MINOR CHANGE FROM PREVIOUS READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: August 5, 2019

ITEM: Amendment to City Code, Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Chapter 8 (Sewer Regulations), and Title 8 (Building Regulations), Chapter 2 (Building Codes), and Title 10 (Subdivision Regulations), Chapter 1 (General Provisions), Chapter 3 (Design Standards and Required Improvements) to update residential terms and lot type descriptions for residential and commercial development, clarify procedures related to the vacation and disposal of public streets, sidewalks and alleys, and add a provision allowing rent abatement consistent with State Code – City Initiated (AO-004317-2019)

ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The City of West Des Moines requests an amendment to the following: Title 7 (Public Ways and Property) to clarify procedures related to the vacation and disposal of public streets, sidewalks and alleys and to update residential terms to reflect a recent amendment to definitions within the zoning ordinance, Title 8 (Building Regulations) to add a provision allowing rent abatement consistent with State Code, and Title 10 (Subdivision Regulations) to update residential terms and lot type descriptions for residential and commercial development to accommodate a recent amendment to definitions within the zoning ordinance. (See Exhibit I – Proposed Ordinance):

Previous Council Action:
Vote: 5-0 for approval
Date: 7/15/2019
Motion: Approval of the First Reading of the amendment to City Code.

OUTSTANDING ISSUES: There are no outstanding issues. A minor wordsmith change was made to the suggested language in Title 7, Chapter 1, Section 10, Subsection C to add clarity (see Section 1 Amendment).

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the second reading, waive the third reading and adopt in final form the ordinance which amends the following areas of City Code; Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys) and Chapter 8 (Sewer Regulations), and Title 8 (Building Regulations), Chapter 2 (Building Codes), and Title 10 (Subdivision Regulations), Chapter 1 (General Provisions) and Chapter 3 (Design Standards and Required Improvements) to update residential terms and lot type descriptions for residential and commercial development, clarify procedures related to the vacation and disposal of public streets, sidewalks and alleys, and add a provision allowing rent abatement consistent with State Code.

Lead Staff Member: Linda Schemmel, AIA LS

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	June 28, 2019	
Letter sent to surrounding property owners		N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	May 20, 2019		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Proposed Ordinance

Prepared by: L Schemmel, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2019 BY AMENDING TITLE 7 (PUBLIC WAYS AND PROPERTY), CHAPTER 1 (STREETS, SIDEWALKS AND ALLEYS) AND CHAPTER 8 (SEWER REGULATIONS); TITLE 8 (BUILDING REGULATIONS), CHAPTER 2 (BUILDING CODES); AND TITLE 10 (SUBDIVISION REGULATIONS), CHAPTER 1 (GENERAL PROVISIONS) AND CHAPTER 3 (DESIGN STANDARDS AND REQUIRED IMPROVEMENTS) TO UPDATE RESIDENTIAL DEFINITIONS AND LOT TYPE DESCRIPTIONS FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENT, CLARIFY PROCEDURES RELATED TO THE VACATION AND DISPOSAL OF PUBLIC STREETS, SIDEWALKS, AND ALLEYS AND ADD A PROVISION ALLOWING RENT ABATEMENT CONSISTENT WITH STATE CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 7 (*Public Ways and Property*), Chapter 1 (*Streets, Sidewalks and Alleys*), Section 10 (*Vacation and Disposal*), Subsection B and C is hereby amended by deleting the highlighted strike-through text and adding the bold italic text:

A. Power To Vacate: When, in the judgment of the council, it would be in the best interest of the city to vacate a street or alley or portion thereof, they may do so in accordance with the provisions of this section.

B. Plan ***and Zoning*** Commission: ~~Any proposal to vacate a street or alley shall be referred by the council to the planning commission for its study and recommendation prior to further consideration by the council.~~ The ~~planning~~ commission shall submit a written report including recommendations to the council within thirty (30) days of the ***hearing*** date ***for*** the proposed vacation. ~~was referred to it.~~

C. Notice Of Vacation Hearing: ~~The council shall cause to be published a notice of public hearing at which time the proposal to vacate shall be considered.~~ ***A notice of public hearing shall be published once, in a newspaper of general circulation in the City not less than four (4) days nor more than twenty (20) days before the date of hearing, at which time the proposal to vacate will be considered by both the Plan and Zoning Commission and the City Council.***

Section 2. Amendment. Title 7 (*Public Ways and Property*), Chapter 8 (*Sewer Regulations*), Article A (*General Provisions*), Section 2 (*Definitions*), is hereby amended by deleting the highlighted strike-through text and adding the bold italic text:

RESIDENTIAL: Any building which is used as a single-family ~~attached or detached~~ dwelling ~~unit~~ or ~~apartment building~~ ***multi-family dwelling***.

