

One-rdg. \_\_\_\_\_  
P. Hrngs.   X    
Pgs.   14    
Filed:   04-02-19  

Sponsored by:   Hosmer  

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

COUNCIL BILL   2019-077  

GENERAL ORDINANCE \_\_\_\_\_

AN ORDINANCE

1 AMENDING Chapter 36 of the Springfield, Missouri, City Code, 'Land Development  
2 Code,' Article III, 'Zoning Regulations,' Division 3, 'Administration,  
3 Enforcement and Review,' Section 36-367 – 'Amendments,' Subsection  
4 (3)(a) relating to legal descriptions for rezoning. (Planning and Zoning  
5 Commission and Staff recommend approval.)  
6  
7

8 WHEREAS, certain amendments to the current Springfield City Code Chapter 36  
9 are needed to address the requirement for legal descriptions in rezoning cases; and  
10

11 WHEREAS, Planning and Zoning Commission initiated these amendments on  
12 February 14, 2019; and  
13

14 WHEREAS, a public hearing was held before the Planning and Zoning  
15 Commission on March 14, 2019, and recommended approval of the proposed changes.  
16

17 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
18 SPRINGFIELD, MISSOURI, as follows, that:  
19

20 Section 1 – Chapter 36 of the Springfield, Missouri City Code, 'Land  
21 Development Code,' Article III, 'Zoning Regulations,' Division 3, 'Administration,  
22 Enforcement and Review,' Section 36-367 – 'Amendments,' Subsection (3)(a) is hereby  
23 amended as follows:  
24

25 Note: Underlined language is to be added. ~~Stricken~~ language is to be removed.  
26

27 **Sec. 36-367. - Amendments.**  
28

29 (3) *Application for amendment.* Any person owning or having an interest in property or  
30 the planning and zoning commission may file an application for a text amendment  
31 or a change in zoning district classification with the secretary of the planning and  
32 zoning commission upon such forms as the commission may specify by rule. The  
33 application for amendment shall contain the following information depending on the

34 type of application:  
35

36 (a) For changes in the zoning district classification (rezoning):  
37

- 38 1. Applicant's name and address and his interest in the subject property.  
39
- 40 2. The owner's name and address, including trustees, and, if different than the  
41 applicant, the owner's signed consent to the filing of the application and  
42 authorization for the applicant to act in his behalf.  
43
- 44 3. The street address (or common description). ~~and a copy of the deed of~~  
45 ~~record or legal description of the property as prepared by and certified by a~~  
46 ~~land surveyor or attorney.~~  
47
- 48 4. Boundary description of the property to be re-zoned, and supporting  
49 documents as follows:

- 50
- 51 a. If rezoning a complete existing lot(s) in a recorded subdivision,  
52 provide a copy of the platted subdivision indicating the lot(s) to be  
53 rezoned; or  
54
- 55 b. In all other cases, a sketch created or approved by a Professional  
56 Land Surveyor shall be submitted. The sketch need not be a  
57 boundary survey and may include a note to the surveyor's  
58 satisfaction stating that it: is not to be considered a boundary survey;  
59 is intentionally not in compliance with Missouri Standards; and should  
60 not be used to determine land boundaries on the ground. The sketch  
61 should graphically represent the boundary in relation to the criteria  
62 described below:
  - 63
  - 64 i. If in a subdivision the sketch shall show, at a minimum, the  
65 name of the subdivision, the lots and portions of lots involved,  
66 the book and page of the current deed of record, the  
67 description of the area to be rezoned, the name of adjacent  
68 streets and alleys, north arrow, and proposed zoning change.  
69
  - 70 ii. If the property is unplatted it shall show, at a minimum, the  
71 smallest aliquot part encompassing the parcel (typically,  
72 Quarter Section or Quarter-Quarter Section or smaller),  
73 Section Township and Range, the book and page of the  
74 current deed of record, the description of the area to be  
75 rezoned, the name(s) of adjacent streets and alleys, north  
76 arrow, and proposed zoning change.  
77
- 78 c. When providing sketches as specified in 4.b.i. and 4.b.ii. above, the  
79 Professional Land Surveyor shall also submit a letter stating the

80 following:

81  
82 i. I have reviewed the attached description and sketch provided  
83 for rezoning. In my professional opinion, the description  
84 properly represents the boundary of the area to be rezoned  
85 and the sketch substantially conforms to the description.

86  
87 ~~45.~~ The zoning classification and present use of the subject property.

88  
89 ~~56.~~ A description of the proposed use if any.

