or property owner shall contact the Development Services Department to schedule a landscape inspection, which will initiate the landscape inspection process. All landscaping shall be inspected for proper installation and compliance with the approved landscape plan and any associated documentation, including hydro-period analyses or M&M Plans. A minimum of three (3) years of consecutive naturalized landscape area inspection approvals shall be attained before Village approval and acceptance of any stormwater management area. A minimum of one (1) year of site landscape approvals shall be attained before a letter of credit reduction can be requested. No letter of credit release shall be issued until a final landscape inspection approval has been granted by the Development Services Department. The fees charged to the Village by its landscaping consultant for landscape plan review shall be paid by the petitioner to the Village at the time of petition. Fees charged to the Village by its landscaping consultant for inspections of installed landscaping shall be paid by the petitioner to the Village by the applicant before final letter of credit release. (Ord. 3672 - 8/5/02; Amd. Ord. 5061-1/18/16; Amd. Ord. 5221 - 9/18/17; Amd. Ord. 5312 - 7/16/18; Amd. Ord. 5476 - 1/20/20; Amd. Ord. 5653 - 11/1/21)

10. **Maintenance Guarantee.**

a. **General.** The applicant shall guarantee the public improvements against defects in materials and workmanship for a period of two (2) years from the date of acceptance of public improvements by the Village. The applicant agrees to repair or replace any of said public improvements, including landscaping, which, during said two (2) year period after acceptance, shall become damaged or deficient due to defective materials or workmanship.

b. **Private Street Improvements.** The applicant shall guarantee the private street improvements against defects in materials and workmanship for a period of two (2) years from the date of acceptance of private street improvements by the Village. The maintenance of private roadways shall be the responsibility of the applicant until the time of final maintenance guaranty release, when the owner or homeowner's association shall become responsible for maintenance.

c. **Conditions of Guarantee.** The guarantee required by this Section shall include five percent (5%) of the final construction costs of the improvements in order to guarantee the cost of replacement of any defective materials used in the construction of the improvements. Said amount shall remain in force for the aforesaid two (2) year maintenance period and shall be for use by the Village to effect such repairs deemed necessary for public safety and which the applicant has neglected to repair for a forty-eight (48) hour period after notification.

d. **Disbursements of Account.** Disbursements from the letter of credit or other security guarantee shall be made solely upon the direction of the Village, and shall not be subject to approval or disapproval by the applicant or the financial institution issuing the letter of credit or their agents.

e. **Return of Funds.** Within forty-five (45) days following the two (2) year maintenance period, the the financial institution issuing the letter of credit or other security guarantee shall release to the applicant, without further demand or notice, any balance of funds then remaining undisbursed under said letter of credit or other security guarantee. The financial institution shall notify the Village of such return of funds to the applicant.

(Ord. 4412 - 9/2/08)

11. **Damage and Nuisance Guarantee.**

a. **General.** The guarantee of completion of public improvements shall also provide for the repair of damages and abatement of nuisances created by the applicant with respect to existing and subsequently installed landscaping, streets, sidewalks, curbs and gutters, parkways, water and sanitary sewerage facilities, culverts, catch basins and/or storm sewers.

b. **Guarantee Provisions.** The damage and nuisance guarantee shall be in the total or prorated amount of \$1,000 per platted block, or total of five percent (5%) of the construction cost of the new improvements, whichever amount is greater, and shall be provided upon the commencement of land development by letter of credit as provided in Section 5-112.E.3. In addition, security shall be required in the amount necessary to remove any silt eroded and deposited within one-half (1/2) mile of the construction site.

c. **Release of Funds.** Upon completion of all required development or subdivision improvements, the applicant's engineer shall prepare a certified statement that the improvements comply with the plans and specifications approved by the Board of Trustees, and shall forward the statement to the Village, together with a request for preliminary approval of improvements. The Director of Engineering shall verify whether the improvements comply with the approved plans and specifications, and, pursuant to Section 5-112.E.10 shall prepare a statement of preliminary approval for the Board of Trustees. Upon acceptance of that statement of preliminary approval, the Board of Trustees shall direct the financial institution issuing the letter of credit or other security guarantee to pay over to the applicant, without further demand or notice, any balance of funds then remaining undisbursed under said letter of credit or other security guarantee.

