

ARTICLE 15

SUBDIVISION OF LAND

15.01 No Subdivision Without Plat Approval

1. No person may subdivide their land except in accordance with this Article.
2. All subdivisions of land within the City of DeKalb and lands under its extraterritorial jurisdiction shall be governed by applicable Illinois State Statutes; the Comprehensive Plan; the DeKalb Municipal Code; and this Ordinance.
3. Preliminary and final development plans for a “planned development” or portion thereof, which indicate the subdivision of property, shall meet the subdivision requirements provided in applicable Illinois State Statutes; the Comprehensive Plan; the DeKalb Municipal Code; and this Ordinance. (Also see Article 5, Subsection 5.13.10 of this Ordinance for Planned Development Procedures).
4. All subdivisions proposed outside of the corporate limits of the City of DeKalb, and under its extraterritorial jurisdiction, shall be reviewed and approved by the City Council for conformance with Article 9, “Streets, Sidewalks and Subdivision Design,” Article 10, “Utilities,” Article 11, “Floodways, Floodplains, Stormdrainage and Erosion,” applicable density and dimensional regulations contained in Article 5 of this Ordinance and with the City of DeKalb Comprehensive Plan.
5. Those subdivisions exempt from the Plats Act are also exempt from this Ordinance except where a new lot is created entirely or partially from the division of one (1) or more existing lots. In this instance, a plat of survey shall be prepared and signed by a registered Illinois Land Surveyor and shall be submitted to the Community Development Director. The Community Development Director shall solicit comments from all applicable City departments as to the plat of survey’s conformance with the City’s zoning and subdivision regulations. The Community Development Director shall forward to the City Manager a report and recommendation as to whether to approve the plat of survey. The actions of the City Manager shall be considered final, and without his/her approval, no such plat of survey shall be entitled to be recorded.

15.02 Pre-Application Meeting

1. Prior to formal application for a major or minor subdivision, the sub-divider shall schedule a pre-application meeting with the Community Development Director. The sub-divider and/or his or her representative shall attend the pre-application meeting and shall submit a sketch plan for review and comment by City Staff.

City Staff shall review and evaluate the sketch plan and shall report to the sub-divider, at the meeting or as soon as practicable thereafter, staff’s opinion as to the merits and feasibility of the subdivision and its improvements contemplated by the sketch plan. Staff shall also inform the sub-divider of the required standards, documentation submittals, and procedures to follow should the sub-divider decide to submit a formal application.

2. The sketch plan and/or its accompanying documents shall include information, all of which may be based on sources of information other than field survey data:
 - a. Name of the subdivision and a key map showing its location;
 - b. Name, address, and telephone number of the owner, sub-divider, engineer, and any other contact person;

- c. Acreage and zoning classification of the subdivision and the proposed number of lots;
 - d. The location of the tract in relation to the surrounding area, including names of adjacent property owners;
 - e. The approximate location of all existing land uses, structures, facilities and wooded areas within the tract proposed to be retained or demolished and within one hundred (100) feet of the tract;
 - f. Arrangement and dimensioning of all proposed lots, parks, and common areas;
 - g. Proposed location and width of street right-of-way, street pavement, alleys, and their relationship to the existing adjacent street system;
 - h. Proposed location of private access drives;
 - i. Proposed location and size of sanitary sewers, storm sewers, water mains, detention areas and their relationship to existing public utilities;
 - j. Contours with intervals of five (5) feet or less and a generalized drainage scheme;
 - k. A north arrow and scale (recommended scale is 1" = 100').
3. Whenever the sketch plan covers only a part of the sub-divider's contiguous land holdings, the sub-divider shall submit a drawing showing the probable future street and drainage system of the remaining portions of the sub-divider's land.
 4. It is advisable that the sub-divider contact other agencies, as appropriate, to obtain their requirements that may affect the proposed subdivision. Such agencies include:
 - a. Kishwaukee Water Reclamation District;
 - b. Illinois Department of Transportation (IDOT), c/o District Engineer;
 - c. County or Township Highway Department;
 - d. Water Resource Division, IDOT;
 - e. State of Illinois Environmental Protection Agency;
 - f. State of Illinois Historic Preservation Agency;
 - g. State of Illinois Department of Conservation;
 - h. Local public utility companies.

15.03 Planning and Zoning Commission Work Session

Prior to formal application for a subdivision, the sub-divider may submit the sketch plan for review at a work session held with the Planning and Zoning Commission. This work session is not mandatory but is highly encouraged. Work sessions are held at the Planning and Zoning Commission's regularly scheduled meetings.

15.04 Major and Minor Subdivisions

15.04.01 Major Subdivisions

Major subdivisions require the approval of a preliminary and a final plat. Documentation and procedural requirements for preliminary and final plat approval are contained in Sections 15.06 and 15.07 of this Article. A major subdivision is a subdivision having one or more of the following characteristics:

1. The subdivision has four (4) or more lots.
2. The total area of the subdivision is greater than five (5) acres in size.
3. There are proposed publicly dedicated streets, alleys, easements, parks, common areas, etc.
4. There are required improvements to be made within a public right-of-way other than concrete sidewalks, landscaping, monuments, lateral extensions of sanitary and storm sewers, and water mains.
5. There are variances or exceptions to this Ordinance being requested.

15.04.02 Minor Subdivisions

Minor subdivisions require only the approval of a final plat, in accordance with the regulations contained in Section 15.07 "Final Plats" of this Article. A minor subdivision has all of the following characteristics:

1. The subdivision has not more than three (3) lots.
2. There are no buildings or significant structures on the land to be subdivided.
3. The total area of the subdivision is not greater than five (5) acres in size.
4. There are no proposed publicly dedicated streets, alleys, easements, parks, common areas, etc.
5. Except for concrete sidewalks, landscaping, monuments, lateral extensions of sanitary and storm sewers, and water mains, there are no other required improvements to be made within a public right-of-way.
6. There are no variances or exceptions to this Ordinance being requested.

15.05 Dedication and Reservation of Land

1. Whenever a tract of land to be subdivided embraces all or any part of an existing or proposed arterial street, collector street, or other public way which have been designated as such in the adopted Comprehensive Plan, Official Map, or other officially adopted plans of the City, the sub-divider shall dedicate sufficient land to accommodate said arterial street, collector street, or other public area. The amount of land to be dedicated shall be indicated on the sub-divider's subdivision plat and shall be in accordance with the standards identified in Article 9, "Streets, Sidewalks and Subdivision Design," other appropriate articles in this Ordinance, or other duly adopted and accepted standards of the City of DeKalb or other public agencies.
2. Whenever any river, stream, or important surface watercourse is located in or adjacent to the land to be subdivided, the sub-divider shall dedicate an easement not less than twenty-five (25) feet in width along each side of said river, stream, or important surface watercourse. The purpose of the easement shall be for the potential widening, improving, or protecting of the river, stream, or important surface watercourse and for recreational use.

