

Chapter 16.12

PROCEDURE

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16.12.010 Applicability.

The provisions hereof shall be applicable to all subdivisions in the city of St. Charles and within all unincorporated areas lying within one and one-half miles of the corporate limits of the city of St. Charles, to the extent permitted by law. (Ord. 1987-M-45 § 4.)

16.12.020 Recommendation and approval of variations.

The Plan Commission may recommend and the City Council may approve variations from the requirements of this title in specific cases, when the Plan Commission finds that there is compliance with the following standards:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;

2. Because of the shape, topography, or other physical conditions of the proposed subdivision or its surroundings, a) a hardship or practical difficulty would be caused by strict compliance with these requirements, and/or b) the purposes of these requirements would be served to a greater extent by an alternative design;
3. The conditions upon which the variation request is based are unique to the proposed subdivision and are not generally applicable to other property;
4. The variation granted is the minimum adjustment necessary for the reasonable use of the land. (Ord. 1987-M-45 § 4.)

16.12.025 Concept Plan – Review and Comment

The purpose of the Concept Plan Review is to enable the subdivider to obtain informal guidance from the Plan Commission and City Council Committee at an early stage, before preparing more detailed preliminary and final plans. Because the information submitted for a Concept Plan is not complete enough to determine compliance with all applicable requirements, the Plan Commission and City Council Committee shall not vote to recommend approval or denial. Affirmative comments shall not bind the City to approve preliminary plans or final plats submitted at a later stage, nor shall negative comments prevent the subdivider from submitting applications for approval of preliminary plans and final plats. The subdivider may request review of a Concept Plan by submitting an application in a form as determined by the Director of Community Development. (Ord. 2002-M-63 § 1.)

16.12.030 Preliminary plan - Filing - Fee.

A subdivider shall file one copy of the preliminary plan with the City Clerk and twenty-one copies with the Director of City Planning a minimum of twenty-one days prior to the Plan Commission meeting at which it will be an agenda item, accompanied by the filing fee in accordance with the schedule of fees contained herein. (Ord. 1987-M-45 § 4.)

16.12.040 Preliminary plan - Referral.

The City Council shall refer the preliminary plan to the Plan Commission for review. The Director of City Planning shall distribute copies of the preliminary plan to the Plan Commission and city staff. (Ord. 1987-M-45 § 4.)

16.12.050 Preliminary plan - Plan Commission review and action.

The city staff and Plan Commission shall review the preliminary plan for conformance with the Comprehensive Plan, the provisions hereof, and all other applicable city ordinances. Pursuant to Paragraph 11-12-8 of the Illinois Municipal Code, the Plan Commission shall disapprove or recommend approval of the preliminary plan within 90 days from the date of filing of the last item of required supporting data. Such time may be extended by mutual consent of the subdivider and the Plan Commission. (Ord. 1987-M-45 § 4.)

16.12.060 Preliminary plan - Plan Commission disapproval.

Plan Commission disapproval of a preliminary plan shall be in writing and shall state the reasons therefor and how the proposed preliminary plan fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable city ordinances. A copy of such disapproval shall be mailed or delivered to the subdivider and the City Council. Pursuant to Paragraph 11-12-8 of the Illinois Municipal Code, if the Plan Commission disapproves the preliminary plan, it shall be considered denied and shall not be presented to the City Council for final action. (Ord. 1987-M-45 § 4.)

16.12.070 Preliminary plan - Plan Commission approval.

Plan Commission recommendation of approval of a preliminary plan shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the City Council. (Ord. 1987-M-45 § 4.)

16.12.080 Preliminary plan - City Council action.

Pursuant to Section 11-12-8 of the Illinois Municipal Code, the City Council shall approve or disapprove the preliminary plan not later than 30 days after the next regular City Council meeting following the date of the Plan Commission's approval, unless such time is extended by mutual consent of the City Council and subdivider. (Ord. 1987-M-45 § 4.)

16.12.090 Preliminary plan - Council disapproval.

City Council disapproval of a preliminary plan shall be in writing and shall state the reasons therefor and how the proposed preliminary plan fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable city ordinances. A copy of such disapproval shall be mailed or delivered to the subdivider. (Ord. 1987-M-45 § 4.)

