

Chapter 16.04

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16.04.010 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.

16.04.020 General procedures for applications

A. Who is authorized to apply

The record owner of the subject property, or a lessee, agent, or contract purchaser with specific written authorization from the record owner, may file an application for approval of a Concept Plan, Preliminary Plat of Subdivision, or Final Plat of Subdivision.

B. Filing of applications

Applications shall be submitted on forms provided by the City and shall be filed as the instructions provide. Applications shall include the information and plans specified in Chapter 16.06, "Plan Submittal Requirements". Additional information may be required by the Director of Community Development or designee.

C. 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and reimbursements shall be paid regardless of whether the application or petition filed is approved, disapproved or withdrawn.

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1. Filing fees
 - a. All filing fees shall be paid at the time of application submittal.
 - b. 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 agenda packets and minutes for the Plan Commission, City Council, and other applicable review bodies, and other administrative tasks.
 - c. The Subdivider shall pay the full filing fee for each category of petition or plan submitted as set forth in Appendix A. The filing fees shall be in addition to fees payable under any other provision of the St. Charles Municipal Code, as amended.
2. Reimbursement of costs and fees; deposit required
 - a. 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, "Zoning" of the St. Charles Municipal Code.
 - b. 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 of Title 17 "Zoning" of the St. Charles Municipal Code with the City to collateralize his obligation for reimbursement of costs for City staff review, outside consultant services, and miscellaneous expenses, as described herein.
 - c. A Subdivider who withdraws their 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 their 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.
3. Reimbursement for City staff review of petitions and applications - The Subdivider 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.
4. Reimbursement for outside consultant services - The Subdivider shall reimburse the City for the cost of the following:
 - a. 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.
 - b. Fees for engineering studies (i.e. traffic, utility, etc.) performed by a Licensed Professional Engineer and approved by the Director of Community Development or designee, when such study and analysis is requested by the City.
 - c. Fees for City Attorney's review and negotiations in connection with the petition or application.
 - d. Fees for Licensed Professional Engineer's review of plans and documents, including meetings and associated tasks.
 - e. Fees for planning consultant's review and consultation in connection with review of the petition or application, including meetings and associated tasks.
 - f. Fees for other professional consultants as may be necessary to review and evaluate the proposed applications, plans and documents.

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5. Reimbursement for miscellaneous expenses - The Subdivider shall reimburse the City for miscellaneous costs incurred relative to any application or petition including, but not limited to:
 - a. Publication of legal notices.
 - b. Court reporter and transcript fees.
 - c. Mailing (postage) costs.
 - d. Recording fees.
6. Reimbursement for engineering inspection of construction - The cost of any inspection of any Land Improvement shall be paid by the Subdivider to the City. The Subdivider shall reimburse the City for the cost per work hour of all City staff members or consultants involved in land improvement construction, inspections, plan review, studies, meetings, change order, pay requests, utility coordination, third party permit compliance coordination, and associated tasks relative to inspection of construction of land improvements. Additionally, an administrative processing fee of fifty (\$50) dollars must be paid prior to scheduling of any re-inspection 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.
7. Exemption for governmental agencies - Notwithstanding anything to the contrary in this Section 16.04.020, any unit of federal, state, or local government that files a petition or application pursuant to this Title shall only be responsible for reimbursing the City for outside consultant services and miscellaneous expenses, as described above.

D. Completeness

The Director of Community Development, or designee, shall determine whether all submitted applications are complete and the required fees have been paid in accordance with Appendix A, and shall notify the Subdivider of any deficiencies. The City is under no obligation to conduct a full application review or to place the application on a public meeting agenda until all required submittal items, including filing fees, have been received. Once an application is deemed complete, the application shall be reviewed and scheduled for consideration by the appropriate staff and review bodies.

E. Withdrawal of application

An Subdivider shall have the right to withdraw an application at any time prior to the decision on the application by a City Official, City Council, Commission or Board. Such withdrawal shall be in writing. There will be no refund of fees unless the withdrawal is made prior to the time the City has determined the application is complete and prior to scheduling of public meetings and/or commencement of formal review of the application.