(Ord. 4412 - 9/2/08; Amd. Ord. 5653 - 11/1/21)

F. **Acceptance of Improvements.** The approval of a subdivision plat by the Village Board of Trustees shall not constitute an acceptance by the Village of any improvements constructed therein. The Village shall accept the dedication of any validly certified improvement within thirty (30) days of the developer's offer to dedicate the improvement. The acceptance of improvements shall be made as follows:

1. **Letter of Acceptance from the Village Manager's Office.** The Village Manager's Office, with a written recommendation from the Engineering Department, shall issue a letter of acceptance to the petitioner/ applicant that states

that all required improvements have been fully completed, and that said improvements meet the design and operating standards and requirements of the Village and other agencies, including the Metropolitan Water Reclamation District of Greater Chicago, the Illinois Environmental Protection Agency, and the Illinois Department of Transportation. A copy of that letter shall be filed with the Development Services Department and the Village Manager's Office.

a. The applicant's engineer shall provide to the Engineering Department one hard copy and one copy in electronic format (Shape File (.shp) or Geodatabase (.gdb) format) compatible with current Village software of "as built" drawings. All utilities and public improvements located within the development, including right-of-way lines, lot numbers, lot lines, geographic positioning system coordinate data of all utilities, and development mapping date (Shape File (.shp) or Geodatabase (.gdb) format) compatible with the current Village geographic information system shall be included as overlay maps for the purposes of review.

(Ord. 4412 - 9/2/08; Amd. Ord. 5564 - 12/21/20; Amd. Ord. 5653 - 11/1/21; Amd. Ord. 5822 - 7/17/23)

2. **Approval of Village Attorney.** The Village Attorney shall approve such legal documentation as is necessary in his/her opinion to protect the interests of the Village, including valid lien waivers from all persons who provided materials or performed work on the improvement for which the certification has been offered. When applicable, the Village Attorney shall require the applicant to transfer title to the public improvements to the Village. The Village Attorney shall consider the following documents (where appropriate) for the closing:

- a. A bill of sale for the personal property to become public property located within the subdivision;
- b. An assignment to the Village of the applicant's rights and interests and warranties with respect to said personal property in the subdivision;
- c. A quit claim deed for all mains, valve boxes, streets, etc. for the public improvements located in the subdivision;
- d. UCC searches with respect to the public personal property located in the subdivision;
- e. Judgment searches for the applicant;
- f. Federal tax lien searches with respect to the development/ subdivision and the applicant;
- g. A certificate from the applicant's engineer that the improvements are constructed in accordance with the approved engineering drawings or an explanation and certification as to any deviations;
- h. A certificate from the applicant's attorney that the appropriate corporate action has been taken by the applicant to make the conveyances through the bill of sale, quit claim deed or other documents; and
- i. Disclosure of beneficial interest in any land trusts.

The Village's acceptance of dedication shall be expressly conditioned on the presentation by the applicant of a policy of title insurance for the benefit of the Village showing that the applicant owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the Village Attorney in his reasonable judgment. Acceptance of dedication of any improvement shall not constitute a waiver by the Village of the right to draw funds under the security provided herein on account of any defect in or failure of the improvement that is dedicated or which occurs after the acceptance of the dedication.

(Ord. 4412 - 9/2/08)

G. Private Improvements.

1. **Privately Owned Improvements.** Applicants constructing privately owned improvements, including landscaping, ponds, bike and walking paths, and private streets, shall demonstrate that adequate provision has been made for the maintenance of such improvements. Developers may create either a homeowners association or a reciprocal easement relationship as a means of demonstrating such provision.

2. **Homeowners Association Agreements.** The declaration of covenants establishing a homeowners' association shall provide for the maintenance of all common areas located within the development. The declaration shall further provide that if the common areas are not properly maintained, the Village shall have the right to perform or cause to be performed such maintenance, at the cost of the association or the owners of property within the development, as applicable. If the homeowners' association or owners, as applicable, should fail to pay such cost upon demand, the Village shall have the same rights as the homeowners' association to assess and to collect the costs of such maintenance and to enforce in its name and the name of the association, as applicable, all liens for such costs granted to the association.

