



CITY OF MARSHALL
Legislative & Ordinance Committee
A g e n d a
Tuesday, September 19, 2023 at 12:45 PM
On Main, City Hall

APPROVAL OF AGENDA

APPROVAL OF MINUTES

- [1.](#) Consider Approval of the Minutes

OLD BUSINESS

- [2.](#) 86-247 Landscaping, 86-1 Definitions

NEW BUSINESS

- [3.](#) 86-248 Outside Storage: Shipping Containers
- [4.](#) 66-33 Process, 66-55 Procedures, and 86-30 Amendments

ADJOURN

Disclaimer: These agendas have been prepared to provide information regarding an upcoming meeting of the Common Council of the City of Marshall. This document does not claim to be complete and is subject to change.



CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Chair
Meeting Date:	Tuesday, September 19, 2023
Category:	APPROVAL OF MINUTES
Type:	ACTION
Subject:	Consider Approval of the Minutes
Background Information:	Enclosed are the minutes from the previous meeting.
Fiscal Impact:	
Alternative/ Variations:	Staff encourages Members to provide any suggested corrections to the minutes in writing to City Clerk, Steven Anderson, prior to the meeting.
Recommendations:	That the minutes from the previous meeting be approved as filed with each member and that the reading of the same be waived.

CITY OF MARSHALL
LEGISLATIVE AND ORDINANCE COMMITTEE
MINUTES
Monday, August 08, 2023

MEMBERS PRESENT: See Moua-Leske, James Lozinski, and Steve Meister
MEMBERS ABSENT: None
STAFF PRESENT: Sharon Hanson, City Administrator; Jason Anderson, Director of Public Works/ City Engineer; Pamela Whitmore, City Attorney; Jim Marshall, Director of Public Safety; Ilya Gutman, Plans Examiner and Steven Anderson, City Clerk.

At 2:45 Chair Lozinski called the meeting to order.

It was decided that Item 3. Shipping Containers would be talked about first and the other items would continue in order.

Consider Approval of the Minutes

There were no changes to the minutes from June 27, 2023.

Motion made by Meister, Seconded by Moua-Leske to approve the minutes. All voted in favor.

Shipping Containers

Jason Anderson presented background information on the original shipping container ordinance. Feedback was received from local business owners and suggestions were taken that shipping containers only be enforced by complaint basis. Anderson and Gutman clarified that shipping containers are currently only allowed in industrial zones and by Interim Use Permit (IUP) in a business district. Three IUPs have been issued since the ordinance has been adopted and the permit requirements have not been met yet. When the ordinance initially took effect city staff did a sweep of the city looking for shipping containers as directed by city council and has since moved to a complaint basis. Members discussed the ordinance was brought up to keep the city looking clean and that if left unchecked shipping containers would get out of hand. Members mentioned that if we have the ordinance it needs to be enforced and that every so often another sweep might be necessary. Lozinski and Meister requested that an informational item be brought to a future council meeting.

Amending Article 42-V to Prohibit the Use of Cannabis and Hemp in Public Places

Attorney Whitmore gave a brief presentation on the new law changes and the impacts it has on local municipalities. Whitmore suggested that the city will want to start considerations on zoning and the registration process once the Office of Cannabis Management starts rule making. Whitmore continued the presentation explaining the differences in the terms “low potency” and “edible cannabinoid” that were introduced in the 2022 and 2023 legislative sessions. Regarding zoning members questioned how far tobacco and liquor needed to be away from school zones. Clerk Anderson clarified that only liquor has a requirement of not within 1000ft of a school. Whitmore showed examples of cities/counties that are currently developing ordinances and the variety of prohibitions ranging to banning all smoking/consumption to only banning use in a few select parks. Members asked Marshall what would be enforceable or if depending on the situation would enforcement be by complaint basis. Lozinski voiced that he would like to see a ban on all smoking on public sidewalks, parks, and parking lots. Scenarios were given about citizens smoking on their own property and smoke drifting to other properties. The ordinance would at least give law enforcement a reason to have open dialog with citizens when complaints are lodged, law enforcement would only be able to detect levels of impairment in relation to cannabis. Jason Anderson suggested that a designated smoking area be allowed in some public places such as outside bars. Members continued talks about modeling the ordinance like alcohol and allow edible cannabis consumption by permit in public parks. Whitmore summarized that the committee would like to have the ordinance amended to ban all smoking in public places such as sidewalks, parks, and parking lots with designated smoking areas and to allow edible cannabinoids by permit in public parks. Members requested that the revisions be brought back to the committee for review before proceeding to council introduction.