3. Where a park, school, or other public area is proposed by the Comprehensive Plan or other duly adopted official plans and is within the area being subdivided, said public area shall either be dedicated to the proper public agency or it shall be reserved for acquisition thereby within a specified time period. The amount of land to be dedicated shall be indicated on the sub-divider's subdivision plat and shall be in accordance with the accepted standards of the appropriate public agency. Where land is to be reserved for future acquisition, an agreement shall be entered into between the sub-divider and the proper public agency regarding the time and method of acquisition and the cost thereof and shall allow for the sub-divider to re-subdivide the reserved land if it is not acquired by the public agency within the prescribed time period.

15.06 Preliminary Plats

1. All major subdivisions, as defined in Subsection 15.04.01 above, require the approval of a preliminary plat. However, a plat that is otherwise classified as a major subdivision and has not more than three (3) lots may be exempted, upon written request by the sub-divider, from the preliminary plat requirements by the City Manager or his/her designee. Each sub-divider of land shall confer with the Community Development Director and other City Staff prior to the preparation of a preliminary plat in order to become thoroughly familiar with the City's Comprehensive Plan, this Ordinance, and any other regulations affecting the territory in which the proposed subdivision lies (see Section 15.02 "Pre-Application Meeting").
2. A sub-divider submitting a preliminary plat shall submit all information required by this Section. Failure to provide required information in the form specified shall be sufficient grounds for refusal to accept filing of the preliminary plat application or to reject a preliminary plat in any stage of the review and approval process.
3. In addition to meeting all of the preliminary plat submittal requirements in the following subsection, the developer of each preliminary plat shall clearly show the location and general design of any collector and arterial streets, major stormwater drainage facilities, main utility lines and facilities, and other features deemed necessary by the Planning and Zoning Commission and City Council on all of the contiguous property holdings of such developer, his/her agents, trustees, beneficiaries, or owners, whether or not said contiguous land holdings are intended for immediate development. The Planning and Zoning Commission and City Council shall take steps to assure that the developer is not omitting any contiguous holdings from the preliminary plat submittal and to prevent the circumvention of the purpose and intent of this paragraph.

15.06.01 Preliminary Plat Submittal Requirements

The sub-divider shall prepare and submit to the Community Development Director twelve (12) copies of a preliminary plat. The preliminary plat shall be at a scale of one inch equals fifty feet (1" = 50') or one inch equals one hundred feet (1" = 100'), shall be on a sheet not less than 8-1/2 inches by 14 inches (8-1/2" x 14") or greater than 30 inches by 36 inches (30" x 36") in size. The plat and any accompanying documents shall contain the following information:

1. Completed application form signed by the owner of the land to be subdivided and the required processing fees.
2. A key map showing the tract and its relation to the surrounding area.
3. A north arrow and graphic scale.
4. The name proposed for the tract or such part thereof as is proposed to be subdivided, which shall be original and not a duplication of the name of any previously recorded subdivision or development in the City of DeKalb.

5. The name proposed for the streets within the subdivision, which shall be original and not a duplication nor similar in spelling or sound to the names of other existing streets in the City of DeKalb.
6. The following names and addresses:
 - a. The record owner or owners of the tract;
 - b. The party who prepared the plat;
 - c. The party for whom the plat was prepared;
 - d. The engineer and land surveyor who will design improvements for and survey the tract or such part thereof as is proposed to be subdivided;
 - e. The owners of land immediately adjacent to the area proposed to be subdivided.
7. The acreage of the tract stated in tenths (0.1) of an acre and the measurement of the tract's boundaries to the nearest foot.
8. Sufficient existing and proposed contour data to indicate the slope and drainage of the tract and the high and low points thereof. Contour data shall extend one hundred fifty (150) feet beyond the limits of the subdivision boundaries. U.S.G.S. datum is required. Contours shall be at two (2) foot intervals.
9. The location within the tract or immediately adjacent thereto of existing and proposed property lines, uses and ownership of adjacent properties, water courses, sink holes, areas within the tract subject to inundation by, railroads, bridges, culverts, storm sewers, storm sewer laterals, detention/retention facilities, water mains, sanitary sewers, easements of record, existing buildings including their use and foundation elevations or other identified improvements that are to remain, proposed buildings (if known) and their use and foundation elevations, buried structures, and significant natural features such as wooded areas, wetlands, and areas of likely archaeological significance or areas of likely habitat for endangered species as they may be identified by the applicable State of Illinois agency.
10. The location within the tract or immediately adjacent thereto of existing field tiles along with their size, material make up, approximate depth, and active status. To determine this, an investigation shall be conducted making rational assumptions as to where the tiles are typically located based on the contour elevations of the site. A slit trench by backhoe or tractor shall be a minimum of three (3) feet wide, five (5) feet deep, and six (6) feet in length. To fully map field tile locations, slit trench excavation and field staking should occur at a minimum of one hundred (100) feet intervals with confirmation of the route between each interval through the use of additional slit trench, hand probes, or electronic location devices.
11. The alignment and width of existing and proposed street right-of-ways and pavements including additional right-of-ways along existing streets as may be required.
12. The results of any tests made to ascertain subsurface rock and soil conditions and the water table.
13. The Zoning District, including delineation of the Floodplain Overlay Zoning district, if any, and the Township, Range, Section (or U.S. Survey), School District, Fire District, and other special districts in which the tract is located.
14. The proposed depth and width of lots and other parcels measured to the nearest foot.

15. The location of and any proposed alteration, adjustment, or change in the elevation or topography of any area in a floodplain as shown on the Federal Emergency Management Administration's (FEMA) flood boundary and floodway maps.
16. The proposed area of lots in square feet, if the lots are less than one (1) acre in area, and in acres and tenths of acres if the lots are one (1) acre or more in area.
17. Approximate location of existing and proposed sidewalks, pedestrian walkways, bike paths, and nature trails within the tract to be subdivided and immediately adjacent thereto.
18. Proposed building setback lines (per property's zoning district classification).
19. Location, size, and dimension of all existing and proposed utilities and their easements along with written and signed statements by the sub-divider's engineer declaring that all utilities are or will be made adequate in size to accommodate the subdivision and its future land uses.
20. Grades and profiles of streets and sidewalks or written and signed statements by the sub-divider's engineer declaring that the grades and profiles will meet all applicable City of DeKalb standards.
21. Location and size of proposed detention/retention areas and how they will function along with the calculations and other data used to determine their ability to effectively accommodate the runoff to be generated by the subdivision (see Article 11, "Floodways, Floodplains, Stormdrainage and Erosion").
22. Platting/construction phases of the subdivision or planned development.
23. Traffic impact study if required by the City Council after receiving a recommendation from to be the Public Works Director.
24. A certification by an Illinois registered land surveyor who prepared the plat that the plat is a correct representation of all existing and proposed land divisions.