3. **Easements.** If no homeowner's association is created, the applicant shall create a reciprocal easement relationship between and among all the properties in the development which makes adequate provision for the maintenance of all common areas in the development. The easement documents shall provide a mechanism for:

- a. sharing the costs of such maintenance on an equitable basis among the owners of all lots in the development;
- b. creating a lien on any owner's lot and for personal liability of such owner if such owner shall fail to pay such owner's share of such maintenance costs; and
- c. enforcing such liens.

4. **Maintenance Failure.** If the lot owners fail to perform such maintenance as may be reasonably necessary, the Village shall have the right to perform or cause to be performed such maintenance as the Village deems necessary, and in such event, may avail itself of the mechanism to collect the costs of such maintenance from the owners.

a. The approval of a homeowners' association declaration or a reciprocal easement relationship by the homeowners shall not constitute an acceptance by the Village of such provisions for the maintenance of the private improvements. All such documents are subject to the prior approval of the Village Attorney, which approval shall be obtained by the applicant before an application for final plat approval is submitted to the Board of Trustees.

H. Development and Subdivision Exactions: Dedication of Land and Fees In Lieu of Dedication.

1. **Purpose.** In order to serve the educational, recreational and transportation needs of new residents, applicants are required to either donate land or cash or make improvements to the Village's parks, schools, library system and transportation facilities as a condition of development or subdivision approval. (Ord. 2539 3/21/94; Amd. Ord. 4412 - 9/2/08)

2. Park Exactions.

a. **General Requirements.** The amount of park facilities for new residents is partly based on data and policy in the Village's Comprehensive Plan, which recommends a ratio of ten (10) acres of active parks per 1,000 residents. Of the ten (10) acres, five (5) acres are designated for neighborhood parks, and five (5) acres are designated for community parks. The capital improvement cost of Village parks averaged \$90,000 per acre in 1996. The fee schedule is \$45,000 per acre in 1996, \$67,500 in 1997, and \$90,000 in 1998. Because neighborhood parks are intended to contain facilities for immediately surrounding residents, and because the need for new neighborhood parks is generated by new residents, new housing development is being required by these regulations to pay 100% of land and capital costs. It is presumed that other revenues will pay for maintenance and services in the new neighborhood parks. Because community parks serve all residents, new housing development is only being required by these regulations to pay forty percent (40%) of land and capital costs. It is presumed that other revenues will pay for sixty percent (60%) of land and capital costs and one hundred percent (100%) of maintenance and service costs of community parks. Park exaction fees apply to all new residential developments of two or more units. (Ord.2860 - 3/18/96; Amd. Ord. 4412 - 9/2/08)

b. Fair Share Donation Formula.

1. **Land Ratio.** Applicants for approval for residential developments shall donate land to the Village at a ratio of seven (7) acres per 1,000 people anticipated to ultimately reside in that development.

2. **Cash Ratio.** Applicants for approval for residential developments shall also donate cash to the Village equal to the capital improvement cost of seven (7) acres of park land for every 1,000 people anticipated to ultimately reside in that development per Table 5-112(H)(9). The capital improvement cost per acre of park land shall be determined by the Village based on empirical study of existing Village parks and updated periodically.

3. **Projected Population.** The ultimate population of a development shall be projected using Table 5-112(H)(9). If an applicant does not commit to a unit mix in the application for development approval, the Village shall assume that all detached single family units will be four bedroom, all attached single family units will be three bedroom, and all apartment/condominium units will be two bedrooms. The Board of Trustees may amend these regulations and Table 5-112(H)(9) as new data becomes available on family size in the Village.

4. **Location.** Land donated for new parks shall be located based generally on the Village's Comprehensive Plan and official map and shall specifically consider the design of each development. The amount of land required shall not include wetlands, flood plain or detention facilities.

c. **Park Donation Substitutions.** If park land would be more appropriately located off-site, the Board of Trustees may agree to accept cash in lieu of land from an applicant for residential development. The amount of land required from an applicant for residential development may be reduced depending on the amount of the improved land, up to two (2) acres established in a private park by the applicant, provided that such land is determined to be of equivalent value and available by right to all residents of the development. The applicant shall present evidence that the private facility shall be equally available to all residents of the development.