F. Successive applications

Within one (1) year of the date of denial of an application, a subsequent application for the same property that makes the same request shall not be reviewed or heard unless there is substantial new evidence available, the restriction that prevented its approval has been amended, or if a significant mistake of law or fact affected the prior denial. Such subsequent application shall include a detailed statement of the grounds justifying its consideration. The Director of Community Development shall make a determination as to whether the subsequent application is making essentially the same request. If the Director of Community Development finds that there are no grounds for consideration of the subsequent application, he/she shall summarily, and without hearing, deny the request.

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The Plan Commission may recommend and the City Council may approve variances from the requirements of Chapter 16.08, "Subdivision Standards and Specifications" when the Plan Commission finds that there is compliance with the following standards:

- A. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- B. 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;
- C. The conditions upon which the variance request is based are unique to the proposed subdivision and are not generally applicable to other property;
- D. The variance granted is the minimum adjustment necessary for the reasonable use of the land;
- E. The Director of Community Development has determined that the proposed variance, while not specifically complying with this Title, follows sound engineering practices.

16.04.040 Special subdivision procedures

A. Combined Preliminary-Final Review Process

At the Subdivider's request, the City will conduct a simultaneous review of both the Preliminary Plat of Subdivision and Final Plat of Subdivision applications. The Subdivider will not be required to submit separate plans for the two applications. The Subdivider needs only to submit the number of plans required for the Final Plat of Subdivision application, but shall submit all required information and fees as detailed in the Preliminary Plat of Subdivision, Preliminary Engineering Plan, Final Plat of Subdivision, and Final Engineering Plan application checklists. The Subdivider shall submit such request to the City in a written letter.

B. Minor Subdivision

A Minor Subdivision shall not require submittal of a Preliminary Plat of Subdivision application prior to submittal of a Final Plat of Subdivision application, nor shall it require the submittal of Preliminary or Final Engineering Plans.

A subdivision meeting all of the following criteria shall be considered a Minor Subdivision:

- 1. The subdivision fully conforms to the requirements of Chapter 16.08, "Subdivision Standards and Specifications".
- 2. The subdivision will create no more than four (4) lots.
- 3. No extension/creation of public improvements is required to serve the subdivision, including streets/rights-of-way or utilities.
- 4. All lots in the subdivision have frontage on a public street and can be readily serviced by existing public utilities located in and adjacent to the right-of-way, or at another location on each lot.
- 5. No on-site or offsite stormwater detention/retention facilities are required to serve the subdivision.
- 6. All lots meet the minimum size and dimension requirements of the applicable zoning district contained in Title 17, "Zoning" of the St. Charles Municipal Code.

16.04.050 Pre-application meeting

- A. The pre-application meeting provides an opportunity for Subdividers to informally discuss the concept of the proposed development, and to receive preliminary nonbinding feedback regarding proposed zoning, possible variations/variances from zoning and subdivision requirements, utilities and drainage, traffic and parking, building and fire prevention code requirements, building aesthetics, landscaping, review procedures, and the information and studies that will be needed to

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evaluate the project. The pre-application meeting does not require a formal application or filing fee. A pre-application meeting is optional but encouraged for all applications.

- B. The purpose of the pre-application meeting is to help Subdividers to determine:
 - 1. Whether the proposed development generally appears to be in compliance with the provisions of this Title and other applicable ordinances.
 - 2. Whether any zoning amendment, variation, special use or other application may be required in connection with the proposed development.
 - 3. Whether the proposed development will be in conformity with the Comprehensive Plan and other adopted goals and policies of the City for development.

16.04.060 Concept Plan

- A. Application
The Subdivider may request review of a Concept Plan by submitting an application to the Director of Community Development.
- B. Purpose
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.
- C. Review
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 a Preliminary or Final Plat of Subdivision submitted at a later stage, nor shall negative comments prevent the Subdivider from submitting applications for approval of Preliminary and Final Plat of Subdivision.

