

Date May 9, 2016

**RESOLUTION SCHEDULING PUBLIC HEARING ON PROPOSED AMENDMENTS  
TO SUBDIVISION ORDINANCE (CHAPTER 106) RELATING TO  
SUBDIVISION PLAT APPROVAL AND APPEALS**

**WHEREAS**, Des Moines Municipal Code Section 106-7 provides that amendments to the Subdivision Ordinance (Chapter 106) shall not become effective until after public hearing before the Plan and Zoning Commission and the City Council; and

**WHEREAS**, on May 19, 2016, the City Plan and Zoning Commission will hold a public hearing regarding amendments to Sections 106-72 and 106-73 of the Subdivision Ordinance relating to subdivision plat approval and appeals thereof.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed amendments to the Sections 106-72 and 106-73 of the Subdivision Ordinance are to be considered shall be held in the Council Chambers, City Hall, at 5:00 p.m. on May 23, 2016, at which time the City Council will receive the recommendation of the City Plan and Zoning Commission and hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than four (4) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 of the Iowa Code.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

REGISTER ORDER NO. \_\_\_\_\_ ROLL CALL LEGAL BULLETIN BOARD FOLLOW UP

NOTICE OF HEARING ON CODE AMENDMENT

NOTICE IS HEREBY GIVEN, that the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance to amend Sections 106-72 and 106-73 of the Des Moines Municipal Code relating to subdivision plat approval and the appeal process.

NOTICE IS FURTHER GIVEN that the City Council will consider the adoption of the proposed ordinance after a public hearing to be held at 5:00 p.m., in the Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, on May 23, 2016. Persons interested in the proposal, both for and against, will be given the opportunity to express their views at that hearing. The proposed ordinance is on file and available for public inspection in the office of the City Clerk.

Published in the Des Moines Register on \_\_\_\_\_

Onfile-Clerk  
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 106-72 and 106-73, relating to subdivision plat approval.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 106-72 and 106-73 relating to subdivision plat approval, as follows:

**Sec. 106-72. Preliminary plat approval by commission.**

- (a) After completion of the preapplication conference required in section 106-71 of this division and if the applicant wishes to proceed to subdivide the property that was the subject of such preapplication conference, he or she shall cause to be prepared a preliminary plat of such subdivision and shall submit 13 copies of such preliminary plat and such other information as is required in this section to the city permit and development center for preliminary study and recommendation.
- (b) The preliminary plat shall be drawn to a scale of not less than one inch to 100 feet, shall be certified by a registered professional engineer and a registered land surveyor and shall show the following:
  - (1) Title and complete legal description of the tract of land to be subdivided, showing north point, scale, date, certification by the surveyor staking the lots, and the names, addresses and telephone numbers of the owner, subdivider and surveyor/engineer.
  - (2) Existing and proposed contour intervals of not more than two feet; provided, however, that a minimum of two contours shall be shown on any plat. If the applicant does not propose to grade any portion of the subject property, he or she shall so indicate on the plat.
  - (3) The location of property lines, existing and proposed public easements, and all such surface features as buildings, railroads, utilities, watercourses, canopied areas and similar items affecting the development; also, the general location and size of all existing and proposed subsurface features such as storm and sanitary sewers, water mains, culverts, gas mains, underground electric lines or cables, and drainpipes. The preliminary plat must be accompanied by a tree removal and mitigation plan containing the information required by section 42-554 of the tree removal and mitigation ordinance.
  - (4) A vicinity sketch or key map at a scale of not more than 500 feet to the inch shall be shown on or shall accompany the proposed plat. Such map shall show existing streets and alleys and neighboring subdivisions or undeveloped property.
  - (5) All existing adjacent subdivisions, streets and tract lines of acreage parcels together with the names of record owners of unsubdivided parcels of land immediately adjoining the proposed subdivision and between it and the nearest existing streets.