18-2 Required Key Box

Due to time constraints Chair Lozinski moved item the required key box item up. Anderson and Gutman stated that from the previous meeting the suggestion to investigate the need for the Fire Chief to implement additional rules and regulations was investigated and has been amended to be removed from the current draft of the ordinance.

Motion made by Meister, Seconded by Moua-Leske to recommend section 18-2 that will require key boxes for most commercial buildings be introduced to city council. All voted in favor.

86-247 Landscaping

Attorney Whitmore briefly mentioned that new law was introduced that prohibits cities from not allowing pollinator gardens. Gutman chimed that pollinator gardens would be allowed under section 86-247 but with maximum size/location requirements and have standards of maintenance.

Motion made by Meister, Seconded by Moua-Leske to table 82-247 Landscaping due to lack of time. All voted in favor.

At 3:52 PM Motion by Lozinski, Seconded by Moua-Leske to adjourn the meeting. All voted in favor.

Respectfully Submitted,

Steven Anderson
City Clerk

**CITY OF MARSHALL
AGENDA ITEM REPORT
L&O 9/19/23**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, September 19, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	86-247 Landscaping, 86-1 Definitions
Background Information:	<p>This section adds a concept of pollinator gardens that has been recently approved by the Council. It has been discussed at the L&O meeting in June and staff was given directions to consider relaxing requirements for such gardens. To be consistent with general structure of the Zoning Ordinance, the pollinator garden definition was moved to Section 86-1 Definitions of the Zoning Ordinance (this definition was created in cooperation with Amanda Beckler from the Community Services department). This new version now treats vegetable, flower, and pollinator gardens in a similar manner, allowing them now in front yards with no limitation on their sizes; vegetable gardens on vacant lots may be permitted only by an interim use permit. To alleviate neighbors' concerns, a setback from property lines is required for all gardens. A proposed requirement for a sign is intended as a teaching tool for neighbors to reduce complaints.</p> <p>This change has not been presented at the Planning Commission yet.</p>
Fiscal Impact:	None
Alternative/ Variations:	As suggested by the L&O members
Recommendations:	Staff recommends the recommendation to the City Council approving the revisions amending Section 86-247 Landscaping.

Section 86-247 Landscaping

(a) In all classes of residential and business districts, all exposed ground areas surrounding a principal and accessory use, including street boulevards and easements, and which are not devoted to parking, drives, walks, patios, designated retail display areas or other such uses shall be landscaped except vegetation areas left in a natural state during initial construction may remain if properly maintained. Downtown district is exempted from the landscaping requirements.