(Ord. 4412 -9/2/08)

3. School Exactions.

a. **Requirement and Population Ratio.** The ultimate number of students to be generated by a development shall directly relate to the amount of land required to be dedicated for school sites. The land dedication requirement shall be determined by obtaining the ratio of: (1) estimated children to be served in each school classification over (2) the maximum recommended number of students to be served in such school classification as stated herein and then applying such ratio to (3) the minimum recommended number of acres for a school site of each such school classification. The product of this calculation shall be the number of acres of land the applicant must provide in order for the Village to have sufficient land for school sites to serve the estimated increase of children in each such school classification.

(Ord. 4412 -9/2/08)

b. **School Classification and Size of School Site.** School classifications and size of school sites within the Village and its planning jurisdiction shall be determined in accordance with the following criteria: (Ord. 2539 - 3/21/94)

School Classifications by Grades	Maximum Number of Students for each such School Classifications	Minimum Number of Acres of and for each School Site of Such Classifications
Elementary Schools- Grades K-5	600 Students	12 Acres
Junior High Schools Grades 6-8	700 Students	19.5 Acres
High School Grades 9-12	2,500 Students (Ord. 4183 - 9/18/06)	66 Acres (Ord. 2539 - 3/21/94)

c. **Location.** The Village's Comprehensive Plan shall be used as the criteria in locating school sites. If the Comprehensive Plan fails to provide the necessary designation for the location of particular school sites, then such designation shall be provided by the Village in cooperation with the affected school district. Such information shall be made available to a subdivider within thirty (30) days of the request for such information.

d. **School Access.** All land dedicated for school sites shall have vehicular access to public streets from two (2) separate points, as approved by the Board of Trustees.

4. **Combining Lands.**

a. Whenever possible, and whenever in the best interests of the Village and the affected school district, land dedicated for park and recreation sites shall be contiguous to land dedicated for a school site.

b. Where the development is less than forty (40) acres, park and recreation land or school sites which are to be dedicated should, where possible, and in the best interests of the Village and affected school districts, be combined with dedications from adjoining developments in order to produce usable park and recreation lands or school sites and thereby minimize hardship on a particular applicant. (Ord. 4412 - 9/2/08)

5. Criteria for Requiring a Contribution of Cash in Lieu of Park and Recreation Land and School Sites.

a. **General.** Where the development is small and the resulting site is too small to be practical, or when the available land is inappropriate for park and recreation land use or for a school site, or when land for park and recreation use cannot be made contiguous to land dedication for a school site, the Board of Trustees, upon recommendation of the affected school district and using the standards provided in this Section as a guide, shall determine whether the applicant shall be required to pay a cash contribution in lieu of the required land dedication.

b. **School and Park Accounting Trusts and Use of Fees.**

1. The cash contributions in lieu of land for park and recreation use shall be held in trust by the Village for expenditure by the Village or by such other appropriate agency, as determined by the Board of Trustees and as set out by intergovernmental agreement. Such cash contributions shall be used solely for the acquisition of land for parks and recreation which will be available to serve the immediate or future needs of the residents of the subdivision or development, or for the improvement of recreation facilities and other parks already existing within the Village which will benefit the development or subdivision.

2. The cash contributions in lieu of school sites and the cash paid relating to high schools shall be held in trust by the affected school district. Such cash contributions shall be used for the acquisition of land for a school site, the improvement of existing or new sites or the construction of new schools, or the addition or improvement of existing buildings to serve the immediate or future needs of children from that development or subdivision or for the improvement to any existing school site which will benefit the development or subdivision.

c. **Refunds.** If any portion of a cash contribution in lieu of park and recreation land dedication or cash contribution in lieu of school site land dedication is not expended for the purposes set forth above within fifteen (15) years from the date of receipt, said portion shall be refunded to the applicant or any successors of such applicant who made such contribution if so requested.