16.04.070 Preliminary Plat of Subdivision

- A. Application
The Subdivider shall file the Preliminary Plat of Subdivision application with the Director of Community Development. If the Subdivider intends to develop the property in phases, the Subdivider shall identify and label each phase in the order they are to be recorded on the proposed Preliminary Plat of Subdivision.
- B. Plan Commission Review
 - 1. Review and Action
The Plan Commission shall review the Preliminary Plat of Subdivision for conformance with the Comprehensive Plan, the provisions hereof, and all other applicable City ordinances. The Plan Commission shall disapprove or recommend approval of the Preliminary Plat of Subdivision 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.
 - 2. Disapproval
Plan Commission disapproval of a Preliminary Plat of Subdivision shall be in the form of a Resolution and shall state the reasons therefore and how the proposed Preliminary Plat of Subdivision fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable City ordinances.
 - 3. Approval
Plan Commission recommendation of approval of a Preliminary Plat of Subdivision shall be in the form of a Resolution passed by the Plan Commission, and may include conditions for

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- such approval. These 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.
- C. City Council Review
1. Action
The City Council shall approve or disapprove the Preliminary Plat of Subdivision 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.
 2. Disapproval
City Council disapproval of a Preliminary Plat of Subdivision shall be by Ordinance and shall state the reasons therefore and how the proposed Preliminary Plat of Subdivision fails to conform to the Comprehensive Plan, the provisions hereof, and other applicable City ordinances.
 3. Approval
City Council approval of a Preliminary Plat of Subdivision shall be by Ordinance and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein.
 4. Period of Validity
A Preliminary Plat of Subdivision shall remain valid for a period of two years from the date of City Council approval. At the end of the two year period the City Council, at its discretion and for good cause, may be extended, for up to one (1) year at a time. If a Final Plat of Subdivision is approved and recorded encompassing all or any phase of the land included on the Preliminary Plat of Subdivision, the Preliminary Plat of Subdivision as to the balance shall remain valid for a period of five years from the date of its initial approval.

(Ord. 2012-M-45 § 2; Ord. 1987-M-45 § 4.)

16.04.080 Final Plat of Subdivision

- A. Application
The Subdivider shall file the Final Plat of Subdivision application with the Director of Community Development. The Final Plat of Subdivision shall substantially conform to the Preliminary Plat of Subdivision with respect to all items specifically shown on the Preliminary Plat of Subdivision. The Final Plat of Subdivision shall include substantially the same geographic area as the Preliminary Plat of Subdivision. In instances in which a phasing plan was approved as part of the Preliminary Plan, the Final Plat of Subdivision shall include substantially the same geographic area for the corresponding phase shown on the Preliminary Plat of Subdivision.
- B. Conformance with Statutory Provisions - Drawing Specifications
The Final Plat of Subdivision shall conform to all statutory provisions pertaining to plats. All information required shall be shown accurately, drawn with ink on mylar, or equal, in a manner that clear and legible contact prints or photostatic copies may be made.
- C. Plan Commission Review
1. Action
The Plan Commission shall recommend approval or disapproval of the Final Plat of Subdivision following the filing of the last required document, unless such time is extended by mutual consent of the City Council and Subdivider.
 - a. For a proposed Subdivision that has received approval of a Preliminary Plat of Subdivision from the City Council, the application for approval of a Final Plat of Subdivision will not need to be reviewed by the Plan Commission provided that the proposed Final Plat of Subdivision is in substantial conformance with the approved

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Preliminary Plat of Subdivision and is filed within sixty (60) days of the approval of the Preliminary Plat of Subdivision.