- (1) Fences, bushes, shrubs, and any other landscape elements placed upon easements are subject to removal at owner's expense if required for maintenance or improvement of the utility. The city shall not be required to pay compensation for the items to be removed from a utility easement. Retaining walls shall not be placed upon easements.
- (2) Trees planted within, or adjacent to, public right-of-way shall comply with the city tree policy.
- (3) All landscaped areas, including vegetable, flower, and pollinator gardens, shall be kept neat, clean, uncluttered and be properly maintained. Landscaped area shall not be used for the recurring parking of vehicles, except as provided for in section 86-230 for overflow parking, or the storage or display of materials, supplies, and merchandise.
- (4) Vegetation within a 25-foot visibility triangle of the property corner at street intersections and within a 10-foot visibility triangle adjacent to alleys and driveways shall not be taller than three feet measured from the top of the street curb. All vegetation upon, and adjacent to, boulevards shall comply with the city tree policy.
- (5) Private v~~Vegetable, flower and pollinator~~ gardens are allowed in all R-1 and R-2 residence and, except vegetable gardens, in all business districts, ~~but shall not be located in the front yard or side yards and shall not occupy more than 25 percent of the area of a rear yard; larger gardens may be allowed by an interim use permit. Vegetable gardens must not be placed on a lot where there is no permitted use main building except when such lot is adjacent to the lot where a permitted use main building is located and both lots have the same owner(s), in which case the vegetable garden can occupy 20 percent of the area of a rear yard calculated for these two lots combined. All such gardens shall not be placed closer than ten feet to all property lines or buildings, and shall have a clearly delineated physical border or edging.~~
 - a. On a lot where there is no permitted use principal building, flower and pollinator gardens shall not be placed closer than fifteen feet to all property lines.
 - b. Vegetable gardens occupying more than 50 percent of the rear yard or located on a lot where there is no permitted use principal building, and pollinator gardens with vegetation higher than fifteen inches may be allowed by an interim use permit.
 - c. All pollinator gardens shall have a sign advising that a pollinator garden is being established. This sign must be not smaller than eight inches square, not larger than one square foot, and have a height between two and three feet.
- (6) Community vegetable gardens may be allowed in all business~~other~~ zoning districts by an interim use permit, ~~except interim use permit is not required in agricultural district. Such gardens shall not be located in the required yards or closer than ten feet to any building.~~

(b) Landscape area shall occupy not less than 25 percent of the exposed ground area of the lot. Landscape area shall include not less than 50 percent live materials (vegetation, including flower and pollinator gardens) with the balance being permeable landscaping decorative materials such as landscape rock or mulch.

- (1) Grade slope over one-foot in three feet is prohibited unless existing site grading is and special measures are taken to prevent erosion.

- (2) The trees shall be planted at a rate of at least one tree per 5,000 square feet of landscaped area or one tree per 50 feet of lot street frontage, whichever is greater; existing trees protected during construction may be counted toward the total number of trees required. If more than five trees are required, at least two species shall be used.
- (3) Overgrown vegetation and sizable broken limbs shall be trimmed; dead or severely damaged trees shall be replaced. Infected trees shall be treated in accordance with chapter 82, Vegetation.
- (4) Elms, ash, and box elder trees shall not be used unless disease resistant species are utilized.

(c) In all classes of business and industrial districts, yards adjoining any of the classes of residence districts or public parks shall be landscaped with buffer planting screens unless an adjacent residence district property contains a non-residential use. In R-3 and R-4 multiple family residence districts, yards adjoining lower classes of residence districts shall be landscaped with buffer planting screens unless a multiple family residence district property contains exclusively one- to four-family residences.

- (1) Buffer planting screens shall be at least 80 percent opaque year-round and six feet high. Planting screens shall be planted in such manner that, when fully grown, they remain entirely within the property boundaries. A maintenance-free opaque fence or other means deemed comparable to planting screens by the city staff may be used to substitute for the required buffer planting screens provided requirements of subsection (b) are met.

- (d) Building enlargement and expansions over 50 percent of existing building footprint area or construction of additional main use buildings on site shall cause an entire site landscaping review by city staff for ordinance compliance.
- (e) All requirements of this section shall be satisfied within one year of receiving a temporary certificate of occupancy. All new site work performed on existing occupied sites shall comply with the landscaping requirements.

(Code 1976, § 11.19(3)(A)(1); Ord. No. 687, § 1, 6-10-2014; Ord. No. 727 2nd series, § 1, 4-24-2018; Ord. No. 749 2nd series, § 1, 6-23-2020)

Outlot means a tract of land, included in a plat, which is smaller than the minimum size permitted for lots or doesn't have proper access from a street and which is thereby declared unbuildable until combined through platting with additional land; or a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Patio means a flat structure made of concrete, brick, wood, or other building materials, elevated above adjacent grade six inches or less from any point.

Pergola means a structure forming a shaded area and made of vertical posts or pillars that usually support cross beams and a sturdy open lattice.