15.06.02 Preliminary Plat Review Procedure

1. The Community Development Director shall receive and then review the preliminary plat application and any associated documents to determine acceptability for submission. If the Community Development Director determines the application is complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing that the application has been accepted for review. This notification shall constitute the beginning of the preliminary plat review process timeline. If the Community Development Director determines the application is not complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing the reasons why the application is not complete and how the sub-divider can make his/her application acceptable for submission.
2. The Community Development Director or staff from other City Departments shall distribute copies of the preliminary plat and associated documents to the:
 - a. City of DeKalb Public Works Director and City Engineer;
 - b. City of DeKalb Chief Building Official;
 - c. City of DeKalb Fire Prevention Bureau, DeKalb Fire Department;
 - d. Kishwaukee Water Reclamation District;
 - e. DeKalb Community Unit School District;

- f. DeKalb Park District;
 - g. The applicable drainage district;
 - h. DeKalb County Soil and Water Conservation District;
 - i. DeKalb County Health Department, if any part of the platted land will not be served by a public sanitary sewer system;
 - j. State of Illinois Department of Transportation, the DeKalb County Highway Department, or Township Highway Department, if any part of the platted land will be adjacent to and/or accessed by one or more of the roadways under their respective jurisdictions.
 - k. Water Resource Division, IDOT, if any part of the platted land will be located in the floodplain.
3. The Community Development Director shall send a notice of the subdivision proposal to:
- a. Owners of property immediately adjacent to the proposed subdivision;
 - b. Public utility companies (i.e. electric, gas, telephone, cable television, etc.);
 - c. State of Illinois Historic Preservation Agency;
 - d. State of Illinois Department of Conservation.

The above listed City Departments, other public agencies, and property owners shall have up to thirty (30) days to review and comment on the proposed preliminary plat. Any comments shall be directed to the Community Development Director. If no comment is received within said thirty (30) days, the preliminary plat shall be considered as being acceptable to the non-responding City Department, other public agency or property owner.

4. The Community Development Director shall submit his/her report and recommendation on the proposed preliminary plat to the Planning and Zoning Commission within forty-five (45) days after formal acceptance of the application. The report shall be representative of all City Departments' and other public agencies' opinions and recommendations as to the preliminary plat's conformance with the Comprehensive Plan, other officially adopted plans and policies, this Ordinance, other City ordinances and standards, and the other public agencies' rules, standards, and procedures.
5. The Planning and Zoning Commission shall approve or disapprove the application for preliminary plat approval within ninety (90) days after formal acceptance of the application by the Community Development Director. If the Planning and Zoning Commission does not take action on the plat within ninety (90) days, the plat shall be referred to the City Council and be considered as recommended for approval by the Planning and Zoning Commission. The sub-divider and the Planning and Zoning Commission may mutually agree to extend the ninety (90) day period.
6. The City Council shall accept or reject said plat within thirty (30) days after its next regularly scheduled public meeting following the action of the Planning and Zoning Commission. If the City Council does not take action on the plat within the said thirty (30) days, the plat shall be considered approved by the City Council. The sub-divider and the City Council may mutually agree to extend the thirty (30) day period. Approval of the preliminary plat by the City Council does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat, in accordance with Section 15.07 "Final Plats" of this Article.
7. Approval of the preliminary plat shall be valid for a period of two (2) years from the date of City Council approval. If an application for final plat approval for all or a geographic portion of the

preliminary plat has not been filed within the two (2) year period, a resubmission of the preliminary plat shall be required if the applicant intends to pursue final plat approval.

15.07 Final Plats

1. A sub-divider submitting a final plat application shall submit all information required by this Section. Failure to provide required information in the form specified shall be sufficient grounds for refusal to accept the filing of a final plat application or to reject a final plat in any stage of the review and approval process.
2. Upon approval of a preliminary plat or if a subdivision is classified as a minor subdivision, the sub-divider shall submit an application for final plat approval. The application shall include all plans and documents prepared in conformance with Subsection 15.07.01 "Final Plat Document Requirements"; Subsection 15.07.02 "Engineering Plans"; and, if applicable, Subsection 15.07.03 "Maintenance of Common Land and Structures."

15.07.01 Final Plat Document Requirements

The sub-divider shall prepare and submit six (6) copies of the final plat to the Community Development Director. The final plat may include all or only part of the preliminary plat which has received approval. The final plat shall be drawn at a scale of one (1) inch equals fifty (5) feet (1" = 50'), on a sheet not less than eight and one-half (8-1/2) inches by fourteen (14) inches (8-1/2" x 14") but not greater than 30 inches by 36 inches (30" x 36") in size. The final plat document and any other accompanying documents shall contain the following information:

1. Completed application form signed by the owner of the land to be subdivided and the required processing fees.
2. Name and subdivision and description of property subdivided, a small sketch showing its location and extent, points of compass, scale of plat, and name and address of owner or owners or the sub-divider.
3. Accurate boundary lines with dimensions and bearings or angles, which provide a survey of the tract as required by Chapter 109 of the Illinois Revised Statutes.
4. Accurate distances and directions to the nearest known and permanent monuments from which this and future surveys are made. Reference corners shall be accurately described on the final plat.
5. Proper, valid legal boundary description of the subdivision, and including the area of the subdivision to the nearest one hundredth of an acre.
6. The lines of all proposed rights-of-way for streets and alleys with their width and names.
7. The accurate outline of any property which is offered for dedication for public use.
8. The property lines of all adjoining lands and the right-of-way lines of adjacent streets and alleys with their width and names.
9. All lot lines and an identification system for all lots and blocks.
10. Building lines, easements, and dimensions for any right-of-way provided for public uses, services or utilities along with a utility easement grant and reservation statement.
11. All dimensions; both, linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, and of any other areas for public or private use. The linear dimensions are to be expressed in feet and decimals of a foot.