16.12.100 Preliminary plan - Council approval.

City Council approval of a preliminary plan shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the approval and any conditions shall be mailed or delivered to the subdivider. (Ord. 1987-M-45 § 4.)

16.12.110 Preliminary plan - Period of validity.

A preliminary plan shall remain valid for a period of one year from the date of City Council approval. If a complete application for approval of a final plat for all or any part of the land encompassed by the preliminary plan is submitted within such one-year period of validity, the preliminary plan shall remain valid for one additional year commencing upon submittal of such application or until the City Council approves or disapproves such final plat, whichever is earlier. If a final plat is approved and recorded encompassing all or any part of the land included on the preliminary plan, the preliminary plan as to the balance shall remain valid for a period of five years from the date of its initial approval, unless specifically revoked by the City Council. (Ord. 1987-M-45 § 4.)

16.12.120 Engineering plan approval.

The subdivider shall submit to the Director of City Planning six copies of the engineering plan described herein. The Director of City Planning shall refer the engineering plan to the city staff for review. Such plan shall be in substantial conformance with the preliminary plan with respect to all items specifically shown on the preliminary plan. If the City Engineer and Director of City Planning determine that the engineering plan meets the requirements of the St. Charles Municipal Code, the Director of City Planning shall so notify the Plan Commission. The subdivider shall reimburse the city for review time in accordance with the schedule of fees contained herein. (Ord. 1987-M-45 § 4.)

16.12.130 Engineering plan variations.

If the City Engineer and Director of City Planning determine that the engineering plan does not meet the requirements of the St. Charles Municipal Code, the subdivider may file a written request for approval of a variation or variations. Such request shall be referred to the Plan Commission and City Council for review. To the extent permitted by law, the City Council may grant variations from the engineering plan requirements in specific cases in accordance with the provisions hereof governing variations. (Ord. 1987-M-45 § 4.)

16.12.134 Commencement of Land Improvements.

The Subdivider may commence construction of Land Improvements only after: a) the City Council has approved a Preliminary Plan of Subdivision or PUD Preliminary Plan, b) the Director of Public Works and the Director of Community Development have determined that the Final Engineering Plans are in compliance with the approved Preliminary Plan or PUD Preliminary Plan and with the provisions of the St. Charles Municipal Code, and c) the Subdivider has provided a guarantee for completion of the Land Improvements being constructed, in accordance with Section 16.12.220. (Ord. 2007-M-73 § 1)

16.12.140 Final plat - Submittal and review.

The subdivider shall file one copy of the final plat with the City Clerk and twenty-one copies with the Director of City Planning a minimum of twenty-one days prior to the Plan Commission meeting at which it will be an agenda item. The Director of City Planning shall refer the final plat to the city staff and Plan Commission for review and recommendation. The final plat shall substantially conform to the preliminary plan with respect to all items specifically shown on the preliminary plan. The final plat shall include substantially the same geographic area as the engineering plan. (Ord. 1987-M-45 § 4.)

16.12.150 Final plat - Plan Commission disapproval.

A recommendation of disapproval of the final plat by the Plan Commission shall be in writing and shall state how proposed final plat fails to conform to the approved preliminary plan, the provisions hereof, and other applicable city ordinances. A copy of such recommendation shall be mailed or delivered to the subdivider and to the City Council. (Ord. 1987-M-45 § 4.)

16.12.160 Final plat - Plan Commission approval.

The Plan Commission shall not recommend approval or disapproval of a final plat until it has received notice of approval of the engineering plans by the city staff; provided, however, that the final plat and a request for engineering plan variations may be considered simultaneously. A Plan Commission recommendation of approval of the final plat shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the subdivider and the City Council. (Ord. 1987-M-45 § 4.)

16.12.170 Final plat - City Council action.

After receiving the Plan Commission's recommendation of approval or disapproval, the City Council shall approve or disapprove the final plat within sixty days following the filing of the last required document, unless such time is tended by mutual consent of the City Council and subdivider. (Ord. 1987-M-45 § 4.)

