

**CITY OF MARSHALL
ORDINANCE 23-024**

NOW THEREFORE, be it ordained by the Common Council of the City of Marshall, in the State of Minnesota, as follows:

SECTION 1: **AMENDMENT** “Section 66-33 Process” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

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.
- (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 2:AMENDMENT “Section 66-55 Procedures” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

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 transportation~~highways~~ 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 transportation highways 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 proceedings, 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) 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.
- (j) 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 ~~W~~ within 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 3: AMENDMENT “Section 86-30 Amendments” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

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, ~~T~~the 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.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

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Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall