

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED June 17, 2008
REFERRED Plan Commission

Amending Sections 16.23(5)(g), 16.23(7)(d)4. and 16.23(9)(d)2.a. and creating Section 16.23(7)(d)5. of the Madison General Ordinances to update procedural requirements and to clarify that the payment of all unpaid taxes and special assessments shall be required prior to recording a land division (certified survey map).

RULES SUSPENSION
PUBLIC HEARING P.C.: 7/21/08
C.C.: 8/05/08

Drafted by: James M. Voss

Date: June 9, 2008

SPONSORS: Ald. Cnare

DRAFTER’S ANALYSIS: An ordinance amendment updating procedural requirements to reflect current practice and clarifying that the payment of all unpaid and delinquent real estate taxes and any unpaid special assessments shall be required prior to recording a land division (certified survey map.)

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (g) entitled “Land Division (Certified Survey) Procedure” of Subsection (5) entitled “Detailed Procedure For Dividing Land Within The City Limits” of Section 16.23 entitled “Land Subdivision Regulations” of the Madison General Ordinances is amended to read as follows:

“(g) Land Division (Certified Survey) Procedure.

- 1. Within the corporate limits of the City of Madison, or within the extraterritorial plat approval jurisdiction thereof a certified survey map approved by the Secretary of the City Plan Commission or her/his designee (and Common Council when dedication of land is involved) and meeting all of the requirements of Chapter 236.34, Wis. Stats. may be utilized in lieu of a final plat after being filed by the subdivider for record with the Dane County Register of Deeds, for creating a land division. Unless waived by the Secretary of the Plan Commission or her/his designee, an acceptable preliminary plat shall be filed by the subdivider prior to or with the certified survey map. In making a determination as to whether the preliminary plat requirement may be waived, the Secretary of the Plan Commission or her/his designee shall consider the recommendations of other reviewing departments and may require sketches and/or other information to be supplied by the subdivider to be circulated to City departments for determination of whether the objectives of the subdivision regulations can be achieved without the preliminary plat. The preliminary plat must be submitted on all lands under the control of the applicant and (or) lands in which the applicant has an ownership interest. The land will be determined by quarter-quarter section lines. The preliminary plat shall be circulated to City departments as required in Subsection (5)(b) of this ordinance. When the preliminary plat is waived, the certified survey map shall show the entire ownership with a survey for the parcel or parcels being separated and a scaled drawing from recorded information for the parcel remaining. The subdivider shall comply with the requirements of Subsection (6) for property outside the City limits and Subsection (9) for property within the City limits when a certified survey map is used. ~~When required, the Common Council resolution approving the certified survey map shall be reproduced legibly on the face of the map.~~ All unpaid and delinquent real

Approved as to form:

estate taxes shall be paid prior to recording the certified survey map. For property within the City limits, all unpaid special assessments shall be paid unless determined otherwise by the Board of Public Works.

2. ~~The applicant for a land division shall file tensixteen (1016) blue-line prints or other acceptable reproductions copies of a certified survey map and written application for approval with the Secretary of the Plan Commission on forms provided by her/him. The application shall include a report of title satisfying the Office of Real Estate Section Services of the Department of Planning and Community and Economic Development requirements and verification that all real estate taxes and special assessments have been paid. The Office of Real Estate Section Services shall review the map, necessary public records and report of title for ownership, mortgages, liens, judgments, and other encumbrances, easements, rights-of-way, leases, unpaid real estate taxes and unpaid special assessments verification of all real estate taxes and special assessment payments, due diligence regarding matters of environmental hazard and all other appropriate items and shall provide recommendations on the certificate page or pages and the necessary signatures. The Office of Real Estate Section Services of the Department of Planning and Community and Economic Development shall consult with the City Attorney on matters of title as may be required.~~
3. ~~The map shall be reviewed by the Department of Planning and Community and Economic Development, and other City agencies as determined by the Director of Planning and Community and Economic Development for comment concerning matters within their jurisdiction, for conformity with the provisions of the ordinances and for the possible effect of the proposed division on any plans as set forth in the master comprehensive plan, the official map or neighborhood unit development studies. The comments shall be submitted to the secretary of the Plan Commission. The Department of Planning and Community and Economic Development shall ~~may also refer the map to the Dane County Capital Area Regional Planning Commission staff for review and comment when the land division is located outside the City limits.~~~~
4. ~~The Secretary of the Plan Commission or her/his designee shall within forty-five (45) days of the filing of the complete application approve, approve conditionally or refer it to the Plan Commission for its consideration. Failure of the Secretary or her/his designee to act upon the proposed land division application within forty-five (45) days shall be deemed a rejection subject to review before the Plan Commission under subsection (3)(c). The Plan Commission shall act on the land division within ninety (90) days of the filing of the complete application, unless the time is extended by agreement with the applicant. One copy of the map shall be returned to the subdivider with notification in writing shall be notified in writing of any conditions of approval or the reasons for rejection. After the conditions of approval have been satisfied land division has been approved by the Plan Commission or the Secretary or her/his designee, the necessary resolutions approving the survey and accepting the dedications contained therein shall be presented to the responsible governmental bodies for approval. After all certificates have been properly signed and the approval of the governmental bodies properly noted except for the Secretary of the Plan Commission or her/his designee, the survey, together with a copy of the approving resolution, shall be forwarded to the City Real Estate Section of the Department of Planning and Community and Economic Development for retaining until the subdivider requests the survey to be recorded. The request shall include:
 - a. ~~A check to the Dane County Register of Deeds for recording fees, eight dollars (\$8) for the first page plus two dollars (\$2) for each additional page or an amount as may be established by the Dane County Register of Deeds.~~
 - b. ~~An interim title report from the title company that prepared the report of title included with the application for land division satisfying the Real Estate Section of the Department of Planning and Community and Economic Development requirements.~~
 - c. ~~A check to the local agency for accrued real estate taxes and special assessments, if any, for the lands dedicated by the survey.~~
 - d. ~~A check to the Dane County Treasurer's Office covering any delinquent taxes on the lands dedicated by the survey.~~When the Real Estate Section in consultation with the City Attorney has determined that the title is acceptable and the survey is in proper form the Secretary of the Plan Commission or her/his designee will sign a survey and the Real Estate Section will~~