- b. If the Subdivider has requested a Combined Preliminary-Final Review Process per Section 16.04.040.A, then the Plan Commission will conduct a simultaneous review of both the Preliminary and Final Plats of Subdivision.
 2. Disapproval
A recommendation of disapproval by the Plan Commission shall be in the form of a Resolution and shall state how the proposed Final Plat of Subdivision fails to conform to the approved preliminary plan, the provisions hereof, and other applicable City ordinances.
 3. Approval
A Plan Commission recommendation of approval of the Final Plat of Subdivision shall be in the form of a Resolution and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein.
- D. City Council Review
1. Action
The City Council shall approve or disapprove the Final Plat of Subdivision within sixty (60) days following the filing of the last required document, unless such time is extended by mutual consent of the City Council and Subdivider. Prior to the approval of a Final Plat of Subdivision the City Council shall have the right to designate which easements, dedications, and Land Improvements will be accepted by the City.
 2. Disapproval
City Council disapproval of a Final Plat of Subdivision shall be by Ordinance that states how the proposed Final Plat of Subdivision fails to conform to the approved preliminary plan, the provisions hereof, and other applicable City ordinances.
 3. Approval
City Council approval of the Final Plat of Subdivision shall be by Ordinance and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. The Final Plat of Subdivision submitted to the City Council shall be accompanied by the following:
 - a. A copy of any and all applications to third party permits including, but not limited to, IDOT, KCDOT, USACE, IDNR and IEPA.
 - b. A certified estimate of cost of all Land Improvements prepared by a registered engineer and approved by the City.
 - c. A draft or description of the proposed guarantee for the payment and completion of the Land Improvements to be installed.
- E. Recording Requirements
The City shall record the Final Plat of Subdivision 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 two (2) years of the date of City Council approval, the Final Plat of Subdivision and accompanying documents shall be reviewed by the Director of Community Development and Director of Public Works 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 of Subdivision approval, with such conditions as the City Council may approve.

16.04.090 Approval of final engineering plans

All Final Engineering Plans shall be reviewed by the Development Engineering Division Manager or designee and shall be approved if they are in substantial conformance with the requirements of this

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Title, all other applicable titles of the City of St. Charles Municipal Code and the approved Preliminary Engineering Plans and Final Plat of Subdivision.

16.04.100 Guarantee for completion of land improvements and monuments/benchmarks

The Subdivider shall submit a guarantee for completion of the Land Improvements and/or Monumentation/Benchmarks prior to approval and signature of the Final Plat of Subdivision by the Director of Community Development or designee for issuance of any required permits. As a condition of recording of a Final Plat of Subdivision, any partial guarantee for completion shall be replaced by a full guarantee.

The guarantee shall be in one of the following formats, with the form, amount and provider being subject to approval by the Development Engineering Division Manager or designee.

- A. Cash in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.
- B. A performance letter of credit, in substantially the form attached as Appendix C, in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed, issued by a sound reputable banking institution authorized to do business in the state of Illinois and meeting the criteria set forth below.
- C. A surety bond in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed, issued by a surety company authorized to do business in Illinois and meeting the criteria set forth below.

The form, amount and provider of the guarantee for completion shall be subject to the approval of the Director of Community Development, Development Engineering Division Manager or their designee, and shall meet the following criteria:

- A. Banks (for letters of credit): Each letter of credit shall be drawn on an institution 1) acceptable to the Director of Finance; 2) having assets of at least \$10 million; 3) having an office in the Chicago Metropolitan Area; and 4) that is a member of the Federal Deposit Insurance Corporation; or
- B. Insurance Companies (for surety bonds): Must have an A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-) or 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 which have been previously accepted by the City Council, and, if applicable, conveyed to the City via a bill of sale substantially in the form set forth in Appendix C pursuant to the terms and conditions of the Land Improvement Agreement

The guarantee shall be accompanied by a Land Improvement Agreement in substantially the form set forth in Appendix D. The Mayor is authorized to execute a Land Improvement Agreement and authorization from the City Council is not required.

16.04.110 Construction of land improvements

- A. The Subdivider shall not commence construction of any Land Improvements until the following conditions have been met:
 1. The Final Plat of Subdivision for, at a minimum, the first phase of the subdivision has been recorded.
 2. Final Engineering Plans have been approved in accordance with Section 16.04.090.
 3. A Guarantee for Completion of Land Improvements and Monuments/Benchmarks has been provided and a Land Improvement Agreement has been executed per Section 16.04.100.
- B. No sanitary sewer or public water main construction shall commence until a permit is issued from the Illinois Environmental Protection Agency and a copy is filed with the City.

- C. The Subdivider shall take care to avoid disturbance of lot and block corners and other survey points. Any such corners or points removed or disturbed shall be reestablished in their correct position and location before application is made for acceptance by the City.
- D. No deviations from approved plans and specifications shall be made without prior approval of the Development Engineering Divisions Manager or designee.