12. Radii, arcs and chords, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners.
13. All survey monuments and bench marks together with their descriptions. The positions of all lot corners, beginnings and ends of curves and all angle points will be required to be marked in the field. Therefore, the location and material of all markers shall be noted on the plat. The applicant shall conform to the following requirements concerning monuments:
 - a. All federal, state, county, or official bench marks, monuments, or triangulation station in or adjacent to the subdivision shall be preserved. When a proposed improvement in a subdivision makes necessary the moving of bench marks, monuments, or triangulation stations, the authority having jurisdiction shall be notified and given sufficient time to take appropriate action;
 - b. Permanent monuments shall be set flush with the adjacent ground, shall have a suitable mark in the center of the top, shall be set in such manner that they will not be moved by frost; and shall be either:
 - 1) Iron pipe not less than three-fourth (3/4) inch in diameter and not less than twenty-two (22) inches in length;
 - 2) Solid square or round iron bars, five-eighth (5/8) inch thick and not less than twenty-two (22) inches in length;
 - 3) Stone or reinforced concrete, not less than thirty (30) inches long by four (4) inches square or five (5) inches in diameter.
 - c. Permanent monuments shall be erected at all corners or changes in direction of the exterior boundary; at points of curvature or points of tangency; at road intersections and block corners; at all lot corners and angles in lot lines; in all places and manner as otherwise prescribed by law (*Ill Rev. Stat. c. 109.1*).
14. Topographical and drainage studies inclusive of a drainage overlay pursuant to Chapter 109 of the Ill. State Statutes which have on their face a signed statement of a Illinois registered professional engineer, and the owner of the land or his duly authorized attorney, to the effect that to the best of their knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or, that if such surface water drainage will be changed, reasonable provision has been made for collection and diversion of such surface waters into public areas, or drains which the sub-divider has a right to use, and that such surface waters will be planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of the subdivision (see Article 11, "Floodways, Floodplains, Stormdrainage and Erosion," for specific surface water drainage control design criteria). The topographical and profile studies required herein shall not be recorded, but shall be retained and filed by the City as permanent public documents.
15. Written and signed statements (or evidence that they have been contacted) from the following agencies stating that the final plat document and engineering plans conform to their respective rules and standards.
 - a. The Illinois Department of Transportation, the DeKalb County Highway Department, or the Township Highway Department if any part of the subdivision will be accessed by one or more of the roadways under their respective jurisdictions;
 - b. Kishwaukee Water Reclamation District;

- c. Each of the public utility companies, where applicable (electric, gas, telephone, cable television, etc.);
 - d. The applicable drainage district;
 - e. DeKalb Community Unit School District, if any part of the subdivision includes land, or fees in lieu thereof, reserved or dedicated for school purposes;
 - f. DeKalb Park District, if any part of the subdivision includes land, or fees in lieu thereof, reserved or dedicated for park purposes;
 - g. DeKalb County Health Department, if any part of the subdivision will not be served by a public sewer system.
16. Certification by an Illinois registered land surveyor to the effect that the plan represents a survey made by him/her and that all the necessary survey monuments are correctly shown thereon.
 17. Private restrictions, covenants, and trusteeships and their periods of existence, if any. Should such restrictions and trusteeships be of such length as to make the lettering of same on plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat. Plats shall contain proper acknowledgment of owners and the consent by the mortgagee, if any, to said plat and restrictions.
 18. Signature blocks for the owners of the land to be subdivided, the Planning and Zoning Commission Chairman, the Mayor, the City Clerk, the City Engineer, the DeKalb County Clerk, and the DeKalb County Recorder. (2017-044)

15.07.02 Engineering Plans

1. As a part of the final plat application submittal, the sub-divider shall submit two (2) copies of engineering plans for the subdivision, or any portion of the subdivision included on the final plat, to the Public Works Department for review and approval.
2. The engineering plans which detail the construction and types of materials to be used in conjunction with the development of the subdivision's improvements shall be prepared by an Illinois registered professional engineer. Specific requirements for improvements are contained in Article 9, "Streets, Sidewalks and Subdivision Design," Article 10, "Utilities," Article 11, "Floodways, Floodplains and Stormdrainage Erosion," and the City's construction standards referenced therein. Any alterations of the common land or improvement within the common land will require the submission of detailed engineering plans and will be considered a required improvement.
3. Engineering plans shall be drawn at a scale of one (1) inch equals twenty (20) feet (1" = 20') on a sheet(s) twenty-four (24) inches by thirty-six (36) inches (24" x 36") and shall contain the following information:
 - a. Title page, which shall include a key map showing the relationship of the area to be subdivided to the tract and which shall reflect areas of the tract previously subdivided plus adjacent streets. In addition, the name, address, and telephone number of the developer and engineering firm, as well as an Illinois registered professional engineer's seal, shall be indicated;
 - b. North arrow and graphic scale shall be indicated on each plan sheet;
 - c. Two or more U.S.G.S. benchmarks, in or near the subdivision, to which the subdivision is referenced. The elevations shall be based on U.S.G.S. datum;

- d. List of the standards and specifications followed, citing volume, section, page, or other references;
 - e. Cross sections of proposed streets, drainage swales, detention/retention ponds, etc.;
 - f. Detail of all street improvements with pertinent design information including location and width of all proposed public or private right-of-way and private roadway easements, existing and proposed sanitary sewers and services, water mains, drainage channels, swales, storm sewers, including adequate natural discharge points, detention or retention facilities, and silt control measures;
 - g. Plans and profiles of streets, water mains, drainage swales, storm sewers, and sanitary sewers, scale not less than one inch equals twenty feet (1" = 20') horizontal and one inch equals 5 feet (1" = 5') vertical.
4. Approval of the engineering plans shall be valid for a period of two (2) years subject to state and/or federal mandated criteria from the date of approval, or for such longer period as the Public Works Director may determine to be advisable if such longer period is necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds, or other public requirements. If construction of the improvements have not been completed within the two (2) year period or if a one (1) year extension has not been requested by the sub-divider and granted by the City Council, a resubmission of the engineering plans may be required.

15.07.03 Maintenance of Common Land and Structures

The sub-divider shall cause language to be placed on the plat indicating that the operation and maintenance of designated common areas, common facilities, common buildings, and open spaces shall be under the control of a homeowner's association in accordance with the laws of the City of DeKalb governing such associations and in accordance with the following:

- 1. The Section shall apply to all associations created after the effective date of this ordinance to operate and maintain common areas, common buildings, and any common facilities in any subdivision. For purposes of this Section, the following words and phrases will have the following meanings, unless the context clearly indicates a different meaning:
 - a. *Association*: The owners' association to be formed for the owners of the property in the subdivision to maintain any open space, common grounds, or common buildings not dedicated to a public agency and accepted by the public agency.
 - b. *City*: The City of DeKalb
 - c. *Phased development*: Any development of real estate in which the owner, sub-divider, or developer substantially completes all the required improvements on one unit or phase of the total territory proposed to be subdivided before selling any lot in any other phase or unit of the entire territory.
 - d. *Planning and Zoning Commission*: The Planning and Zoning Commission of the city.
 - e. *Sub-divider*: Any person, firm, or corporation subdividing any land or proposing to subdivide any land, and any successor in interest to any such person purchasing subdivided land before final acceptance of all of the completed subdivision improvements.
 - f. *Subdivision association*: An association as defined above in this Section.
- 2. This Section shall be prospective in effect only and shall not apply to any homeowners' association in existence on the effective date of this ordinance.