16.12.180 Final plat - City Council disapproval.

City Council disapproval of a final plat shall be in writing stating how the proposed final plat fails to conform to the approved preliminary plan, the provisions hereof, and other applicable city ordinances. A copy of such disapproval shall be filed in the office of the City Clerk by the Director of City Planning. (Ord. 1987-M-45 § 4.)

16.12.190 Final plat - City Council approval.

The final plat submitted to the City Council shall be accompanied by the following:

- A. A copy of the Illinois Environmental Protection Agency permit for the sanitary sewer installation, if required;
- B. A copy of the Illinois Environmental Protection Agency permit for the water main installation, if required;
- C. An acknowledgement executed by the subdivider accepting the responsibility for the installation of the Land Improvements as shown on the approved engineering plans and specifications.

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This acknowledgement shall include an agreement by the subdivider that he shall furnish qualified field supervision of the installation of all Land Improvements in the person of a registered engineer approved by the city;

- D. A certified estimate of cost of all Land Improvements prepared by a registered engineer;
- E. A draft or description of the proposed guarantee for the payment and completion of the Land Improvements remaining to be installed.

Prior to the approval of a final plat the City Council shall have the right to designate which easements, dedications, and Land Improvements will be accepted by the city. Approval of the final plat by the City Council shall be in writing, one copy of which shall be sent to the subdivider and another shown on the plat. (Ord. 1987-M-45 § 4.)

16.12.200 Oversizing.

In the event city requests subdivider to oversize any Land Improvement, such oversizing shall take place on the following basis: The City Engineer and the subdivider's engineer shall prepare cost estimates indicating the construction cost for the Land Improvement and for the oversized improvement requested by the city. Such estimates shall be subject to approval of the City Council. The subdivider shall install the oversized improvement in compliance with city ordinance and state and federal requirements. The actual cost difference for construction will be assumed by the city. Reimbursement for such cost difference shall be made to the subdivider upon acceptance of such Land Improvement by the City Council subject to budget and timing as may be in accordance with law and as may be agreed on by subdivider and city, or otherwise approved by the city, and provided city shall be in receipt of a general contractor's affidavit and lien waivers in accordance with the Illinois Mechanics Lien Act and a Bill of Sale conveying title to the city free and clear of all liens and encumbrances. All engineering, insurance, and inspection costs shall be paid by subdivider. The operation of any state law or city ordinance having general applicability to all entities in a class including subdivider shall not be deemed to be a request by city as herein described. (Ord. 1987-M-45 § 4.)

16.12.210 Transfer of dedications and easements.

After approval of a final plat and prior to signature by the mayor and City Engineer, the subdivider shall submit the following for acceptance by the City Council: a) title, free and clear of all liens and encumbrances, to the land dedications which the city has designated for acceptance; and b) at no cost to the city, easements which the city has designated for acceptance. (Ord. 1987-M-45 § 4.)

16.12.220 Guarantee for completion of Land Improvements.

When construction of any Land Improvement is commenced prior to recording of a Final Plat, the subdivider shall submit the guarantee for completion prior to commencement of construction of any Land Improvement. The scope of this guarantee may be limited to the Land Improvements being commenced prior to recording of a Final Plat. When construction of Land Improvements is to be commenced after recording of a Final Plat, the subdivider shall submit a guarantee for completion of the Land Improvements prior to approval and signature of the Final Plat by the Direction of Public Works or City Engineer. As a condition of recording of a Final Plat, any partial guarantee for completion shall be replaced by a full guarantee of completion as provided in this Chapter.

The guarantee shall be in one of the following formats, with the form, amount and provider being subject to approval by the City Engineer or Director of Public Works.

- A. Cash in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.
- B. A subdivider's bond in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.

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- C. A letter of credit in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed, certifying that adequate funds are and will be available at a sound and reputable banking or financial institution authorized to do business in the state of Illinois.