(Ord. 4412 - 9/2/08)

6. **Transportation Exactions.**

a. **General Requirements.** All applicants shall install improvements to the Village's transportation system that the Village requires to serve the proposed development or subdivision, and shall pay an exaction in lieu, as a condition of the development or subdivision approval.

b. **Credit.** All applicants shall be entitled to a credit against the payment of this transportation exaction for any of the following improvements:

1. Any improvements required by the Village to off-site roads not contiguous to the development;

2. Any road improvements to Township maintained roads that are contiguous to the development that will be dedicated to the Village pursuant to an agreement between the Township and the Village within three (3) years after final approval by the Board of Trustees of the subdivision or re-subdivision plat or final development plan pursuant to the terms of Subsection E hereof.

3. Applicants will not be entitled to a credit for road improvements which provide for safe access to the development, including but not limited to turn lanes, deceleration lanes and road widenings. (Ord.2860 - 3/18/96)

c. **Fair Share Exaction.** All applicants shall pay the following transportation exaction, except applicants that are redeveloping properties of similar impact that have already contributed transportation exactions:

Residential:	\$1,500 per lot or per dwelling unit, whichever is greater
Nonresidential:	\$1.15 per sq. ft. for retail
	\$0.90 per sq. ft. for office
	\$0.60 per sq. ft. for industrial

These fees are based on the expected traffic that will be generated by each type of development, based on the estimated cost per lane mile. If the density or intensity of the development at the time of building permit issuance exceeds that which the applicant had represented that he or she would build at the time of plat approval, the applicant shall pay an additional fee, based on the fees set forth in this Section. If there is any question regarding the appropriate category for a nonresidential development for the purposes of this subsection, the nonresidential development shall be treated as if the development belonged in the most similar category, as determined by the Development Services Department or its designee. An applicant may appeal this determination to the Board of Trustees. The Village may elect to assume the obligation of an exaction fee as an incentive to encourage industrial and office development, so long as the Village follows the standards and procedures adopted by the Village for determining when such abatement is appropriate. (Amd. Ord. 4926 - 9/15/14)

d. **Transportation Accounting Trust and Use of Fees.** The cash contributions shall be held in trust by the Village, and shall be used for the purpose of acquisition, expansion and development of the transportation facilities that are needed to serve the immediate or future needs of residents from that development or for the improvement to any transportation facility which will benefit the development. The funds collected shall be expended for facilities that include, but are not limited to:

1. design and construction plan preparation;
2. right-of-way acquisition;
3. site acquisition;
4. construction or improvement of new or existing through lanes;
5. construction or improvement of new or existing turn lanes;
6. construction or improvement of new or existing bridges;
7. construction or improvement of new or existing drainage facilities in conjunction with roadway construction;
8. purchase and installation of street lighting and traffic signalization; and
9. construction or improvement of new or existing curbs, sidewalks, medians and shoulders.

(Ord. 4412 - 9/2/08)

7. **Library Fees.**

a. **General Requirements.** All applicants for residential developments within the Village shall pay a library fee in the amount of \$125.00 per each residential unit to the Village. The cash contribution shall be held in trust by the Village for expenditure by the Orland Park Library Board.

b. **Timing of Payment.** The fee shall be a one time charge payable in full prior to the issuance of a building permit.

c. **Use of Funds.** The library fees collected shall be used only for library improvements and services. Library "improvements and services" are defined to include expenses for library personnel and library operation, the cost of library buildings, books, and other materials.

d. **Exemptions.** Applicants of the following residential development shall be exempted from payment of the library fee:

1. Alterations or expansion of an existing dwelling unit where no additional units are created and the use is not changed.
2. The construction of accessory buildings or structures which are not dwelling units and which do not constitute an increase in intensity or use; and
3. The replacement of a destroyed or partially destroyed building or structure of the same size and use. (Ord. 2539 3/21/94)

8. **Criteria for Requiring Dedication and Contribution.** There will be situations in developments when a combination

of land dedication and a contribution in lieu of land are both necessary. These occasions will arise when:

a. Only a portion of the land to be developed is proposed as the location for park and recreation lands, school site purposes or transportation facilities. That portion of the land within the development falling within any of these locations shall be dedicated as a site 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 park and recreation land or school site or transportation facility site has already been acquired and only a small portion of land is needed from the development to complete the site. The small portion shall be dedicated and a cash contribution shall be required in lieu of any additional land that would have been required to be dedicated.