Section 3. Amendment. Title 8 (*Building Regulations*), Chapter 2 (*Building Codes*), Article A (*Building Code*), Section 29 (*Rental Housing*), is hereby amended by adding the bold italic text in alphabetical order:

RENT ABATEMENT:

A. The building official may order rent abated when the Chief Building Official determines that the owner has, after issuance of a notice of violation of this chapter:

1. Failed to provide an essential service (water, sewer, electricity, heat);

2. Failed to remedy a condition that poses a substantial risk to the health or safety of the tenant; or

3. Rented a dwelling unit without a rental permit.

B. Rent abatement means that the owner may not recover rent from the tenant. Rent shall be abated until the condition for which rent abatement was ordered has, in the judgment of the Chief Building Official, been remedied.

C. The Chief Building Official will forward the rent abatement order to the owner by email and to the tenant by posting on the entrance door to the dwelling unit. Follow up documentation shall be provided to the owner at the address on the rental permit and to the tenant at the unit address by U.S. mail. Notice of termination of the rent abatement order will be given in the same manner.

Section 4. Amendment. Title 10 (*Subdivision Regulations*), Chapter 1 (*General Provisions*), Section 2 (*Definitions*), is hereby amended by deleting the highlighted strike-through text and adding the bold italic text in alphabetical order:

~~APARTMENT: A dwelling unit located within a building which serves as a home or place of residence for three (3) or more families living independently, wherein units may be rented, leased or owner occupied and a majority of the units gain access through a common hallway.~~

~~ATTACHED SINGLE-FAMILY UNIT: A dwelling unit which is most commonly horizontally attached to another dwelling unit within a "townhouse" style residential building wherein each unit has direct access to their unit from the exterior of the building rather than through a common hallway.~~

~~DETACHED SINGLE-FAMILY UNIT: A dwelling unit which is not attached to any other unit and is intended for the occupancy of one family.~~

MULTI-FAMILY ATTACHED HORIZONTALLY: Dwelling units are attached only horizontally, no stacked units. Units may be attached along the side walls or attached along the side and rear wall. Individual unit entry, no common entry element.

MULTI-FAMILY ATTACHED VERTICALLY: Dwelling units are attached vertically. Units may also be attached along a side or rear wall. Units may have individual unit entry or common entry element either conditioned or non-conditioned space.

MULTI-FAMILY DETACHED: Dwelling unit has no attachment and the unit is either associated with ownership of real property (footprint lot) within common property (owned jointly or by an association) or is located on a lot that meets the applicable bulk regulations for the zoning district but is not associated with ownership of real property.

SINGLE-FAMILY DETACHED: Dwelling unit has no attachment and is associated with ownership of real property (single family lot).

Section 5. Amendment. Title 10 (*Subdivision Regulations*), Chapter 1 (*General Provisions*), Section 4 (*Development Application*), Subsection B, is hereby amended by deleting the highlighted strike-through text and adding the bold italic text:

B. Dedicate Land For Park And Recreational Purposes: All persons making a development application shall dedicate to the city, within the land covered by the development application, land for park and recreational purposes sufficient to meet the requirements of this section.

1. In each tract of land covered by a development application, there shall be reserved and dedicated to public use two and ~~thirty nine~~ ***thirty-nine*** hundredths (2.39) acres of land for park purposes and three and ~~seventy six~~ ***seventy-six*** hundredths (3.76) acres of land for greenway use for each one thousand (1,000) people, based upon the projected population of the completed development application as calculated in accord with this section. For purposes of this chapter, property subject to a horizontal property condominium regime under Iowa Code chapter 499B shall be treated as single-family detached. Such dedication shall be prorated to the amount indicated by the projected population to the nearest one thousand (1,000) square feet of land to be dedicated, but in any event, no dedication of either park or greenway space shall contain a total for combined park and greenway usage less than ten thousand (10,000) square feet of land to be dedicated.

2. For purposes of this section, population in the completed area covered by the development application will be determined by multiplying the number of housing units projected in the area covered by the development application for each use category times the anticipated average per unit as given below. The quantity calculated for each residential type shall be added together and the sum shall be the projected population for purposes of the development application. For the purposes of this chapter the following population estimates per residential type will be used:

   a. Single-family or ***multi-family*** detached: 2.90 people.

   b. ~~Single-family attached~~ ***Multi-Family Attached Horizontally***: 1.63 people.

   c. ~~Multi-family unit~~ ***Multi-Family Attached Vertically***: 1.73 people.

   d. Condominium: 2.90 people.

Section 6. <u>Amendment.</u> Title 10 (*Subdivision Regulations*), Chapter 3 (*Design Standards and Required Improvements*), Section 1 (*Subdivisions Design Standard*), Subsection D is hereby amended by deleting the highlighted strike-through text and adding the bold italic text:

D. Lots: ~~Lots shall conform to the following requirements:~~

~~1. The dimensions, shape and orientation of the lots shall be determined with regard to solar orientation, topography, land features and circulation.~~

~~2. Corner lots shall be not less than twenty feet (20') greater in width than the minimum required lot width for the zoning district so as to permit adequate building setbacks on both front and side streets (not required in EU-1).~~

~~3. Double frontage lots other than corner lots shall be prohibited except where such lots back on a municipal arterial or collector street or highway or except in the case of large commercial or industrial lots. Such double frontage lots shall be buffered from the rear street frontage by the methods outlined in subsection C of this section. Ingress-egress shall be limited to the frontage street and is strictly prohibited on the rear street. A plat covenant shall be provided covering this restriction (not required in EU-1).~~