3. This ordinance presents a model which may be followed in creating and operating a homeowners' association. Any alternative organization or arrangement relating to a homeowners' association giving the same degree of protection to the home owners, to the sub-divider, and to the City may be submitted to the Planning and Zoning Commission and City Council for approval. The Planning and Zoning Commission and City Council shall obtain an opinion from the City Attorney on the alternative proposal. If the alternative proposal provides, in all respects, protection equivalent to the protection given by the model set out in this Section to the homeowners, to the sub-divider, and to the municipality, the alternative shall be approved.
4. There shall be one membership in the association for each lot in the subdivision. If any lot is owned by more than one person, only one membership will accrue and only one vote may be cast on behalf of such membership. Each owner of each lot shall, upon receiving title to such lot, notify the association by a form or letter in writing stating who will cast the vote on behalf of the membership. The notice may state that either of two persons can cast the vote and the association may rely on such notice. No person shall purchase any lot in the subdivision without joining the association and agreeing to pay all assessments for operation and maintenance of open space, commonly owned ground, or other facilities of the association. The sub-divider shall record documents containing covenants running with the land covering these requirements.
5. The association shall be incorporated as a corporation not for profit or nonprofit corporation under the laws of this state.
6. There shall be a board of directors consisting of an odd number of persons each of whom shall be a member of the association. Members of the board of directors shall serve for terms not longer than one year each. Each member of the association shall be eligible to serve on the board of directors and any person may be elected for repeated terms on the board of directors. Elections of members of the board of directors shall be held at meetings of the association and shall be by written secret ballot. Each member may vote for as many persons as there are vacancies to be filled on the board and votes cannot be cumulative, that is no person can cast no more than one vote for any one candidate. Vacancies shall be filled for the remainder of the term by election of the membership in the same manner. If any member of the board of directors misses three consecutive regular meetings of the board of directors without an excuse, the member will be deemed to have vacated his position and the remaining members of the board shall call an election of the membership to elect a replacement.
7. The board of directors shall have the following powers and duties:
 - a. The board shall arrange for enforcement of all of the covenants running with the land relating to the subdivision.
 - b. The board shall arrange for payment of all taxes, special assessments, and other charges that may become liens against any property owned by the association or managed by the association.
 - c. The board of directors shall arrange for insurance, including casualty and liability insurance, and any other insurance that may be appropriate to protect the interest of the association.
 - d. The board of directors shall contract for goods and services required for operation and maintenance of the common areas, common facilities, and common buildings owned or operated by the association.
 - e. The board shall prepare proposed budgets and financial statements, provided that no budget shall be in effect until it is approved by the association membership at a meeting held in accordance with the requirements of this ordinance for membership meetings. Any member

may propose a budget and any member may propose any amendments to any budget prepared by the board of directors.

- f. The board of directors shall propose rules to be in effect in the common areas, common buildings, and common facilities owned or operated by the association, provided that such rules shall not be in effect until the rules are approved by the members of this association. Any member of the association may propose rules and propose any changes in rules submitted by the board of directors.
 - g. The board of directors may authorize any necessary repairs or replacements of components to any building or facility owned by the association. No expenditure of funds beyond the amounts in the budget approved by the membership may be authorized without approval of the membership.
8. The board of directors shall not take any of the following actions without approval of the membership:
- a. Authorizing any contract or entering into any contract for a term longer than one year. Any proposed contract, whereby more favorable terms can be obtained by contracting for more than one year and any situation where a contract for more than one year is necessary in order to arrange financing, shall be reported to the membership and such contract may be authorized with approval of the membership.
 - b. Any contract for an expenditure not covered by an item in the current budget.
 - c. Any capital improvement costing more than five percent of the total budget for the current fiscal year.
 - d. Any sale of any property of the association, provided that machinery may be used as a trade-in or may be sold when replacements are purchased out of funds available in the budget.
 - e. No member of the board of directors and no officer of the association shall receive any compensation for any services, provided that actual out-of-pocket expenses may be paid to a member or officer out of funds authorized in the budget.
9. The board of directors shall have regular meetings at least six times each year. The time and place of the meeting shall be posted in conspicuous places in the subdivision at least three days before the meeting. The complete agenda for the meeting shall be posted at least three days before the meeting, and no business shall be transacted which is not listed in the agenda. Any additional business may be taken up at a special meeting. Notice of the special meeting is given in the same manner as notice of the regular meeting. At the meetings, the president of the association shall preside, and the vice president shall preside in the absence of the president.

The secretary of the association shall take the minutes of the meeting, and in the absence of the secretary, the board of directors shall appoint any person who is a member of the association to take the minutes of the meeting. A majority of the members of the board of directors constitutes a quorum. If the number of members less than a quorum appears at any meeting, a majority of the members actually present may set a date for a special meeting. For any other action by the board of directors, a vote of a majority in number of the members of the board of directors is required, regardless of the number of members present at the meeting. Any motion, resolution, or any other action not receiving the favorable vote of a majority in the number of the members of the board of directors, regardless of the numbers actually present at the meeting, shall be deemed to have failed to pass.

10. The association shall have the following officers:

- a. A president, who shall also be a member of the board of directors.
- b. A vice president, who shall also be a member of the board of directors.
- c. A secretary, who need not be a member of the board of directors.
- d. A treasurer, who need not be a member of the board of directors.

The president shall have the authority to sign all contracts authorized by the board of directors, and the secretary shall have authority to attest to the president's signature. The vice president shall perform the duties of the president in the absence of the president. The treasurer shall be responsible for overseeing the financial affairs of the association, provided that the association may, if authorized by the board of directors and if funds are available in the approved budget, retain a full-time or part-time bookkeeper or financial advisor.