- (6) The sites proposed for streets, alleys, parks, open areas, school property, other areas of public use and outlot areas set aside for future development, all assigned a progressive letter with the proposed use clearly designated.
  - (7) The zoning district classification of the tract of land to be subdivided.
  - (8) Proposed street paving widths, the radii of curvature of streets, maximum grades for streets, and changes in grades of streets in accordance with division 1 of article III of this chapter, the design standards and the standard specifications.
  - (9) A soils report for the tract of land to be subdivided prepared by a registered professional engineer experienced in soils investigation showing general soil conditions and including recommendations as to the adaptability of such soils for the proposed development. This requirement may be waived at the discretion of the city engineer.
  - (10) All established floodway or flood fringe encroachment limits.
  - (11) A drainage report prepared in accordance with the design standards by a registered professional engineer.
  - (12) The numbered address of each proposed lot assigned pursuant to article XII of chapter 102 of this Code.
- (c) Upon submission of such preliminary plat, the permit and development center coordinator shall retain three copies and forward copies to city departments, county agencies and utilities, as appropriate. The permit and development center coordinator shall instruct the city departments, county agencies and utilities to complete their review of the preliminary plat and forward their comments concerning the plat to the city permit and development center within 14 days after the date of submission of such plat to the city permit and development center.
- (d) Upon receipt of comments from the appropriate city departments, county agencies and utilities, the permit and development center coordinator shall prepare a report on the preliminary plat which shall incorporate the comments and concerns of the city departments, county agencies and utilities. To ensure compatibility with the city's planning goals and policies, such report shall be reviewed with the planning director, after which the permit and development center coordinator, in consultation with the planning director, shall prepare a recommendation on the preliminary plat and forward such recommendation to the applicant. The planning director shall forward the plat and recommendation to the plan and zoning commission for consideration.
- (e) Before approving a preliminary plat, the commission shall hold a public hearing. The commission shall determine if such preliminary plat conforms to the standards and requirements outlined in I.C. § 354.1 et seq., and this chapter and shall approve, conditionally approve or reject such plat within 45 days after the date of submission to the city permit and development center. Unless the applicant agrees in writing to an extension of time, the preliminary plat shall be deemed approved if the commission does not act within such 45-day period. ~~The commission's action for approval or conditional approval shall be null and void unless the final plat is submitted to the city permit and development center within 270 days after the date of such action; provided, however, that the permit and development center coordinator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the final plat to the city permit and development center.~~
- (f) ~~Before approving a preliminary plat, the commission may in its discretion hold a public hearing, notice of which shall be given as provided by law.~~

- (g) — The permit and development center coordinator shall promptly notify the applicant of the commission's recommendations regarding the plat. Decisions of the commission rejecting or conditionally approving a preliminary plat may be appealed to the city council by the applicant. Appeal shall be made, without cost, by written notification received by the city clerk within 30 days after the date of the determination of the commission. The city council shall decide all appeals by public hearing within 30 days after the written notification has been received by the city clerk, or as soon as practical thereafter in the event that the public hearing is continued by resolution of the city council. A majority vote of the city council shall be necessary to overturn or modify the action of the plan and zoning commission.
- (g) The commission's action for approval or conditional approval, or the city council's action for approval or conditional approval on appeal if applicable, shall be null and void unless the final plat is submitted to the city permit and development center within 270 days after the date of such action as applicable; provided, however, that the permit and development center coordinator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the final plat to the city permit and development center.
- (h) Subject to approval of the permit and development center coordinator, one model building may be constructed prior to final approval of the plat, provided:
  - (1) The model building shall be constructed on a designated parcel on the proposed plat;
  - (2) The designated parcel shall derive its access from an existing open street;
  - (3) The designated parcel shall meet all minimum bulk regulations of the zoning district in which it is located;
  - (4) The designated parcel is not located in an area where a future street or other improvement is proposed;
  - (5) The designated parcel shall be shown as a lot in the proposed plat; and
  - (6) If the designated parcel is sold prior to completion of the plat, the subdivider shall:
    - a. Ensure the installation of required improvements for the parcel; and
    - b. Obtain all documents from the subsequent proprietors, mortgage holders and lienholders required as attachments to plats under I.C. § 354.1 et seq.
- (i) If the applicant desires to commence construction of any required improvement after approval of the preliminary plat, but prior to approval of the final plat by the city council, he or she shall comply with the contractor's bond requirements set forth in division 2 of article III of this chapter.
- (j) Grading of the site shall comply with the following:
  - (1) If the applicant proposes to grade, strip, excavate, fill, undertake or cause any earth change on the site or stockpile any granular construction materials in excess of 5,000 cubic yards on the site, he or she shall submit to the city permit and development center an application for a grading permit, containing all of the information set forth in section 42-87 of this Code. The application for the grading permit shall be processed in the manner set forth in section 42-88 of this Code.
  - (2) An application for grading permit may be submitted at the time the preliminary plat is submitted to the city permit and development center, or at any time thereafter, but in no event shall the applicant proceed to grade, strip, excavate, fill, undertake or cause any earth change on the site or stockpile any granular construction material in excess of 5,000 cubic yards on the site until after approval of the preliminary plat and issuance of the grading permit by the city engineer.

- (3) The bond requirements set forth in division 2 of article III of this chapter shall apply to the installation and construction of permanent soil erosion control measures on areas of the site to be dedicated to the city.