Pollinator gardens, or natural landscapes, means intentionally designed and managed gardens that contain non-native plants or native species that are listed as pollinator-friendly plants by the State of Minnesota Board of Water and Soil Resources (MNBWSR) or one of MNBWSR's partner organizations with the maximum height of vegetation not to exceed fifteen inches; pollinator gardens may not include any noxious weeds or turf-grass lawns left unattended for the purpose of returning to a natural state, and shall be maintained to remove all unintended vegetation and cut at least once annually between April 15 and July 15 to a height no greater than ten (10) inches

Permit means an official document issued by the City that authorizes performance of a specified activity.

Porch, four-season, or sunroom means a heated room with the glazing exceeding 40 percent of the exterior wall area.

Porch, open, means a roofed deck surrounded by walls not higher than 42 inches, with or without window screens above.

Porch, three-season, means an unheated room with the glazing exceeding 40 percent of the exterior wall area.

Prefabricated building means a building regulated by the building code, which is newly constructed, in full or in sections, off the building site to be installed, , on the building site on the permanent foundation.

PUD (planned unit development) means a special zoning district, which may include single or mixed uses and one or more lots or parcels, where one or more of the zoning or subdivision regulations, except use regulations, may be waived or altered to create a more flexible, creative and efficient approach to the use of land, and which is subject to the procedures, standards and regulations contained in this Chapter.

Recreational vehicle means a vehicle, motorized or towed, that is built on a single chassis and is designed for recreational, travel, or seasonal camping use. For the purposes of this Chapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle, camper, or motor home.

Residential facility means any facility, licensed by the State of Minnesota, public or private, which for gain or otherwise provides two or more persons with care, food, lodging, training, education, supervision, habilitation, and rehabilitation for 24 hours per day. Residential facilities include, but are not limited to, foster homes, hospices, residential treatment centers, group homes, and residential programs for handicapped children. Nothing in this definition shall be construed to include jails, nursing homes, substance abuse treatment facilities, or facilities excluded by Minn. Stat. § 462.357, subd. 7.

Right-of-way means a publicly owned strip of land covered, or intended to be covered, by a public roadway or other vehicle or pedestrian path, including adjacent land, which is dedicated, designated or reserved for public use.

Roomer means a person, not part of a housekeeping unit, who rents a single room in a one- or two-family dwelling or dwelling unit on a permanent or semi-permanent basis, with no cooking privileges and no special contract for food.

**CITY OF MARSHALL
AGENDA ITEM REPORT
L&O 9/19/23**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, September 19, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	86-248 Outside storage: shipping containers
Background Information:	<p>This section had been amended multiple times in the past, first to allow a single shipping container in a general business district with an interim use permit, and then several times more to make it less and less restrictive. At the Council meeting in August, City staff asked for confirmation of City Council support for the City Ordinance as it was written and confirmation of City Council support for City staff's function regarding Code enforcement. At that meeting, the Council directed staff to review this section again. The proposed change will now allow a single storage unit – still with an interim use permit - without a fence around, provided it is painted to match the building.</p> <p>These changes have not been presented at the Planning Commission yet.</p>
Fiscal Impact:	None
Alternative/ Variations:	Keep section as is and do not amend.
Recommendations:	Staff recommends the recommendation to the City Council approving the revisions amending Section 86-248 Outside storage.