11. There shall be an election of officers and directors once each year for a one-year term. The elections shall be by written secret ballot, but no formal requirements need be made for the form of the ballot. The members shall designate one vote for an individual as president and member of the board, one vote for an individual as secretary and member of the board, and the rest of the votes shall be for members of the board who are not yet officers. Votes of members may not be cumulative, and each member may vote for no more than one person for each position to be filled. Elections shall be at a meeting of the members.
12. There shall be meetings of the members of the association at least twice each year. Special meetings of the members of the association may be called at any time by the president, by any three members of the board of directors, or by any five members of the association. Meetings of the members shall be called by giving a notice of the meeting stating the time and place of the meeting and listing the agenda for the meeting. No item may be acted on by the membership if it is not listed on the agenda for the meeting. A special meeting may be called by vote of the members present at any meeting, if such special meeting is necessary to give additional notice for additional items to be covered at the meeting. At least one-third (1/3) of the members of the association must be present to constitute a quorum for a meeting. A number of members less than one-third (1/3) may vote to call a special meeting after additional notice if less than one-third (1/3) of the members appear at any meeting. For all other business of the members, a majority of the members present at the meeting is required to pass any motion, resolution, or other matter.
13. The members of the association shall approve an annual budget after receiving a recommended budget from the board of directors. The members need not follow the recommendations of the board of directors.

The members may amend the budget at any time during the year at any regular meeting by adding amounts, adding additional items, reducing amounts, or removing items from the budget. Each property owner shall be required to pay an assessment in an amount determined each year by the board of directors based on an annual amount adopted by the association. The sub-divider shall cause to be recorded documents creating a covenant running with the land covering this obligation.
14. The association shall have a charter and by-laws which will be consistent with the regulations set out in this ordinance and which will assure that this ordinance is followed.
15. The association may be organized and start to do business at any time after the sub-divider has sold at least fifty (50) percent of the lots to consumers. The association must be organized forthwith after eighty (80) percent of the lots in the subdivision have been sold to consumers. The sub-divider shall not be entitled to membership in the association by virtue of owning some of the remaining lots in the subdivision. Provided that if the sub-divider intends in good faith to live in the subdivision, the sub-divider may reserve a lot for his home and obtain one membership thereon.

16. As soon as possible after the association has been chartered by the state, the sub-divider shall deliver to the association all personal property, together with bills of sale, warranties, and other documents of title involved in the common facilities. The sub-divider shall also transfer title to all real estate involved in common areas, common buildings, and common facilities to be owned by the association. The areas shown on the final plat as open space or common ground not dedicated and accepted by a public agency shall remain as open space or common ground and no structure shall be built upon such open space or common ground unless the structure is otherwise shown on the final plat, and no structure shown on the final plat may be enlarged without the prior written approval of the City Council and without the structure or addition being built according to the codes and ordinances of the City of DeKalb. The sub-divider shall record documents containing covenants running with the land covering these requirements.
17. The City of DeKalb shall have the standing and authority to enforce the provisions of this Section against the association or others in lawful control of the areas subject to this Section, to ensure compliance with the laws of the City of DeKalb.
18. The sub-divider shall record all necessary documents to indicate that the provisions of this Section shall constitute a covenant running with the land.
19. The provisions of this Section are separable and the invalidating of any part of this ordinance shall not affect the validity of the rest of this ordinance.
20. Any person, firm, or corporation violating any provision of this Section shall be fined not less than five dollars (\$5.00) and not more than five hundred dollars (\$500.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

15.07.04 Unit Owner's Association (Condominiums)

In the case of a condominium development, a unit owner's association shall be established in accordance with *Ill Rev. Stat. c. 30 ¶ 301*. A formal declaration (condominium bylaws), establishing covenants, conditions, restrictions, easements, etc. shall be filed simultaneously with the final plat in addition to the trust indentures.

15.07.05 Special Service Area

In the event of the failure of the owners-in-common to maintain common grounds (including, but not limited to, storm drainage control facilities) or as an alternative to trustee/association maintenance of such grounds, the City may establish a special service area. After holding a public hearing and receiving City Council approval by Ordinance, the City may provide specific maintenance to common grounds that are in addition to the municipal services provided to the City of DeKalb as a whole. The cost of said services shall be paid by the property owners within the established special service area boundaries based upon an annual tax on the equalized assessed value of real property in an amount sufficient to cover the City's expense. Said taxes shall be in addition to all other taxes provided by law and shall be levied pursuant to the provisions of the Revenue Act of 1939. The Special Service Area may be enacted after approval and recording of the final plat.

15.07.06 Final Plat Review and Approval

1. The Community Development Director shall receive and then review the final plat application inclusive of the final plat document and the engineering plans to determine acceptability for submission (the sub-divider may as an alternative submit the required engineering plans to the Public Works Director in which case the Community Development Director shall confirm with him/her that the plans have been submitted and are complete and in order). If the Community Development Director determines the application is complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing that the application

has been accepted for review. This notification shall constitute the beginning of the final plat review process timeline. If the Community Development Director determines the application is not complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing the reasons why the application is not complete and how the sub-divider can make his/her application acceptable for submission.

2. The Community Development Director shall distribute copies of the final plat application and all accompanying plans and documents to the following City Staff:
 - a. Public Works Director and City Engineer;
 - b. Chief Building Official;
 - c. Fire Prevention Bureau, DeKalb Fire Department;
 - d. City Attorney.

City Staff shall have up to fourteen (14) days to review and comment on the final plat application. Any comments shall be directed to the Community Development Director.

3. The Community Development Director shall submit his/her recommendation on the final plat to the Planning and Zoning Commission within twenty-one (21) days after formal acceptance of the application. The report shall be representative of all City Departments' and other public agencies' opinions and recommendations as to the final plat application's conformance with the previously approved preliminary plat, the Comprehensive Plan, other officially adopted plans and policies, this Ordinance, other City ordinances and standards, and the other public agencies' rules, standards, and procedures.
4. The Planning and Zoning Commission shall approve or disapprove the application for final plat within thirty (30) days after formal acceptance of the application by the Community Development Director. If the Planning and Zoning Commission does not take action on the plat within said thirty (30) days, the plat shall be referred to the City Council and be considered approved by the Planning and Zoning Commission. The sub-divider and the Planning and Zoning Commission may mutually agree to extend the thirty (30) day period.
5. After approval or disapproval by the Planning and Zoning Commission, the final plat shall be submitted to the City Council for final action. The City Council shall approve or deny the final plat within sixty (60) days after formal acceptance of the application by the Community Development Director. The sub-divider and the City Council may mutually agree to extend the sixty (60) day period. Approval of the final plat by the City Council does not constitute authorization to record the plat with DeKalb County Recorder's Office. Recording can take place after the appropriate procedures, as outlined in Section 15.09 "Requirements and Procedures Prior to Recording," are followed and completed.

15.08 Requirements and Procedures Prior to Recording of Plat

After the subdivision plat, engineering plans, and other associated documents have been approved by the City Council, the sub-divider shall meet the terms and conditions of this section.