The form, amount and provider of the guarantee for completion shall be subject to the approval of the City Engineer or Director of Public Works, may include a subdivider's undertaking or subdivision improvement agreement, and shall:

1. Be irrevocable; and,
2. Include a legal description of the subdivision (or phase or unit) to which the guarantee pertains; and,
3. Run to the benefit of the City, only, and that the City, and only the City, receives the funds if there is a default; and,
4. Indicate an expiration date and/or a renewal mechanism such that it will remain in force at least six months beyond the completion date; and,
5. Provide for notification to the City sixty (60) to ninety (90) days prior to expiration; if a notice is not issued and received, it constitutes a default; the guarantee shall not expire until after the sixty (60) to ninety (90) day notice is provided;
6. Include a commitment by the developer or owner to complete the improvements specified in the final engineering plans and the engineer's estimate; and,
7. Specify a completion date by which all Land Improvements shall be completed and accepted; and,
8. Specify a trigger for non-performance and declaration of default (including, but not limited to, the City Engineer's certification that the Land Improvements were not completed by the completion date); and,
9. Specify a mechanism, form and timing for payment of funds to the City, and that no consent from the guarantor or the developer is needed to obtain funds; and,
10. Provide that the company issuing the financial instrument (letter of credit, bond, etc.) shall satisfy the City's rating criteria, as applicable:
 - a. Banks (for letters of credit): Prudent Man Analysis, Inc. rating of 1, 2 or 3 (or equivalent); or
 - b. Insurance Companies (for surety bonds and letters of commitment): A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-), and Very Good (B++ and B+) (or equivalent).

Completed Land Improvements may be omitted from the amount of the guarantee. For purposes of this section, completed Land Improvements shall be those Land Improvements a) which have been previously accepted by the City Council, or b) which have been installed and for which the subdivider submits a Bill of Sale and a contractor's affidavit and lien waivers in accordance with the Illinois Mechanic's Lien Act, or c) which the City has not designated for acceptance, and which the City Council acknowledges as complete. (Ord. 2007-M-73 § 2; Ord. 2002-M-46 § 1; Ord. 1987-M-45 § 4.)

16.12.230 Final plat - Recording requirements.

The city shall record the final plat at the Kane or DuPage County recorder's office within 30 days of receipt by the city of the last item herein required to be submitted prior to recording. In the event such recording has not occurred within six months of the date of City Council approval, the final plat and accompanying documents shall be reviewed by the Director of City Planning and City Engineer to determine continued conformity with then-existing law and ordinance. The results of such review and recommendation shall be referred to the City Council for revocation or extension of the final plat approval, with such conditions as the City Council may approve. (Ord. 1987-M-45 § 4.)

16.12.240 Completion of Land Improvements.

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All Land Improvements as defined in Section 16.08.150 shall be installed and completed within a period of two years after recording of the final plat, unless prior to the expiration of the two-year period an extension of time is requested by the subdivider to complete all of said Improvements within such two-year period or any extension thereof shall result in forfeiture of the guarantee collateral. A request for an extension shall be granted unless adequate guarantee collateral has been received and approved by the City Council. In the event building permits have been issued for more than fifty percent of the lots, no extension of the time period shall be granted, except, the City Council may provide a time extension for completion of sidewalk, tree planting, and parkway restoration improvements; such time extension request shall be accompanied by a guarantee for completion of improvements as required in Section 16.12.220.

In the event of failure to complete the Land Improvements in the required period, or any extension thereof, as stated above, the City Council may direct that no further building permits be issued for property in such subdivision until acceptance or acknowledgement of completion by the City Council of the Land Improvements. (Ord. 1988-M-97 § 1; Ord. 1987-M-45 § 4.)

16.12.250 Inspection of Land Improvements.

All Land Improvements to be installed under the provisions of this title and per the approved engineering plans shall be checked during the course of construction by, or at the direction of, the City Engineer. The cost of any inspection of any Land Improvement shall be paid by the Subdivider to the City. Additionally, an administrative processing fee of fifty (\$50) dollars must be paid prior to scheduling of second reinspection and all future inspections of a previously failed inspection. The testing of concrete, asphalt, soil, or other materials, and/or workmanship shall be done at the direction of the City, and at the expense of the Subdivider. (Ord. 2003-M-61 § 1; Ord. 1987-M-45 § 4.)