~~have it recorded. Ten (10) copies of the map for City departments' files shall accompany the original map at the time it is forwarded to the Real Estate Section of the Department of Planning and Community and Economic Development for recording.~~

Once all reviewing agencies have determined that the conditions of approval of the land division have been met and the survey has been executed by the land owner(s), surveyor and all parties having an interest in the property, the subdivider shall present the final survey to the Office of Real Estate Services along with an interim title report from the title company that prepared the report of title included with the application and proof of payment for all due real estate taxes and special assessments. Once the Office of Real Estate Services has reviewed the interim title report and determined that all taxes and assessments due have been paid as required in this ordinance and the final survey is determined to be acceptable, the applicant shall receive the signatures of the Secretary of the Plan Commission or her/his designee. If there are any dedications to the City, the City Clerk or her/ his designee shall sign the survey. Once all the City's signatures have been affixed, the certified survey shall be surrendered to the applicant or her/his designee for recording with Dane County.

5. When the Secretary of the Plan Commission determines that a proposed land division does not meet the standards for approval, the land division is located within the City's extraterritorial plat approval area, or an applicant appeals a condition of approval or an applicant appeals the requirement for a preliminary plat, it shall be referred to the Plan Commission for further consideration. ~~The Secretary of the Plan Commission shall schedule it for consideration at the next regular meeting after allowing for the required ten (10) day notice.~~ An application for a proposed land division in the City's extraterritorial plat approval area that does not meet the standards for approval shall only be scheduled after the Secretary receives a copy of both the Town(s)' and County's actions on the proposed land division. The Secretary shall schedule it for consideration at the next regular meeting after mailing notice of the scheduled meeting with the reasons for the referral at least ten (10) days prior to the meeting to the owners of all properties situated within the limits of the proposed land division application. When an appeal or a proposed land division application is rejected, the Plan Commission shall furnish the reasons therefor to the applicant in writing."

2. Paragraph 4. of Subdivision (d) entitled "Land Division (Certified Surveys)" of Subsection (7) entitled "Plats, CDPs And Land Divisions (Certified Surveys) Data" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is hereby repealed.

3. Subparagraph a. of Paragraph 2. entitled "Inter-/Intra-Block Surface, Drainage and Foundation Design" of Subdivision (d) entitled "Public Improvements and Procedures" of Subsection (9) entitled "Required Improvements for Subdivisions" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"The following notes shall be included on the final plat/certified survey map:

- a. All lots within said plat/certified survey shall be subject to public easements for drainage purposes which shall be a minimum of six feet in width measured from the property line to the interior of each lot except that the easements shall be 12 feet in width on the perimeter of the plat/certified survey. For purposes of two (2) or more lots combined for a single development site, or where two (2) or more lots have a shared driveway agreement, the public easement for drainage purposes shall be a minimum of six (6) feet in width and shall be measured only from the exterior property lines of the combined lots that create a single development site, or have a shared driveway agreement, except that the easement shall be twelve (12) feet in width along the perimeter of the plat/certified survey. Easements shall not be required on property lines shared with greenways or public streets. No buildings, driveways, or retaining walls shall be placed in any easement for drainage purposes. Fences may be placed in the easement only if they do not impede the anticipated flow of water. In the event of a City of Madison Plan Commission and/or Common Council approved redivision of a previously subdivided property, the underlying public easements for drainage purposes are released and replaced by those required and created by the current approved subdivision."

4. Paragraph 5. entitled "Restrictions For Public Benefit" of Subdivision (d) entitled "Land Divisions (Certified Surveys) of Subsection (7) entitled "Plats, CDPs And Land Divisions (Certified Surveys) Data" of

Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is created to read as follows:

- "5. Restrictions For Public Benefit. Any restriction placed on the face of the map, whether covenant, easement, or any other restriction, which is required by the provisions of this ordinance and which names a public body or public utility as grantee, promisee or beneficiary, is hereby deemed accepted and vests in the public body or public utility the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction. The restriction may be released or waived in writing by the public body or public utility having the right of enforcement."

EDITOR'S NOTE:

Paragraph 4. of Subdivision (d) entitled "Land Division (Certified Surveys)" of Subsection (7) entitled "Plats, CDPs and Land Divisions (Certified Surveys) Data" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances currently reads as follows:

- "4. When dedication of lands is required, the Common Council resolution approving the certified survey map shall be reproduced legibly on the face of the map."