~~4. Flag shaped lots shall be discouraged.~~

~~5. Each lot shall be provided by means of a public street with satisfactory access to an existing, paved public street.~~

~~6. Each lot shall be provided with not less than forty feet (40') of access frontage to a paved public street. (The EU-1 zoned areas, not less than 50 feet of access frontage.)~~

~~7. All lots shall conform to the lot dimensions and area as set forth for the applicable zoning district in title 9, "Zoning", of this code.~~

~~8. For the purpose of complying with minimum health standards, the following shall be observed with reference to all new construction, and with reference to all zoning categories as presently established within the city:~~

~~a. All lots, except those of ten (10) acres or above shall be provided with access and connections to public water mains.~~

~~b. Any lot or lots which cannot be reasonably served by a public sanitary sewer system shall have a minimum frontage of one hundred twenty five feet (125'), and an area of not less than forty thousand (40,000) square feet or the minimum permitted by the zoning ordinance.~~

1. ***Lot Types:***
   a. ***Corner Lot: A lot located at the intersection of two (2) or more streets, and having the street abut the front and one or more side lines of the lot. Each yard abutting a street right of way is considered a front yard, but only one front yard must comply with minimum lot frontage requirements. For purposes of this definition, an alley or interstate highway is not considered a street.***

   b. ***Double Frontage Lot: A lot other than a corner lot with frontage on more than one street. The front yard will be determined by the yard that allows access to the lot or the orientation of the front entry if a building exists. Double frontage lots shall be buffered from the rear street frontage by the methods outlined in subsection C of this section. For purposes of this definition, an alley or interstate highway is not considered a street.***

   c. ***Flag Lot: A lot with access provided to the bulk of the lot by means of a narrow corridor. Unless noted differently in the frontage requirements of Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) of this code, the corridor for a flag lot shall be a minimum of 50 feet wide.***

   d. ***Outlot: When included within the boundary of a recorded plat, an Outlot can be a lot set aside for purposes other than immediate development or for land to be dedicated to public use or to provide for common area. An Outlot is not considered a developable parcel and is not required to meet minimum lot size requirements unless intended for future development or for a public purpose such as, parks, greenways, utilities, or other recreational amenities, excluding enclosed recreation or utility buildings anticipated to be occupied. Outlots intended for development must be re-platted through the preliminary and final plat process in accordance with the associated zoning classifications prior to physical development unless its purpose is to provide for public utilities or publicly owned or accessible park ground, greenways, or other recreational amenities. Outlots within a plat shall have the proposed use clearly designated on the plat document.***

   e. ***Footprint Lot: A lot created to define property associated with the ownership of a dwelling unit or a commercial, office or industrial space within common area owned and maintained by a separate entity. If the development as a whole meets the requirements of the respective zoning district noted in Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) of this code, individual footprint lots are not required to meet minimum standard lot area and width requirements. Buildings within footprint lots are required to meet the setback and building separation noted for footprint lots as well as setback requirements for standard lots and setbacks along the development perimeter.***

2. ***Lots shall conform to the following requirements:***
   a. ***The dimensions, shape and orientation of the lots shall be determined by the specific requirements of the applicable zoning district with regard to solar orientation, topography, land features and circulation.***
   b. ***Corner lots shall be not less than twenty-five feet (25') greater in width than the minimum required lot width for the zoning district so as to permit adequate building setbacks on both front and side streets.***
   c. ***Double frontage lots other than corner lots shall be prohibited except where such lots back on a municipal arterial or collector street or highway or except in the case of large commercial or industrial lots. Such double frontage lots shall be buffered from the rear street frontage by the methods outlined in subsection C of this section. Ingress-egress for double frontage lots shall be limited to the front street and is strictly prohibited on the rear street. A plat covenant shall be provided covering this restriction. For purposes of this requirement, an alley is not considered a street.***
   d. ***Flag shaped lots shall be discouraged.***
   e. ***Each lot shall be provided satisfactory access to a paved public street by means of frontage, private street or drive, or easement. All lots shall conform to the lot dimensions and area as set forth for the applicable zoning district in Title 9, "Zoning", of this code.***
   f. ***For the purpose of complying with minimum health standards, the following shall be observed with reference to all new construction, and with reference to all zoning categories as presently established within the city:***
      (1) ***All lots, except those of ten (10) acres or above shall be provided with access and connections to public water mains.***
      (2) ***Any lot or lots which cannot be reasonably served by a public sanitary sewer system shall have a minimum frontage and lot area as permitted by Title 9 (Zoning) or the requirements of the county sanitarian, whichever is greater.***

Section 7. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 8. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 9. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Sections 1 & 2 of the City Code of the City of West Des Moines, Iowa.

Section 10. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 11. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2019, and approved this _____ _____ day of _____, 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2019, and was published in the Des Moines Register on _____, 2019.

_____
Ryan T. Jacobson
City Clerk