Section 86-248 Outside Storage

- (a) In all classes of residential districts, open storage and accumulation of materials and equipment shall be prohibited. In all other zoning districts, open storage of materials and equipment shall be prohibited in the required front, side, and rear yards, except storage shall be allowed in the required rear yard in industrial districts. Unless prohibited elsewhere in the ordinance, any other outside storage, including outdoor storage tanks, shall be located or screened so as not to be visible from public right-of-way, public parks or any lot within 500 feet in any of the classes of business or residence districts, except in industrial and agricultural zoning districts screening from public right-of-way is not required. The screening may be achieved by fencing or landscaping means compliant with section 86-247. In all classes of business districts, the storage area shall be paved or graveled to control erosion and shall be properly maintained. Temporary storage of building materials intended for construction use on premises shall be allowed during ongoing construction and up to two weeks prior to construction and is exempt from the above requirements provided a valid building permit is obtained.
- (b) Outdoor display of retail merchandise intended for sale or rent and open to public shall be allowed in all classes of business and industrial districts. In all classes of business districts, the display area, except live plants sales area, shall be paved to control dust and erosion and facilitate access to, and moving of, displayed products. Except licensed automobile, motorcycle, off-road vehicle, and boat sales lots, and small motorized farm and lawn care equipment sales, the display area shall not be located in the required front and side yards. Outdoor display areas adjacent to any of the classes of residence districts shall be screened by fencing or landscaping means compliant with section 86-247. Outdoor display area shall be adequately lighted.
- (c) In all classes of residential districts and residential properties within other zoning districts, outdoor display and sale shall be allowed during garage and yard sales only. The display and sales area shall be located entirely within the pertinent residential property.
 - (1) Any related signage shall be limited to premises and to other private properties provided permission from the property owners is obtained; all signage shall be erected not earlier than one-day before sale and shall be removed at the termination of the sale. Such signs shall be limited to three square feet each.
 - (2) There shall be no more than four garage sales conducted during any period of 12 calendar months; there shall be no more than two garage sales conducted during any period of 30 calendar days; there shall be no garage sales conducted for more than four consecutive days; and there shall be no garage sales conducted before 7:00 a.m. or after 8:00 p.m.
- (d) Building enlargement and expansions over 50 percent of existing building footprint area, construction of additional buildings on site, or changes of use resulting in new exterior storage or display area shall cause an exterior storage/display area review by city staff for ordinance compliance.
- (e) Trash, garbage, refuse, recycling materials or any other items intended for disposal shall be stored in designated containers or dumpsters which, with the exception of R-1 and R-2 residence districts, shall be located within areas set for collection of garbage as prescribed by section 50-23. In R-1 and R-2 residence districts trash cans shall not be stored in the required front yard except on the day of garbage collection. In R-1 and R-2 residence districts furniture and other bulky items may be left at the curb for pick up by the licensed garbage hauler or anywhere in the front yard for anyone to take for no more than 48 hours. In all classes of business and industrial districts, similar items intended for disposal may be piled together for

temporary storage no longer than six months within garbage collection areas in a single stack not higher than five feet and with area no more than 100 square feet.

- (1) In all classes of multiple-family and business districts, garbage collection areas shall be paved and fully enclosed with secured access and shall not be located in the required front yard. The enclosure shall be between five and six feet high and fully opaque. If it is located next to the building, it shall be finished with materials matching the exterior of the building. Enclosure requirement does not apply in the Downtown district.
 - (2) Temporary construction dumpsters intended for demolition and other construction debris may be located outside of such enclosures during ongoing construction and up to one week before and after construction provided a valid building permit is obtained. No temporary construction dumpster shall be set on public right-of-way or public parking lot unless a city permit is secured.
- (f) Storage units are not allowed as permanent storage in all classes of residential or business districts. Storage units include motor vehicle trailers, including semi-trailers, designed to carry cargo; cargo or shipping containers constructed out of prefabricated metal and designed for overseas shipping or mounting on rail cars or truck trailers; or steel framed, weatherproof moving containers, commonly known as PODS. Utilization of a single unit is allowed for temporary storage for no more than 30 days in a calendar year; the 30 days limit may be extended ~~up to 180 days~~ by an interim use permit, provided such unit is painted to match the building with no signage, lettering, or advertising of any sort and is not placed in the front yard or required side or rear yards. The above listed units used for temporary construction related storage shall be allowed during an ongoing construction project and up to a month prior to construction, provided a valid building permit is obtained. As an exception, storage units totaling less than 1,000 square feet or ten percent of the main building area, whichever is less, may be permitted by an interim use permit in a B-3 general business district, with the following conditions:
- (1) The containers shall not be placed in any front or required side or rear yard.
 - (2) The containers shall be located so as not to be visible from the public right-of-way, public parks, or any lot in any of the classes of business or residence districts within 500 feet of the containers. It may be screened by fencing or landscaping means compliant with section 86-247. If a fence taller than otherwise permitted by the Ordinance is required for screening by an interim use permit condition, a variance for such fence construction shall not be required.
 - (3) The containers shall be new or freshly painted with neutral colors with no painted signage, lettering, or advertising and shall be properly maintained.
 - (4) The interim use permit shall expire when the property changes ownership or earlier as approved by the council.
- (g) In all classes of residential districts, a licensed boat, open or closed trailer, camper, motor-home, recreational vehicle or other motorized vehicle, but no more than three units, may be stored outside on the property as regulated in section 74-131. One snowmobile, ATV, golf cart, riding mower, trailer, boat, or camper can be displayed for sale in the front yard, provided it has not been purchased or consigned for resale and is not displayed for longer than seven consecutive days or longer than 30 days in a calendar year. No storage or accumulation of any materials in trailers is permitted.