16.12.260 Release of guarantee for completion.

The guarantee for completion of the Land Improvements shall be released only upon fulfillment of the following conditions:

- A. The completion of the Land Improvements;
- B. The submission of one (1) set of reproducible (mylar) as-built drawings of the Land Improvements;
- C. A Bill of Sale for all Land Improvements which have been designated by the City Council for acceptance;
- D. The acceptance of the Director of Public Works or City Engineer of a guarantee for maintenance of Land Improvements. The guarantee shall be in one of the following formats:
 1. Cash in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City.
 2. A subdivider's bond in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City.
 3. A letter of credit in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City, and certifying that adequate funds are and will be available at a sound and reputable banking or financial institution authorized to do business in the state of Illinois.

The form, amount and provider of the guarantee shall be subject to the approval of the City Engineer or Director of Public Works and shall:

1. Be irrevocable;
2. Include a legal description of the subdivision (or phase or unit) to which the guarantee pertains;
3. Run to the benefit of the City, only, and that the City, and only the City, receives the funds if there is a default;

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4. Indicate an expiration date and/or a renewal mechanism such that it will remain in force the 12-month maintenance period beginning at the date the City Council accepts or acknowledges as complete the Land Improvement;
 5. Provide for notification to the City 60 to 90 days prior to expiration; if a notice is not issued and received, it constitutes a default; the guarantee shall not expire until after the 60 to 90 day notice is provided;
 6. Include a commitment by the developer or owner to complete repairs on any defects to Land Improvements identified by the City within the 12-month maintenance period;
 7. Specify a completion date (30 days or another period as reasonably determined by the City) by which all defects to Land Improvements must be completed after the City provides notice to the developer or contractor;
 8. Specify a trigger for non-performance and declaration of default (for example, the City Engineer's certification that defects were not repaired by the completion date);
 9. Specify a mechanism, form and timing for payment of funds to the City, and that no consent from the guarantor or the developer is needed to obtain funds;
 10. Provide that the company issuing the financial instrument (letter of credit, bond, etc.) must meet the City's rating criteria:
 - a) Banks (for letters of credit): Prudent Man Analysis, Inc. rating of 1, 2 or 3 (or equivalent)
 - b) Insurance Companies (for surety bonds and letters of commitment): A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-), and Very Good (B++ and B+) (or equivalent).
- E. Final acceptance, by resolution of the City Council, of the Land Improvements which have been designated by the City Council for acceptance, and acknowledgement, by resolution of the City Council, of completion of the Land Improvements which have not been designated for acceptance. (Ord. 2006-M-30 § 1; Ord. 2002-M-46 § 2; Ord. 1987-M-45 § 4.)

16.12.270 Fees - Payment by Subdivider.

The Subdivider shall pay all filing, review and inspection fees and shall execute a reimbursement of fees agreement, providing for reimbursement to the City for staff time and the direct costs of engineering and other consultants, City Attorney's review, and other direct costs, in accordance with the schedule of fees as established herein. Fees and reimbursements shall be paid regardless of whether the application or petition filed is approved, disapproved or withdrawn.

(Ord. 2007-M-6 § 1; Ord. 2002-M-63 § 2; Ord. 1987-M-45 § 4.)

16.12.280 Fees - Schedule.

The following schedule of fees is established for the filling of applications and review of all subdivision and PUD plans and plats, and for the inspection of subdivision and PUD construction:

A. Filing Fees (payable when application is filed):

Filing Fees are intended to cover the cost of providing information to the public about an application, distributing plans to City departments and other agencies, preparing agendas packets and minutes for the Plan Commission, City Council, and other applicable review bodies, and other administrative tasks.

The Subdivider shall pay the full filing fee for each category of petition or plan submitted as set forth in the following Fee Schedule. The fees set forth in the following fee schedule shall be in addition to those payable under any other provision of the St. Charles Municipal Code, as amended. Filing fees are payable upon filing of the application or petition.

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1. Filing Fees for subdivisions and Planned Unit Developments that will be developed within the corporate limits of St. Charles.

