

5. does not (for any other cause whatsoever) carry on or maintain the work in an approved manner; or
6. fails to provide a maintenance assurance in acceptable form to the County within the time-frame established by the Director. The County may use the funds to ensure proper maintenance of subdivision improvements.

**B. Notice of Default**

When the Director finds that a Developer is in default, and following consideration of the issues with the State's Attorneys Office, the Director shall be directed to give notice by registered mail to the Developer and to the issuer of the subdivision assurance of the County's intent to call on the subdivision assurance. The notice shall state the reasons for the default and the conditions established by the Staff Review Committee to remedy the default.

**C. Calling on a Subdivision Assurance**

If upon receipt of a notice of default, the Developer fails to correct the noted deficiencies and/or to honor the terms and conditions specified in the notice, the Director shall present a demand for payment on the assurance. The Director shall deliver the funds from the subdivision assurance to the County Treasurer, and the County Treasurer shall deposit the funds into an account designated for such funds.

**D. Appeals**

All appeals of the Director's decision to draw on an assurance shall be presented to the Planning, Building and Zoning Committee in accordance with Sec. 10.8 of this Ordinance.

**E. Utilization of Funds from Defaulted Assurance**

Upon the calling of a subdivision assurance, the Director shall be authorized to utilize these funds to cause compliance with the terms of the assurance. All costs, including the County's administrative expenses associated with causing compliance, shall be deducted from the funds on deposit with the Lake County Treasurer.

**F. Return of Unused Funds**

When compliance with the terms of a subdivision assurance has been achieved, the Director shall authorize the Lake County Treasurer to return to the Developer or approved beneficiary of said funds all remaining funds from the assurance, if any.

## **Sec. 10.20 Vacations**

This section sets out the required review and approval procedures for vacating plats, portions of plats that include rights-of-way, or rights-of-way contained in plats recorded with the County Recorder.

**10.20.1/ Authority to File Vacation Application**

The following groups and individuals shall have standing to file a Vacation application.

- A. The owner of the property that is the subject of the Vacation request may file a Vacation application.
- B. Property owners adjoining unimproved public street rights-of-way within their subdivision may file for the Vacation of said rights-of-way. For rights-of-way internal to a subdivision, the adjoining property owners on both sides of the right-of-way to be vacated shall be required to jointly file for the Vacation of said right-of-way. For rights-of-way which form the edge of a subdivision, only the adjoining property

owners within the subdivision shall be required to file for the Vacation of said right-of-way.

- C. In accordance with Illinois Statutes, a bona fide association of property owners may file to vacate any unimproved street right-of-way within their subdivision provided the following conditions are met:
1. The association shall be registered with the State of Illinois and be organized to receive, hold and convey real property; and
  2. The association undertakes to develop the property for the use and benefit of the association in a manner that is compatible with the existing adjoining land uses.

#### **10.20.2/ Application Filing**

Applications for Vacations shall be submitted to the Planning, Building and Development Department on forms available from that Department.

#### **10.20.3/ Liability**

As part of a Vacation application, the applicant(s) shall indemnify and hold Lake County harmless for damages resulting to any person as a result of the Vacation.

#### **10.20.4/ Vacation Procedure**

##### **A. Right-of-way Vacations**

The following procedure shall be used for vacation applications involving unimproved public rights-of-way (i.e. street or alley).

##### **1. Distribution of Application**

In instances when a vacation petition involves an unimproved right-of-way, the Vacation Officer shall distribute the application to all affected Reviewing Agencies, including the affected Township Highway Commissioner, and place the application on the agenda of the Board of Vacations.

##### **2. Public Hearing Notice**

Newspaper and Neighbor notice of the Board of Vacations' public hearing shall be provided in accordance with the requirements of Sec. 3.1.7 of this Ordinance. Written notice of the hearing shall also be provided to the applicant. The costs of publication shall be borne by the applicant(s).