(Code 1976, § 11.19(3)(A)(2); Ord. No. 687, § 1, 6-10-2014; Ord. No. 749 2nd series, § 1, 6-23-2020; p. 21-002, § 1, 4-27-2021)

**CITY OF MARSHALL
AGENDA ITEM REPORT
L&O 9/19/23**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, September 19, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	66-33 Process, 66-55 Procedures, and 86-30 Amendments
Background Information:	<p>The intent of these suggested changes is to make most common procedures that involve the Planning Commission and require public hearings more uniform. Currently, rezoning, variances and conditional use permits go to the Planning Commission meeting for public hearings; however, plats and changes to zoning ordinance text have public hearings at the Council meetings. This inconsistency sometimes causes confusion. The proposed changes will move public hearings for platting and zoning ordinance amendments to the Planning Commission meetings making everything more consistent. Procedures requiring two council meetings will still have them, except the second one will not be a public hearing.</p> <p>These changes have not been presented at the Planning Commission yet.</p>
Fiscal Impact:	None
Alternative/ Variations:	Keep sections as is and do not amend.
Recommendations:	Staff recommends the recommendation to the City Council approving the revisions amending Sections 66-33 Process, 66-55 Procedures, and 86-30 Amendments in order to move all public hearings to the Planning Commission meeting.

Section 66-33 Process

(a) *Plat approval.* All proposed subdivision plats must be approved by the city council through a three-phase development process. When there are only a small number of lots being platted, the requirements for a sketch plan may be waived by the city engineer.

(1) *Sketch plan.* Prior to the submission of the preliminary plat to the planning commission, the developer shall present a sketch of the proposed plan to the city engineer for discussion and comment regarding the requirements for the general layout of streets, roads, reservations of land, street and road improvements, drainage, sewerage, fire protection and similar matters, as well as the availability of services.

(2) *Preliminary plat.* Based on the discussion of the sketch plan or other considerations, the applicant shall may submit the preliminary plat for approval. The preliminary plat shall provide all of the information indicated in division 2 of this article. This plat shall will be subject to the review and approval of the city engineer, utilities support services, and the planning commission prior to approval by the city council.

(3) *Final plat.* The final plat shall consist of the plat, the final drainage and grading plan, the final utility plan, and a final erosion control plan, if required.

a. The final grading and drainage plan, the final utility plan, and, if required, the final erosion control plan shall be approved or disapproved within 15 days after submittal to the city engineer. If these plans are approved by the city engineer, the developer may then submit the plat for approval.

b. The plans shall provide the information indicated in division 3 of this article and shall require the review of the city engineer and the approval of the city council. Either all or a portion of the preliminary plat may be approved for platting by the city council.

(b) *Replats.* If the land proposed for platting is a resubdivision, it shall require a preliminary plat and a final plat of the resubdivision requiring the same review and approval procedures as the preliminary plat and the final plat, unless the resubdivision meets the requirements set forth in section 66-35. The city engineer may then waive the requirements for a preliminary plat.

(c) Application forms. Subdivision plat requests may be applied for only on the forms prepared by the city engineer. An application shall not be considered complete until a preliminary plat is filed with the city engineer.

(e)(d) Filing fee. The filing fee shall be deposited at the office of the city engineer/zoning administrator for all preliminary plats, final plats and for all replats. The schedule of fees shall be set by resolution of the city council.