Subdivision Concept Plan	No fee
Preliminary Plan of Subdivision (not a PUD)	\$500
Preliminary Plan of Subdivision or Resubdivision of a parcel of less than 3 acres (not a PUD)	\$300
Subdivision Final Engineering Plan	\$300
Final Plat (Subdivision or PUD)	\$300
PUD Concept Plan	In accordance with Title 17 of the St. Charles Municipal Code (See Chapter 17.04 and Appendix B)
PUD Preliminary Plan	
PUD Final Engineering Plan	

2. Filing Fees for subdivisions that will be developed outside the corporate limits of St. Charles, within the 1½ mile jurisdictional area:

Concept Plan (review of county application)	No fee
Preliminary Plan of Subdivision, 5 or more lots, with new public road construction	\$300
Preliminary Plan of Subdivision, 1 to 4 lots, with new public road construction	\$200
Preliminary Plan of Subdivision or Resubdivision, 1 to 4 lots, no new public road construction	No fee
Final Plat	\$300

B. Reimbursement of Costs and Fees; Deposit Required

In addition to the filing fees provided for herein, each Subdivider shall enter into a reimbursement of fees agreement with the City. The reimbursement of fees agreement shall encompass all applications or petitions pending with the City. The reimbursement of fees agreement shall be in the form specified in Appendix B of Title 17 of the St. Charles Municipal Code.

At the time the Subdivider submits an Application or Petition to the City requesting action from the City, he shall deposit the amounts specified in Appendix B with The City to collateralize his obligation for reimbursement of costs for City staff review, outside consultant services, and miscellaneous expenses, as described herein.

A Subdivider who withdraws his petition or application may apply in writing to the Director of Community Development for a refund of his initial deposit. The City Administrator may, at his sole discretion, approve such refund less any actual fees and costs, which the City has already paid or incurred relative to the Petition or Application.

C. Reimbursement for City Staff Review of Petitions and Applications

The applicant shall reimburse the City for the cost per productive work hour for the time spent by each City staff member to participate in meetings, visit the site, review plans, prepare reports, conduct inspections and participate in any other activity pertaining to review of the Petition or Application.

D. Reimbursement for Outside Consultant Services

The Subdivider shall reimburse the City for the direct cost of the following:

1. Fees for landscape architect’s review and consultation in connection with review of the petition or application, and inspection of construction, including meetings and associated tasks.
2. Fees for traffic study and analysis performed by a member of the Institute of Transportation Engineers and approved by the City Engineer, when such traffic study and analysis is requested by the City.
3. Fees for City Attorney’s review and negotiations in connection with the petition or application.
4. Fees for professional engineering consultant’s review of plans and documents, including meetings an associated tasks.
5. Fees for planning consultant’s review and consultation in connection with review of the petition or application, including meetings and associated tasks.
6. Fees for other professional consultants as may be necessary to review and evaluate the proposed applications, plans and documents.

E. Reimbursement for Miscellaneous Expenses

The applicant shall reimburse the City for miscellaneous costs incurred relative to any application or petition including, but not limited to:

1. Publication of legal notices.
2. Court reporter and transcript fees.
3. Mailing (postage) costs.
4. Recording fees.

F. Reimbursement for Engineering Inspection of Construction

The applicant shall reimburse the City for the cost per work hour of the City Engineer and each Public Works Department staff member involved in inspections, plan review, meetings and associated tasks relative to inspection of construction.

G. Exemption for Governmental Agencies

Notwithstanding anything to the contrary in this Section 16.12.280, any unit of federal, state, or local government that files a Petition or Application pursuant to the Title shall only be responsible for reimbursing the City for outside consultant services and miscellaneous expenses, as described in Paragraphs 16.12.280 D and E, and shall not be responsible for filing fees or reimbursement for the cost of City staff review time.

(Ord. 2007-M-6 § 1; Ord. 2003-M-68 § 1;Ord. 2003-M-38 § 2;Ord. 2002-M-63 § 2; Ord. 2002-M-4 § 1; Ord. 1992-M-68 § 1; Ord. 1987-M-45 § 4.)