(Ord. 4412 - 9/2/08)

9. **Fair Market Value.** The cash contributions in lieu of land shall be based on the "fair market value" of improved land in the area. Improved land for purposes of this Section is specified in Section 10 below.

a. The "fair market value" of such improved land is \$134,689 per acre as of January 1, 2009 for all properties within the Village and its one and one half (1 ½) mile jurisdiction. Refer to the Village of Orland Park fee structure summary in the Development Services Department.

(Ord. 4574 - 7/6/10)

b. The "fair market value" of such improved land is \$75,000 per acre until January 1, 1997, for all properties within the Village and its one and one half (1 ½) mile jurisdiction. After January 1, 1997, the "fair market value" shall be increased by a factor of five (5) percent per annum, on January 1 of each year beginning with 1998. Refer to the Village of Orland Park fee structure summary in the Development Services Department.

c. The applicable figure shall be used in making any calculation herein unless the applicant or an affected school district files a written objection thereto with the Board of Trustees. In the event of any such objection, the applicant or affected school district shall submit an appraisal by an appraiser mutually acceptable to the applicant and the Board of Trustees. The appraisal shall show the "fair market value" per acre of such improved site as described in Subsection 10 (a) below in the area of the development. A final determination of said "fair market value" per acre of such improved site shall be made by the Board of Trustees based upon such information submitted by the appraiser and from other sources which may be obtained by the Board of Trustees or the affected school district or the applicant. When evidence is presented to support a written objection, it shall be specific to the applicable area:

1. Unincorporated areas of Orland and Palos Townships.
2. Unincorporated areas of Homer and Frankfort Townships.
3. Village of Orland Park.

(Ord. 3354 - 4/17/00; Amd. Ord. 4412 - 9/2/08)

10. **Density Formula.**

a. A document entitled, "Table of Estimated Ultimate Population Per Dwelling Unit," prepared by the Illinois School Consulting Service located in Naperville, Illinois, is attached hereto as Table 5-112(H)(9). Such Table 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 cash contributions in lieu thereof. It is recognized that population density, age distribution and local conditions change over a period of time. Therefore, the Table shall be updated every two (2) years, if felt necessary in the opinion of the Board of Trustees to reflect the latest Table published by the Illinois Consulting Service or a comparable organization. If the Board of Trustees fails to renew and update said Table, such failure shall not be deemed to invalidate this Section or any parts hereof.

b. An applicant may file a written objection to Table 5-112(H)(9) with the Board of Trustees and shall submit his or her own demographic study that shows the estimated additional population to be generated from the development. The Board of Trustees shall make a determination of the density formula to be used in calculating the dedication or contribution required herein after review of such demographic information.

c. An applicant of detached single family dwellings with commonly maintained lots may present to the Board of Trustees written evidence to support a request that the dwellings be treated as single family attached dwellings for school impact fee purposes. Such evidence shall include, but need not be limited to, an anticipated resident profile, discussion of marketing efforts to attract that profile, a description of the common amenities to be provided and a discussion of why the proposed development is expected to generate fewer school age children than a similar single family development with privately maintained lots. The Board of Trustees shall make a determination after considering the evidence submitted by the applicant.

(Ord. 3354 - 4/17/00; Amd. Ord. 4412 - 9/2/08)

Table of Estimated Ultimate Population 5-112.H.9

Table 5-112(H)(9) Table of Estimated Ultimate Population Per Dwelling Unit (School Donation)

(Children Per Unit)

Type of Unit	Pre-School	Elementary	Junior High	TOTAL	High School		
		Grades K-5	Grades 6-8	Grades K-8	Grades 9-12	Adults	Total Per
	0-4 Years	5-10 Years	11-13 Years	5-13 Years	14-17 Years	18 and Up	Unit

Table of Estimated Ultimate Population 5-112.H.9

Table 5-112(H)(9) Table of Estimated Ultimate Population Per Dwelling Unit (School Donation)