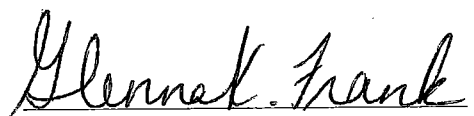
**Sec. 106-73. Final plat approval.**

- (a) Within 270 days after approval of the preliminary plat by the plan and zoning commission, or by the city council on appeal if applicable, plus any extensions granted by the permit and development center coordinator pursuant to subsection 106-72(e) of this division, the applicant shall submit to the city permit and development center for its review and recommendation five copies of a final plat of the subdivision made from an accurate survey certified by a registered land surveyor and drawn to a scale of 100 feet to the inch or larger, which plat shall contain the following information:
  - (1) The boundaries of the plat, the right-of-way lines and width of all proposed streets and alleys, and lines for any parks, open areas, school property, other areas of public use and outlot areas set aside for future development accurately established by sufficient information, including dimensions and angles or bearings. The boundaries of the plat shall be accurately described and shall give reference to two section corners within the United States public land survey system in which the plat lies or, if the plat is a subdivision of any portion of an official plat, two established monuments within the official plat. All streets, alleys, parks, open areas, school property, other areas of public use and outlot areas set aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated.
  - (2) The right-of-way lines, width and names of adjoining streets and alleys.
  - (3) All lot lines, with applicable addresses and all easements, accurately established by sufficient information, including dimensions and angles or bearings.
  - (4) All surveying dimensions and requirements as set forth in division 1 of article III of this chapter.
  - (5) A complete legal description and list of proprietors of the property to be subdivided, showing the location and extent, points of compass, scale of plat, and certification and name of the surveyor responsible for staking the lots. All adjoining properties shall be identified, and where such adjoining properties are a part of an official plat, the name of that plat shall be shown.
  - (6) An outline of all property to be reserved by deed covenant for the common use of subsequent property owners in the subdivision.
  - (7) A proposed consent to plat statement and proposed dedication statement for all property within the plat to be designated for streets, alleys, parks, open areas, school property, or other public use.
  - (8) All other information required under I.C. § 354.6.
- (b) Upon submission of such proposed final plat with all required documents and information, the permit and development center coordinator shall retain three copies and forward copies to city departments, county agencies and utilities as appropriate. The permit and development center coordinator shall instruct the city departments, county agencies and utilities to complete their review of the proposed final plat and forward their comments

- concerning the plat to the permit and development center within 21 days after the date of submission of such final plat to the permit and development center.
- (c) The permit and development center coordinator shall determine if the proposed final plat conforms to the standards and requirements outlined in I.C. § 354.1 et seq., and this chapter and shall approve, conditionally approve or reject such plat. The permit and development center coordinator shall notify the applicant of the action regarding the proposed final plat within 30 days after the date of submission thereof to the permit and development center. Unless the applicant agrees in writing to an extension of time, the proposed final plat shall be deemed approved if the permit and development center coordinator does not act within such 30-day period.
  - (d) The applicant may make a written appeal, in whole or in part, of the action of the permit and development center coordinator to the plan and zoning commission. Such written appeal must be submitted to the permit and development center within 30 days after the date of final action by the permit and development center coordinator.
  - (e) If an appeal occurs, the commission, in conformity with the standards and requirements outlined in I.C. § 354.1 et seq., and this chapter, shall hear and decide such appeal within 30 days of the date the appeal is submitted to the permit and development center. If the commission does not act within such 30-day period, the portion of the permit and development center coordinator's action appealed from shall be deemed reversed.
  - (f) The permit and development center coordinator shall promptly notify the applicant of the commission's decision on the appeal. Decisions of the commission rejecting or conditionally approving a final plat may be appealed by the applicant to the city council. Appeal shall be made, without cost, by written notification received by the city clerk within 30 days after the date of the determination of the commission. The city council shall decide all appeals by public hearing within 30 days after the written notification has been received by the city clerk, or as soon as practical thereafter in the event that the public hearing is continued by resolution of the city council. A majority vote of the city council shall be necessary to overturn or modify the action of the plan and zoning commission.
  - (g) The action for approval or conditional approval shall be null and void unless a complete application for final plat approval is submitted to the city council within one year after the date on which action on such plat was taken by the permit and development center coordinator, or by the plan and zoning commission or city council on appeal as applicable; provided, however, that the permit and development center coordinator may grant, upon written request of the applicant, a 90-day extension for submittal of the final plat to the city council.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

  
 Glenna K. Frank  
 Assistant City Attorney