(Code 1976, § 12.03(3))

Section 66-55 Procedures

- (a) One copy of any preliminary plat which includes lands abutting upon existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the registrar of deeds (county recorder), shall be forthwith forwarded by the city engineer to the commissioner of transportationhighways for his written comments and recommendations. Any such plat which includes land abutting upon any existing or established county or county state aid highway shall be so forwarded to the county engineer for his written comments and suggestions. Action thereon shall be postponed for a period of 15 days pending receipt of such response. Copies of any such responses shall be submitted to the city engineer ~~and forwarded to the secretary of the planning commission.~~
- (b) One copy of the preliminary plat shall be filed with the ~~director of public works/~~city engineer for city council use, and who shall advise the council ~~shall be advised by him~~ of such filing at its next regular meeting.
- (c) The city engineer shall forward one copy of the preliminary plat to all utility providers serving the proposed subdivision.
- ~~(1) One copy of the preliminary plat to the electric utilities serving the proposed subdivision.~~
 - ~~(2) One copy of the preliminary plat to the telephone company servicing the proposed subdivision.~~
 - ~~(3) One copy of the preliminary plat to the natural gas company serving the proposed subdivision.~~
- (d) One copy of the preliminary plat shall be kept by the city engineer. The city engineer shall check and verify the survey and plat to such extent as he deems necessary, provided that he shall check with the zoning administrator and with heads of other departments which, in his opinion, would be affected by approval of the preliminary plat in the form presented. He shall within 30 days, unless such time limit is extended by the council from the filing date, prepare a written report to the council with a copy to the planning commission, including his comments and recommendations and the comments and recommendations of the zoning administrator and other department heads.
- (e) ~~One copy of the preliminary plat shall be referred to the secretary of the planning commission.~~ After receipt of any comments and recommendations from the commissioner of transportationhighways and county highway engineer and after the receipt of the report from the city engineer, the planning commission shall meet to review the preliminary plat and make its recommendation to the council.
- (f) Such meeting of the planning commission shall be held within 60 days from the date of filing, extended by the equivalent of any extensions granted by the city engineer to make his report ~~and may be called by the secretary.~~ ~~A ten-day written notice of such meeting, stating the time, place and purpose, shall be given by the zoning administrator to all members of the planning commission, abutting property owners and the subdivider; provided, however, that failure to give such notice shall not affect the validity of such meeting or subsequent proceedings relating to the plat.~~
- (g) The Planning Commission shall hold a public hearing on the proposed preliminary plat. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten days prior to the hearing. The city shall mail written notification of the proposed preliminary plat to property owners located within 350 feet of the subject site. Timing of the mailed notice shall be the same as that for the published notice. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the process provided a bona fide attempt to comply has been made. ~~At such meeting, the planning~~

commission shall review the preliminary plat, consider all oral and written reports, comments and recommendations, and adopt by majority vote of those present and voting, its own recommendation to the council stating its reasons as to whether or not to approve or disapprove the preliminary plat. Such recommendation shall be forwarded to the council, with a copy to the subdivider ~~within five days after the adjournment of such meeting.~~

~~(h) At the next regular or special meeting held more than ten days after receipt of the planning commission recommendations, the city council shall call a hearing on the preliminary plat to be held before the council, fix a time for hearing, and order publication of a notice of such hearing as required by state statutes.~~

~~(i)(h)~~ At any time prior to publication of a notice of public hearing ~~council action calling a hearing on the preliminary plat~~, the subdivider may, in writing, withdraw his application for approval by filing such withdrawal in the office of the city engineer. If the subdivider ~~he~~ thereafter submits a revised preliminary plat, it shall be so designated to distinguish it from the original preliminary plat, provided that a revised preliminary plat shall be entitled to the same consideration and subject to the same procedure, except that unnecessary duplications shall be avoided whenever possible.

