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## **Sec. 14-189.5. Abandonment of existing public streets.**

- (a) Any abandonment of a public street by the City pursuant to this section must comply with the applicable requirements set forth in state law and this code, including, but not limited to, the requirements set forth in O.C.G.A. § 32-7-2(c) and 32-7-4 and as may hereinafter be amended.
- (b) A property owner may petition the governing authority to abandon an existing public street that abuts the owners' property. The petition must include documents that comply with all of the following requirements set forth in this section.
- (c) The petition shall contain evidence that each abutting landowner to the public street seeks to have the street abandoned.
- (d) The petition shall contain evidence that once abandoned pursuant to the requirements of state law, all property owners that abut the street agree that ownership of the street shall be placed in a property owners' association. The petition shall include evidence that 100 percent of all property owners in the property owners' association have agreed that the street at issue may become private and have agreed to maintain and exercise control over the private street as required by this part B.
- (e) The petition shall contain evidence that the property owners' association has the financial ability to maintain the street and associated improvements in perpetuity.
- (f) The petition shall include evidence that the declaration of covenants and articles of association or other legal instruments creating the property owners' association provide or have been amended to provide that membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit on the street.
- (g) The petition shall include evidence that the property owners' association shall be organized so that it has absolute legal authority to maintain and exercise control over the private streets and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses.
- (h) The petition shall include evidence that the declaration of covenants creating the property owners' association shall be recorded with the clerk of the Superior Court of DeKalb County and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the city.
- (i) The petition shall include evidence that the declaration of covenants and articles of association shall provide for a maintenance fund, the proceeds of which shall be used solely for the purpose of regular maintenance of the streets, whether for resurfacing or similar purpose. For the purposes of further providing further assurances that city funds shall not be used for maintenance of private streets, the property owners' association shall submit proof of a maintenance fund equal to 50 percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee, in an interest bearing account on behalf of the property owners' association.
- (j) The petition shall include evidence that the property owners have a maintenance bond renewable annually in an amount equal to 50 percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee.
- (k) The petition shall include evidence that the property owners' association is empowered to levy assessments against owners on the streets for the payment of expenditures made by the association for maintenance of the private streets and improvements associated with private streets, including, but not limited to,

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sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses and evidence that any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building, or unit of the owner. At least 15 percent of all fees or assessments paid shall be set aside in the maintenance fund.

- (I) The governing authority shall not consider a petition for abandonment unless it:
- (1) Contains all of the evidence and documents required by this Part B;
  - (2) The street is no longer used by the public to the extent that it serves no substantial public purpose and that the public at-large will benefit from its closure since the public will no longer be responsible for any costs to maintain and repair the street; and
  - (3) Is supported by an analysis by the community development department that shows that the abandonment of the street shall not negatively impact adjacent neighboring communities and the public at-large.

(Ord. No. 2018-06-03, § 14-189.5, 6-3-2018)