(Children Per Unit)

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		Grades K-5	Grades 6-8	Grades K-8	Grades 9-12	Adults	Total Per
	0-4 Years	5-10 Years	11-13 Years	5-13 Years	14-17 Years	18 and Up	Unit

Detached Single Family

2 Bedroom	0.12	0.411	0.138	0.549	0.222	1.856	2.746
3 Bedroom	0.268	0.486	0.153	0.639	0.135	1.913	2.955
4 Bedroom	0.371	0.702	0.259	0.961	0.242	1.985	3.532
5 Bedroom	0.386	0.59	0.236	0.826	0.242	2.191	3.645

Attached Single Family

1 Bedroom	0	0	0	0	0	0	0
2 Bedroom	0.206	0.084	0.057	0.141	0.03	1.318	1.697
3 Bedroom	0.214	0.104	0.039	0.143	0.05	1.966	2.374
4 Bedroom	0.183	0.271	0.106	0.377	0.105	2.102	2.767

Apartments

Efficiency	0	0	0	0	0	1.4	1.4
1 Bedroom	0.058	0.032	0.012	0.044	0.013	1.653	1.71
2 Bedroom	0.129	0.064	0.031	0.095	0.038	1.744	2.007
3 Bedroom	0.199	0.115	0.073	0.188	0.083	2.005	2.475

NOTE: There are only three (3) significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one category is provided. The same is true with apartments; thus one category. Because of the relatively short history of some newer types of detached and attached single-family units, individual evaluations may be necessary.

(Ord. 4412 - 9/2/08)

11. **Improved Sites.** All sites to be dedicated or conveyed shall be improved by the applicant at his or her cost. The improvement of sites shall be guaranteed by giving security in conformance with the requirements of Subsection E.

a. An "improved site" for purposes of this Section shall include, but shall not be limited to the following:

1. Contour and grading and storm water management;
2. All utilities to service the site consisting of electric, water, sewer, streets, curbs and gutters and all required drainage;
3. Sites for parks and recreation lands shall include improvements for paved parking facilities sufficient to service such sites;

4. Sites for park and recreation lands shall comply with all landscape regulations established pursuant to the Village's Zoning Ordinance; and

5. Other improvements that may be appropriate to the site.

b. **Responsibility.** The improvement plans, installation and security required by these regulations shall be the responsibility of the applicant.

c. **Plan Approval.** Plans for the improvement of dedicated sites shall be approved by the Board of Trustees as part of the development's final development approval.

d. **Phasing.** The improvement of all dedicated sites shall be completed by the applicant before twenty percent (20%) of the occupancy permits for dwelling units have been issued, or by another date as determined by the Board of Trustees but in no event later than three (3) years of final approval.

12. **Reservation of Additional Land.** Where the Comprehensive Plan or the designation by the Village calls for a larger amount of land in a particular subdivision or planned development for school sites, park and recreation use, transportation facilities, or as additional public land than the applicant is required to dedicate, the land needed beyond the applicant's contribution shall be reserved for subsequent acquisition by the Village or the school district in accordance with the requirements of the Illinois Municipal Code, Ill. Rev. Stat. ch. 24, §11-12-8.

13. **Topography and Grading.** The slope, topography and geology of the dedicated site and its surroundings must be suitable for its intended purposes. An applicant shall allow the Village or school district to have access to proposed sites for the purpose of conducting soil boring tests.

14. **Timing of Conveyance** An applicant shall convey to the Village, the affected school district, or such other governmental body, corporation or other qualified owner as determined by the Village, the land required under this Section at the time of final approval by the Board of Trustees of the subdivision or resubdivision plat or final development plan, by the delivery of the following documents:

(Ord. 4412 - 9/2/08)

a. A good and sufficient Trustee's or Warranty Deed conveying fee simple title free and clear of all liens and encumbrances (except liens or encumbrances dischargeable by cash accompanying said deed) except for current real estate taxes;

b. Preliminary commitment for title insurance issued by a title insurance company acceptable to the Board of Trustees covering a date not more than thirty (30) days prior to the date of conveyance in the amount of the fair market value of the land to be conveyed as established herein, subject only to the matters hereof, and to such other matters acceptable to the Board of Trustees;

c. An affidavit of title to the real estate;

d. Completed Illinois Department of Revenue and Cook County Real Estate Declarations;

e. A deposit of money equal to 115% of the most ascertainable taxes for the year, pro-rated to the date the deed is delivered.

