

**AMENDING CHAPTER 9 “ESTABLISHMENT OF FEES”,
SECTION 9.05 “ENGINEERING PLAN REVIEW AND
INSPECTION FEES” OF THE MUNICIPAL CODE OF THE
CITY OF DEKALB, ILLINOIS.**

WHEREAS, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq.; and,

WHEREAS, the City of DeKalb currently maintains Section 9.05 of the City Code, which relates to ENGINEERING REVIEW AND INSPECTION FEES; and,

WHEREAS, the City Council has determined that it is necessary and advantageous to adopt certain updates to Section 9.05, to protect the public health, safety and welfare and to provide for the orderly review of proposed development within the City;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. Ordinance Amended.

Section 9.05 of the City Code shall be amended as follows:

9.05 ENGINEERING AND PLANNING REVIEW AND INSPECTION FEES.

a) **Review and Inspection Fee Liability:** Whenever a proposed development or construction project located within the City, whether a subdivision, planned unit development, building construction or expansion project or other project, requires plan review and/or construction observation or inspection to be performed by a land planner, licensed civil engineer or a person supervised by a land planner or licensed civil engineer, as established either by local, state or federal regulations or as determined by the City Engineer or Community Development Director, the Owner of the project shall be responsible for the land planning and zoning review fees, the civil engineering plan review fees and the construction observation/inspection fees incurred by the City in the course of performing such services. As a condition precedent to the City initiating formal review of any project subject to this requirement, the Owner shall be required to execute a Professional Fee Reimbursement Agreement in form and content acceptable to the City Manager, and shall be required to post the escrow contemplated in subsection (e) below.

b) **Third Party Services Authorized:** The City Engineer shall be authorized and directed to determine, on an ongoing basis, whether civil engineering review/inspection projects or portions thereof should be completed by City personnel or by qualified third parties. The City Engineer shall be authorized to select among the then-current list of qualified third party providers which has been approved by the City Council, and the City Manager or designee shall be authorized to execute agreements with such third party providers, without regard to staff spending authority, provided that the expenses incurred

by such third party providers are subject to a professional fee reimbursement agreement as described below. With regard to land planning and zoning review services, the Community Development Director shall make the determination as to whether the services should be provided by City personnel or by qualified third parties, and the Community Development Director shall utilize the same process as outlined above for the selection and contracting of the same.

c) **Method of Calculating Fees:** Where the services contemplated in (a) are provided to the City by a third party, the Owner shall be responsible for the payment of the actual costs incurred by the City, plus a five percent (5%) administrative fee to the City. Where the services contemplated in (a) are provided by City personnel, the City Engineer and Community Development Director shall impose charges for such costs using a fee schedule acceptable to the City Manager, which is comparable in charges and rates to the fee schedules utilized by the then-current and approved third party service providers. The fee for such City personnel shall be based on the hourly fee schedule, plus costs, plus a five percent (5%) administrative fee to the City. Charges shall be invoiced on a monthly basis. Any fees incurred hereunder shall constitute a debt due and owing to the City.

d) **Professional Fee Reimbursement Agreement:** The City Manager or designee thereof shall be authorized to execute a Professional Fee Reimbursement Agreement with the Owner of any project contemplated in (a) above. Such agreement shall provide that the Owner is responsible for establishing an initial fee escrow with the City, out of which the City shall pay expenses associated with the City's provision of land planning and zoning review services and civil engineering services to the project for plan review and construction observation/inspection. Such agreement shall provide that the escrow shall be regularly replenished to replace expenses paid out of the escrow, and shall provide remedies for circumstances where the Owner fails to fulfill its obligations, including but not limited to cessation of work on the project and/or the issuance of stop work orders for the project. As such agreement is providing for the payment of expenses by a third party, the City Manager shall be authorized to execute such agreement without regard to otherwise applicable staff spending authority limitations.

e) **Escrow Fund:** The Finance Director or designee shall establish a means of aggregating dollars received by the City for project escrow, and accounting for such funds on a project by project basis. Sums received by the City shall be held in escrow, and any interest accruing on such funds shall accrue to the City. The Finance Director or designee shall process payments out of such escrow accounts in accordance with the City's usual and customary bill payment process, and shall regularly inform the Owner as to the remaining balance in such project escrow. The Owner shall, at any time upon request of the City, provide additional funding to maintain the escrow account at a level that will ensure funding of all outstanding eligible expenses relating to the project. Upon successful completion of a project, including successful inspection of all items requiring inspection, the issuance of a final certificate of occupancy and the conclusion of any applicable maintenance or warranty periods for public improvements, the Finance Director shall refund any unused portion of the escrow to the Owner.

1) Initial escrow amounts shall be established as follows:

Number of Acres Affected	Initial Escrow Amount
0 – 0.5 acres	\$ 1,000.00
0.51 – 1.0 acres	\$ 2,000.00
1.01 acres – 5.0 acres	\$ 5,000.00
5.01 acres – 10.0 acres	\$10,000.00
10.01 acres or more	\$15,000.00

2) Upon submission of a plan, permit application or other initiating document and accompanying professional fee reimbursement agreement and escrow, the City Engineer and Community Development Director shall review the initial escrow amount deposited, and based upon the anticipated complexity of the plan, may require the escrow amount to be increased to an amount acceptable to the City Engineer and Community Development Director. Increasing the escrow to a sum in excess of \$20,000.00 shall require the approval of the City Manager.

3) The payment of the foregoing escrow and execution of a professional fee reimbursement agreement shall obviate the need for payment of a \$1,000 site plan review fee otherwise imposed under City Code, and this Ordinance shall supersede any ordinance imposing a contrary requirement.

f) **Public Projects:** The foregoing requirements shall not be applicable to any project constructed by the City of DeKalb or a superior governmental entity. The City Manager is authorized to enter into intergovernmental agreements with other units of local government for the purpose of providing for their establishment of escrow accounts or direct reimbursement or payment of costs associated with the services contemplated in (a) above, for projects constructed by such other units of government.

Section 2. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

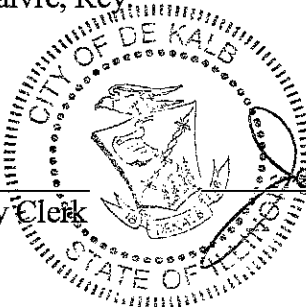
Section 3. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

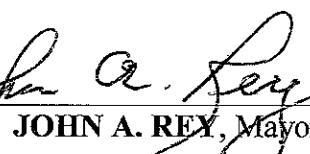
Section 4. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: March 15, 2016. Effective date: March 24, 2016.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a regular meeting thereof held on the 14th day of March, 2016 and approved by me as Mayor on the same day. First reading January 11, 2016. Passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

ATTEST:


JENNIFER JEEP JOHNSON, City Clerk




JOHN A. REY, Mayor