16.04.120 Timing of land improvements

- A. All Land Improvements shall be installed and completed within a period of two years after recording of the Final Plat of Subdivision, unless prior to the expiration of the two-year period and extension of time is requested by the Subdivider and approved by the Director of Community Development or designee. Failure to complete all of said Land Improvements within such two-year period or any extension thereof shall permit the City to utilize the guarantee to complete the Land Improvements. In the event of an extension of time, the Subdivider shall provide that the guarantee be in effect for the extended completion period. The amount of the guarantee shall be equal to the original amount (as reduced for completed Land Improvements pursuant to its terms and conditions, if applicable) plus an additional amount equal to the percentage increase in the ENR: Engineering News-Record 20 Cities Construction Cost Index, published weekly by McGraw Hill Information Systems Co., from the date of the original guarantee to the date of the extension approved by the City. In the event said index is no longer published, then the Consumer Price Index of the U.S. Department of Labor-Transportation Group, Chicago-Gary-Kenosha shall be used to calculate the increased amount. It shall be the Subdivider's responsibility to provide the appropriate documentation to the City regarding the index statistics.
- B. 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 that the City Council may provide a time extension for completion of sidewalk; tree planting, and parkway restoration improvements.
- C. In the event of failure to complete the Land Improvements in the required period, or any extension thereof, in addition to any other remedy the City may have, 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.

16.04.130 Acceptance of land improvements

All Land Improvements to be installed under the provisions of this Title and per the approved Final Engineering Plans shall be checked during the course of construction by, or at the direction of, the Development Engineering Division Manager or designee. Once all Land Improvements are approved, the Subdivider shall submit an executed bill of sale per Appendix C and, if applicable, a deed, for acceptance by the City Council. The City Council shall accept the Land Improvements via resolution. Approval of any Preliminary or Final Plat of Subdivision or Preliminary or Final Engineering Plans shall not constitute an acceptance by the City of any Land Improvement.

16.04.140 Building permits, occupancy permits, and maintenance prior to completion and acceptance of land improvements

- A. The Subdivider shall be responsible for maintenance of all Land Improvements until final acceptance of the completed improvements by the City, as specified in the Land Improvement Agreement set forth in Appendix D.
- B. No building permits within the subdivision shall be issued prior to: (1) approval of Final Engineering Plans and Final Plat and recording of the Final Plat for the phase or unit in which the permit is requested; (2) the establishment of paved access sufficient to provide access by emergency and inspection vehicles; and (3) the water system and fire hydrants being operable

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within the development to provide adequate fire flow. Determination of compliance with items (2) and (3) shall be made by the Director of Public Works, Directory of Community Development and the Fire Chief.

- C. No occupancy permit shall be issued for any building until: (1) the streets serving the lot(s) have been constructed to a minimum of a binder paving course and (2) all required land improvements serving the lot (including but not limited to water, sewer, storm sewer and stormwater facilities) have been installed and all public land improvements have been accepted by the City; however, public sidewalks, street trees, street lighting, and parkway seeding need not be completed prior to issuance of an occupancy permit, provided a guarantee for completion of these remaining improvements has been provided.

16.04.150 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 that has been accepted by the City Council;
- D. The acceptance of the Director of Community Development or Development Engineering Division Manager or designee of a guarantee for maintenance of Land Improvements (See Appendix C).

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 maintenance guarantee 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, issued by a sound and reputable banking authorized to do business in the State of Illinois and meeting the criteria set forth below.
 - 3. A surety 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, issued by a surety company authorized to do business in the State of Illinois and meeting the criteria set forth below.
- E. The form, amount and provider of the guarantee shall be subject to the approval of the Director of Community Development or Development Engineering Division Manager or designee and shall meet the following criteria:
- 1. Banks (for letters of credit): Each letter of credit shall be drawn on an institution a) acceptable to the Director of Finance; b) having assets of at least \$10 million; c) having an office in the Chicago Metropolitan Area; and d) that is a member of the Federal Deposit Insurance Corporation; or
 - 2. Insurance Companies (for surety bonds): Must have an A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-), or Very Good (B++ and B+) (or equivalent).
- F. Acceptance of the Land Improvements by the City Council, as set forth in Section 16.04.130. (Ord. 2012-M-45 § 2.)