~~(i)~~ By state law, a final decision on a preliminary plat request must be made within 120-days of submittal of a complete application unless the applicant waives this 120-day time limit. At the next regular or special meeting, which shall be held wWithin 30 days after the public hearing, the council shall decide to approve or disapprove the preliminary plat. If its decision is to approve the preliminary plat, such approval shall be contingent upon the filing of a final plat in accordance with the requirements of this chapter; and the city engineer shall forthwith advise the subdivider of the council action. The action of approving the preliminary plat shall constitute approval of all supplementary documents including, but not limited to, the preliminary drainage and grading plan, the preliminary utility plan, the plans for construction and installation of improvements, and the proposed method of payment therefor. If any variance has been requested by the subdivider and the council approves the plat, it shall also make findings granting such variance. If its decision is to disapprove, the council shall make and adopt findings and conclusions which shall forthwith be forwarded to the subdivider.

~~(k) The requirements of subsections (f) and (h) may be waived by the planning commission and city council if the preliminary plat is a replat of an area, and if the preliminary plat does not affect the land use of the area, and if the preliminary plat does not involve the development of additional streets or portions of streets. If the formal hearing and notification processes are waived, the planning commission shall still approve the preliminary plat pursuant to other provisions of this section and pass its recommendation on to the city council for its approval or disapproval, which shall be given within 30 days after the decision of the planning commission.~~

(Code 1976, § 12.05(3); Ord. No. 723 2nd Series, § 1, 8-8-2017)

State law reference(s)-Public hearing required, Minn. Stat. § 462.358, subd. 3b.

Section 86-30 Amendments

- (a) *Intent.* This chapter and the boundary maps adopted pursuant to this chapter may be amended whenever the public necessity and convenience and the general welfare require.
- (b) *Who may apply.* Amendments to this chapter, including rezoning, may be initiated by:
 - (1) The city council;
 - (2) The planning commission;
 - (3) The city staff acting on behalf of the city council; or
 - (4) The affected property owner.

For the purpose of this section, the words "affected property owner" shall mean the actual owner of the property which is proposed to be rezoned or is directly controlled by the chapter regulation proposed to be changed.

- (c) *Application forms.* All amendment requests, including rRezoning requests, may be applied for only on the forms prepared by the city zoning administrator. All rezoning applications shall be accompanied by a list of names and addresses of the owners of lands within 350 feet of the property described on the application as the same appear on the records of the county.
- (d) *Application fee.* The council may, by resolution, establish a fee for the filing of applications for amendments, including rezoning, by the affected property owners. The fee shall be paid before the application shall be considered, and shall not be refundable. In case of public property being rezoned, the fee may be waived by the zoning administrator.
- (e) *Application requirements.* All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed, proposed buildings and uses, and all lands within 350 feet of the boundaries of the property proposed to be rezoned. Application for rezoning shall be made to the planning commission.
- (f) *Procedure.* The planning commission may hold such hearings on the amendment or rezoning as it may consider necessary. Before any amendment or rezoning is adopted, the planning commission shall hold a public hearing pursuant to Minn. Stat. § 462.357, subd. 3. Following the hearing, the planning commission shall make a report upon the proposal to the council and shall recommend to the council whatever action it deems advisable.
- (g) *City council proceedings.* Upon the receipt of the report of the planning commission, the council may hold whatever hearings it deems advisable and shall make a decision on the request for amendment or rezoning. When the council is making this decision, it is acting as a board of zoning adjustments and appeals. If planning commission meetings are cancelled due to lack of quorum and recommendations are not presented to the council within 60 days of the day of submitting application to the planning commission, the council may proceed

without receiving a planning commission report. Unless a public hearing ~~for~~ **rezoning** is held at the planning commission meeting, at least one public hearing shall be held by City Council pursuant to Minn. Stat. § 462.357, subd. 3. Unless state law otherwise requires a two-thirds vote, tThe amendment or rezoning shall be effective only if a majority of all the members of the council concur in its passage.

- (h) *Appeal*. Any person aggrieved by a decision of the council shall have a right to appeal such decision to the state district court located in the county. Such appeal shall be filed within 30 days of the date of the council's decision.

(Code 1976, § 11.24; Ord. No. 656 2nd series, § 1, 5-22-2012; Ord. No. 680 2nd series, § 1, 9-24-2013)

State law reference(s)—Amendments, Minn. Stat. § 462.357, subds. 2, 3.