15.08.01 Guarantee of Improvements

1. The sub-divider shall complete either one of the following options to guarantee the complete and proper construction of the public improvements proposed as part of the final plat of the subdivision:

- a. Complete the improvements in accordance with the approved engineering plans under the observation and inspection of the Public Works Department and the appropriate inspection agencies; or
 - b. Enter into an escrow agreement or post a land subdivision bond in accordance with the provisions hereafter set forth. The escrow agreement or land subdivision bond shall be prepared and executed on forms approved by the City Attorney. The bond or escrow agreement shall be approved by the City Attorney and, if appropriate, the City Council.
 - 1) An escrow agreement shall provide that there be deposited with the escrow agent to be held in an escrow account and subject to audits by the City of DeKalb, one of the following:
 - a) An irrevocable letter of credit or commitment from a lending institution to the escrow agent guaranteeing to such escrow agent the availability, from time to time upon demand, of a sum which shall be not less than one hundred twenty (120) percent of the estimate of the cost of the improvements as reflected by the approved engineering plans. The cost estimate shall be prepared by the sub-divider's engineer and approved by the Public Works Director;
 - b) Certificates of deposit, treasury bills, or other readily negotiable instruments, the type of which has been approved by the City Attorney, endorsed to the escrow agent and the cash value of which shall be in an amount of not less than one hundred twenty (120) percent of the estimate of the cost of the improvements as reflected by the approved engineering plans. The cost estimate shall be prepared by the sub-divider's engineer and approved by the Public Works Director;
 - c) A cash amount of not less than one hundred twenty (120) percent of the estimate of the cost of the improvements as reflected by the approved engineering plans. The cost estimate shall be prepared by the sub-divider's engineer and approved by the Public Works Director.
 - 2) A land subdivision bond shall be issued by a surety company or a title insurance company and shall insure or guarantee one hundred twenty (120) percent of the cost estimate for the construction and completion of the improvements shown by the approved engineering plans. Said cost estimate shall be prepared by the sub-divider's engineer and approved by the Public Works Director.
2. The bond shall remain in effect or the escrowed sum shall be held in the escrow by the escrow agent, as the case may be, until such time as the Public Works Director shall, by written authorization to the surety or escrow agent, release the surety from the obligation of the bond or the escrow agent from his obligation to retain the escrowed sum in the escrow account, which release may be partial and may occur from time to time, as improvements are completed and approved; provided, however:
- a. The Public Works Director shall release the surety or escrow agent from all or any part of its obligation within five (5) business days after receiving notice to do so only upon his/her determination of compliance with the approved engineering plans and specifications and receipt of written notification of compliance from the appropriate inspecting agencies (i.e. IDOT, Kishwaukee Water Reclamation District, etc.) and receipt of waiver of lien for the completed improvements; and
 - b. In no case shall the Public Works Director authorize the release of more than ninety-five (95) percent of the amount held as the bond or escrow sum until all of the improvements have been completed in a satisfactory manner, and accepted or approved by the appropriate authority;

- c. Prior to the release of the final five (5) percent of the amount held as the bond or escrow sum, the sub-divider shall provide the City with a one (1) year maintenance bond for all of the subdivision's public improvements.
 3. The term of the escrow agreement or the land subdivision bond shall not exceed two (2) years in duration subject to the following:
 - a. If, at the end of the two (2) year period, all the improvements reflected by the approved improvement plan have not been completed, the Public Works Director, after receiving City Council approval, may extend the term of the land subdivision bond or the escrow agreement for a period not to exceed one (1) additional year at each extension, if, after review, such longer period is necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds, or other public requirements. In making the determination for extension, the Public Works Director and the City Council may also require the sub-divider to update the cost estimates of constructing the required improvements. If the improvements have not been completed at the end of the two (2) year period or as extended, the Public Works Director, after receiving City Council approval, may:
 - 1) require the surety to perform on the bond and pay such amount as shall be equal to the lesser of the amount required to complete the improvements or the amount of the bond not theretofore released; or
 - 2) require the escrow agent to remit to the City of DeKalb, in cash or negotiable instruments constituting the escrow sum, as the case may be, the balance in the escrow account required to complete the improvements and the balance, if any, in the escrow account which exceeds such amount shall be returned to the developer; or
 - 3) require the developer to submit a new land subdivision bond or escrow agreement which has been recalculated in order to allow for any inflation in the case of constructing improvements.
 - b. If the surety fails to perform on the bond or the escrow agent fails to remit the amount required within thirty (30) days after written request, the City Attorney may take immediate action to require performance by the surety under the bond or to secure the payment by the escrow agent of the amount required.
 4. To be eligible, all escrow agents and sureties shall be approved by the City Council and the City Attorney. All escrow agents and sureties shall be subject to spot audits by the City of DeKalb under the supervision of the City Attorney. If the escrow agent or surety fails to comply with any of the provisions of the escrow agreement or the land subdivision bond, the escrow agent or surety shall not thereafter be allowed to act as escrow agent or surety for any subdivision improvement in the incorporated area of DeKalb for a period of two (2) years.

15.08.02 Proof of Taxes Paid

The sub-divider shall submit proof, or obtain a certificate either separately or affixed to the final plat document and signed by the DeKalb County Clerk, that there are no delinquent general taxes, unpaid current general taxes, delinquent special assessments or unpaid current special assessments against the land proposed to be subdivided.

15.08.03 Copy of Computer Files

If the subdivision plat and/or engineering plans have been prepared using a computer aided drafting system, then the sub-divider shall submit to the Public Works Director or his/her designee one (1) copy of the disk used in said system. The format of the file(s) shall be as specified by the Public Works Director.

15.08.04 Recording of Plat

1. The sub-divider shall submit to the Community Development Director for recording purposes:
 - a. Eight (8) copies and two (2) original mylars of the approved final plat document all of which are signed by the owners of the tract being subdivided and the land surveyor who prepared the plat;
 - b. If applicable, eight (8) copies and two (2) originals of the fully executed trust indentures as outlined in Subsection 15.08.03;
 - c. Two (2) fully executed copies of either the escrow agreement or land subdivision bond (or evidence that such has been submitted to the Public Works Director) as outlined in Subsection 15.09.01 "Guarantee of Improvements";
 - d. Proof of taxes paid as outlined in Subsection 15.08.02;
 - e. Copy of computer files, if applicable, as outlined in Subsection 15.08.03;
 - f. A signed statement by the land surveyor who prepared the plat that authorizes the City Clerk to record the plat on behalf of the land surveyor.
2. The Community Development Director shall contact the Planning and Zoning Commission Chairman who shall affix his/her signature to the copies of the final plat document. The Community Development Director shall forward all copies of the final plat document and other associated documents to the City Clerk.
3. The City Clerk shall see that the Mayor signs all copies of the final plat document as well as affix his/her own signature. The City Clerk shall, upon authorization of the land surveyor who prepared the plat, have the final plat document and other associated documents recorded in the DeKalb County Recorder's Office. The City Clerk shall return the appropriate number of recorded copies and originals to the Community Development Director who in turn shall distribute said copies and originals to the appropriate City Departments and the owner of the tract being subdivided.