f. A plat of survey containing thereon the legal description of the property to be conveyed and any other matters which may be required by the Development Services Department or the school district. (Ord. 4412 - 9/2/08)

15. **Timing of Payment.** Cash contributions required under this Section shall be paid as follows:

a. All fees required pursuant to this Section, including fees arising from the development of land located in the Village's one and one-half (1-1/2) mile planning jurisdiction that may be the subject of an intergovernmental agreement, shall be due and owing prior to final plat approval by the Board of Trustees, or as provided by the terms of a development agreement entered into between the Village and an applicant. However, if the applicant's lands are the subject matter of an annexation agreement, payment shall be made at the times and in the manner provided in said annexation agreement. (Ord. 4412 - 9/2/08)

b. It shall be the duty of the Village Comptroller to establish regulations and procedures for the collection and administration of the cash contributions required under this Section.

(Amd. Ord. 5476 - 1/20/20)

16. **Credit for Land or Contribution of Cash in Lieu of Land Given Under Annexation Agreements** If an applicant has given land and a contribution of money or a contribution of cash in lieu of land as part of an annexation agreement and thereafter the applicant or his or her successors submits a plan of subdivision or resubdivision or final development plan which will increase the density of population in those areas covered by the annexation agreement, then the applicant shall be required to make an additional contribution of park and recreation land or land for school sites or land for transportation facilities or of cash in lieu thereof as outlined above. The additional land or cash in lieu of land to be contributed shall be the difference between that land or cash in lieu of land required as determined from the plat of subdivision or resubdivision or final development plan and that land or cash in lieu of land previously contributed under the annexation agreement. (Amd. Ord. 5476 - 1/20/20)

17. **Development Agreements.** Upon review and recommendation of the Committee of the Whole and approval by the

Board of Trustees, the Village may enter into a development agreement with any applicant which sets forth the time and manner of compliance with the terms of this Section and implementation of any other provisions of these regulations. If any development agreement has previously been entered into between the Village and an applicant, and that agreement remains in full force and effect, the provisions of that agreement shall control and this Section shall have no force and effect, provided that the applicant complies with the terms of such agreement. However, if such applicant is not complying with the terms of that agreement or the agreement does not set forth a specific dollar amount that the applicant is required to pay to the Village, then the provisions of this Section shall apply and the Village shall utilize the fees set forth herein to determine the appropriate exaction amount, less credits, if any. Further, if the development contemplated by an applicant has either increased in density or has otherwise increased the traffic on the Village's transportation system previously estimated following annexation, then the development agreement previously entered into between the applicant and the Village shall be amended and the applicant shall pay an additional pro-rata fee, based on the fees set forth in this Section, less credits, if any. (Ord. 4412 - 9/2/08; Amd. Ord. 5476 - 1/20/20)

18. **Audit Reports.** The Village shall have the right to request and receive from the affected school districts, or such other appropriate agencies, annual audit reports and any other information the Village may need from time to time to insure compliance with this Section. (Amd. Ord. 5476 - 1/20/20)

19. **Indemnification.** The affected school districts, or such other appropriate agencies, shall be required, as a condition of receiving the donations hereunder, to indemnify and hold harmless the Village from any loss, claims and causes of actions of every kind incurred by the Village as a result, either directly or indirectly, of the passage of this Section, or the administration or enforcement thereof, including any so incurred as a result of a lawsuit brought or threatened by an applicant. If the Village is sued by any applicant as a result, directly or indirectly, of the passage of this Section, the school district or other appropriate agencies affected may, at its option, undertake the defense thereof but all costs and expenses of such defense, including attorneys' fees, shall then be borne by the affected school district or appropriate agencies. (Ord. 4412 - 9/2/08; Amd. Ord. 5476 - 1/20/20)