##### **3. Board of Vacations' Review and Recommendation**

The voting members of the Board of Vacations shall inspect the property proposed to be vacated and hold a public hearing on the proposed Vacation. As part of the testimony, the Vacation Officer shall announce the purchase price of area contained in the right-of-way involved in the Vacation, which shall be established in accordance with the procedures of the County Board. Following the public hearing and before consideration by the Planning, Building and Zoning Committee, the Board of Vacations shall recommend approval, approval in part or with conditions, or denial of the Vacation. A member of the Board of Vacations who did not attend the public hearing may vote on the matter provided that the Board of Vacations member has studied the minutes and visited the site. The Vacation Officer shall be responsible for preparing a record of the testimony received at the public hearing and preparing a written report of the findings and recommendations of the Board of Vacations to the Planning, Building and Zoning Committee.

4. **Planning, Building and Zoning Committee and Finance and Administrative Committee Review and Recommendation**  
The Vacation Officer shall present the recommendation of the Board of Vacations to the Planning, Building and Zoning Committee and the Finance and Administrative Committee, after which the Planning, Building and Zoning Committee and the Finance and Administrative Committees shall act to recommend that the County Board approve, approve with conditions or deny the Vacation.
5. **Payment of Purchase Price**  
Prior to County Board action on the Vacation application, the applicant shall deposit the purchase price (if any) for the area contained in the vacated right-of-way with the Vacation Officer. The Vacation Officer shall return these funds to the applicant if the Vacation is denied by the County Board. Upon approval of the Vacation by the County Board, funds will be deposited in the appropriate county account.
6. **County Board Review and Action**  
The County Board shall vote on the recommendation and Resolution of the Vacation from the Planning, Building and Zoning Committee and the Finance and Administrative Committee. An affirmative vote of at least two-thirds of the County Board is required to grant a Vacation.
7. **Recordation**  
After County Board approval of a Vacation, the Vacation Officer shall obtain the County Board Resolution and shall obtain the Plat Officer's signature on the Deed of Vacation (Quit Claim Deed). The petitioner, in the presence of the Vacation Officer, shall present the County Board Resolution, the Deed of Vacation and all other documents required to meet the conditions of approval of the County Board Resolution for recording with the County Recorder.

**B. Plat Vacations**

The following procedure shall be used for applications involving the vacation of a plat or a portion of a plat.

1. **Distribution of Application**  
Upon receipt of an application for the vacation of a plat or a portion of a plat, the Vacation Officer shall distribute the application to all affected Reviewing Agencies in accordance with the review and approval process for a Final Plat as outlined in Sec. 10.7.6.B. of this Ordinance.
2. **Planning, Building and Zoning Committee Recommendation**  
The Vacation Officer shall present the recommendation of the Staff Review Committee and Reviewing Agencies to the Planning, Building and Zoning Committee. The Planning, Building and Zoning Committee shall act to approve, or deny the Vacation.
  - a. **Approval**  
Upon Planning, Building and Zoning Committee approval of a Plat Vacation, the Plat of Vacation together with any other documents required by this Ordinance to be recorded with the plat, shall remain in the custody of the Director unless other arrangements are authorized by the Committee. Within 10 days following approval, the applicant shall have the sole responsibility for recording the Plat Vacation and associated documents with the County Recorder and for paying all costs associated with the recording of the documents. Upon recording, the Plat Vacation the mylar shall be returned to

the applicant or surveyor of record for the subdivision. The official record of the Plat Vacation and associated documents shall be kept in the custody of the County.

**b. Denial**

If the Planning, Building and Zoning Committee denies the Plat Vacation, the applicant may:

- 1) amend the Final Plat or obtain the additional information and documentation requested by the Planning, Building and Zoning Committee and resubmit the subdivision for further review in accordance with Sec. 10.7.6.B.; or
- 2) appeal the decision of the Planning, Building and Zoning Committee in accordance with the standards of Sec. 10.8.

**10.20.5/ Effect of Vacation**

The Vacation of any subdivision plat or right-of-way shall not be deemed to be a vacation of the rights of any other individual or agency in, or related to, the subdivision plat or right-of-way. The approval of a Vacation does not, for example, vacate the rights of a public utility with facilities in the subject right-of-way.