15.09 Plat Approval Not Acceptance of Dedication Offers

Approval of a plat does not constitute acceptance by the City of the offer of dedication of any streets, utilities, sidewalks, parks or other public facilities shown on the plat. However, the City Council may accept any such offer of dedication by resolution and may delay such acceptance until such time that the Public Works Director determines that the public improvements have been completed in a satisfactory manner, and accepted or approved by the appropriate authority.

15.10 Vacation of Plats (Including Streets, Alleys, & Easements)

Upon City Council approval, a plat may be vacated by the owner of the land at any time before the sale of any lot therein, by a written petition to which a copy of the plat is attached, indicating the area to be vacated.

When lots have been sold, but no improvements made thereon, the plat may be vacated in the manner provided in Paragraph 1 above by all the owners of lots in the plat joining in the execution of the written petition.

The City Council may vacate any street, alley or part thereof within the corporate boundaries, upon determining that the public interest will be served by such action.

15.10.01 Plat Vacation Submittal Requirements

1. In order to vacate a plat, street, alley easement or portions thereof, the following documentation shall be submitted to the Community Development Director:
 - a. One (1) original plus twelve (12) copies of a signed and notarized "Petition for Vacation and Waiver of Damages," either individual or corporate, along with required processing fees. Said petition form is available at the Community Development Department;
 - b. Twelve (12) copies of a plat indicating the exact area proposed for vacation shown cross-hatched or otherwise made prominent;
 - c. Legal description of the area to be vacated prepared and sealed by an Illinois Registered land surveyor;
 - d. Names and addresses of all property owners of land within and immediately adjacent to land proposed to be vacated;
 - e. Other narrative and graphic information regarding ownership of adjoining property, present use and proposed use of the area proposed to be vacated.

15.10.02 Plat Vacation Review and Approval

1. The Community Development Director shall receive and then review the plat vacation application and other associated documents to determine its acceptability for submission. If the Community Development Director determines the application is complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing that the application has been accepted for review. This notification shall constitute the beginning of the plat vacation review process timeline. If the Community Development Director determines the application is not complete, then he/she shall, within three (3) business days after receiving the application, notify the sub-divider in writing the reasons why the application is not complete and how the sub-divider can make his/her application acceptable for submission.
2. The Community Development Director or staff from other City Departments shall distribute copies of the petition for vacation and associated documents to the:
 - a. City of DeKalb Public Works Director;
 - b. City of DeKalb Chief Building Official;
 - c. City of DeKalb Fire Prevention Bureau, DeKalb Fire Department;
 - d. City of DeKalb City Attorney;
 - e. Kishwaukee Water Reclamation District;
 - f. Public utility companies (i.e. electric, gas, telephone, cable television, etc.);
 - g. State of Illinois Department of Transportation, the DeKalb County Highway Department, or Township Highway Department, if, in the opinion of the Public Works Director, any part of the plat vacation will adversely impact one or more of the roadways under their respective jurisdictions; and
 - h. In addition, the Community Development Director shall send a notice of the proposal to the owner of land located immediately adjacent to the proposed plat vacation.

These City Departments, other public service authorities, and property owners shall have up to thirty (30) days to review and comment on the proposed plat vacation.

Any affected public service authority shall have thirty (30) days to notify the Community Development Director that they accept or reject the petition for vacation. The public service authority owning such facilities may condition acceptance of vacation with a requirement to reserve to themselves the property, rights-of-way and easements necessary for continuing public service by means of those facilities and for the maintenance and reconstruction of the same. If the affected public facility owner fails to notify the Community Development Director of their acceptance or rejection of the petition for vacation, then the instrument recording said vacation shall reserve to the public body or public utility, the property, rights-of-way and easements to continue such public services.

3. The Community Development Director shall submit his/her report and recommendation on the proposed plat vacation to the Planning and Zoning Commission within forty-five (45) days after formal acceptance of the application.

The report shall be representative of all City Departments' and other public agencies' opinions and recommendations as to the plat vacation's conformance with the Comprehensive Plan, other officially adopted plans and policies, this Ordinance, other City ordinances and standards and the other public agencies' rules, standards, and procedures.

4. The Planning and Zoning Commission shall recommend approval or disapproval of the proposed plat vacation within ninety (90) days after formal acceptance of the application by the Community Development Director and shall have their recommendation forwarded to the City Council for final action.
5. If the petition for vacation involves any public rights-of-way then the City Council may vacate that street or alley, or part thereof, by an ordinance. The ordinance shall not be acted upon without notice thereof and a hearing thereon. At least fifteen (15) days prior to such a hearing, notice of its time, place and subject matter shall be published in a newspaper of general circulation within the City. At the hearing all interested persons shall be heard concerning the petition for vacation.

The ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof, so vacated, pay compensation in an amount which, in the judgment of the City Council, is equal to the benefits which will accrue to them by reason of that vacation. Also, if there are any public service facilities in such street or alley, or part thereof, the ordinance may reserve to the City or public utility owning such facilities, such property, rights-of-way and easements as, in the judgment of the City Council, are necessary or desirable for continuing public service by means of those facilities and for the maintenance and reconstruction thereof.

6. The ordinance authorizing the vacation of any street or alley, or part thereof, shall be passed by the affirmative vote of at least three-fourths (3/4) of the City Council members then holding office. This vote shall be taken by "Aye's" and "Nay's" and entered into the records of the City.

15.10.03 Recording of Plat Vacation

The petitioner(s) for plat vacation shall submit the applicable documentation as outlined in Subsection 15.08.04, "Recording of Plat," to the Community Development Director. The City Clerk shall be responsible for recording the plat vacation with the DeKalb County Recorder's Office

15.10.04 Title Upon Street or Alley Vacation

Except in cases where the deed, or other instrument, dedicating a street or alley, or part thereof, has expressly provided for a specific devolution of the title thereto upon the vacation thereof, whenever any

street or alley, or any part thereof, is vacated under any ordinance of the City, the title to the land included within the street or alley, or part thereof, so vacated, vests in the then owners of the land abutting thereon, in the same proportions and to the same extent, as though the street or alley has been dedicated by a common law plat (as distinguished from a statutory plat) and as though the fee of the street or alley had been acquired by the owners as part of the land abutting on the street or alley.