90  
91 ~~67.~~ The names and addresses, provided on legal-size envelopes and on a list,  
92 for all owners of real property, as shown on the records of the county  
93 assessor, adjacent or, or within 185 feet of the subject property. (The  
94 names and addresses shall be compiled by an abstract company, title  
95 company, county assessor's office, City of Springfield or attorney at law).  
96 These names shall be used for a letter as well as other mailings.

97  
98 ~~78.~~ A traffic impact analysis, prepared to standards as established by the  
99 director of public works.

100  
101 ~~89.~~ Such additional other information as the commission may, by rule, require.

102  
103 Section 2 – Savings Clause. Nothing in this Ordinance shall be construed to  
104 affect any suit or proceeding now pending in any court or any rights acquired, or liability  
105 incurred nor any cause or causes of action accrued or existing, under any act or  
106 ordinance repealed hereby, or shall any right or remedy of any character be lost,  
107 impaired, or affected by this Ordinance.

108  
109 Section 3 - Severability Clause. If any section, subsection, sentence, clause, or  
110 phrase of this Ordinance is for any reason held to be invalid, such decision shall not  
111 affect the validity of the remaining portions of this Ordinance. City Council hereby  
112 declares that it would have adopted the Ordinance and each section, subsection,  
113 sentence, clause, or phrase thereof, irrespective of the fact that any one or more  
114 sections, subsections, sentences, clauses, or phrases be declared invalid.

115  
116 Section 4 - This Ordinance shall be in full force and effect from and after  
117 passage.

118  
119 Passed at meeting: \_\_\_\_\_

120  
121 \_\_\_\_\_  
122 Mayor

123  
124 Attest: \_\_\_\_\_, City Clerk

126 Filed as Ordinance: \_\_\_\_\_

127

128

129 Approved as to form: , Assistant City Attorney

130

131

132 Approved for Council action: , City Manager

## EXPLANATION TO COUNCIL BILL 2019 -077

FILED: 04-02-19

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Amending Chapter 36 of the Springfield, Missouri, City Code, 'Land Development Code,' Article III, 'Zoning Regulations,' Division 3, 'Administration, Enforcement and Review,' Section 36-367 – 'Amendments,' relating to legal descriptions for rezoning. (Planning and Zoning Commission and Staff recommend approval.)

BACKGROUND INFORMATION:

### ZONING ORDINANCE TEXT AMENDMENT – LEGAL DESCRIPTION AMENDMENTS

Planning and Zoning Commission initiated amendments to Section 36-367 of the Zoning Ordinance on February 14, 2019.

For several years now, staff has had ongoing issues with accuracy in legal descriptions submitted for zoning changes. Staff estimates that one-third of all legal descriptions submitted are inaccurate. These range from legal descriptions that do not close; properties that are pieced-together with legal descriptions that do not describe contiguous tracts and even legal descriptions that describe property in the wrong jurisdictions i.e. Greene County or other cities.

To address this situation, staff recommends amending the Zoning Ordinance to require legal descriptions to be approved by a Professional Land Surveyor and shall state that in their professional opinion, the description and the sketch of the property properly represents the boundary of the area to be rezoned and the sketch substantially conforms to the description. Zoning cases that involve only full lots and blocks in an approved subdivision will be exempt from this requirement since these are recorded documents on file with the City of Springfield.

Before an amendment shall be approved by ordinance, the Planning and Zoning Commission shall have first had a public hearing regarding the proposed amendment and made an official report to the City Council regarding the Planning and Zoning Commission's recommendation regarding said amendment. Once the Planning and Zoning Commission has made its official report, any further review by the Planning and Zoning Commission shall not be required unless City Council elects to refer a matter back to the Planning and Zoning Commission for further review.

The Development Issues Input Group ("DIIG"), Downtown Springfield Association ("DSA"), Commercial Club and all Registered Neighborhood Associations were notified of these amendments.

FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed amendment will modify the current requirements to require a sketch to be created or approved by a Professional Land Surveyor with any boundary description as part of a rezoning that is not in a complete existing lot(s) in a recorded subdivision.
2. Approval of this amendment will result in more accurate descriptions of property to be rezoned and will facilitate development.

REMARKS:

The Planning and Zoning Commission held a public hearing on March 14, 2019, and recommended approval, by a vote of 7 to 1, of the proposed changes to the Zoning Ordinance.

Planning and Development Staff recommends approval of the proposed amendments.

Submitted by:

  
Daniel Neal, Senior Planner

Recommended by:

  
Mary Lilly Smith, Director

Approved by:

  
Jason Gage, City Manager

EXHIBITS:

- Exhibit A, Record of Proceedings
- Exhibit B, Development Review Staff Report

ATTACHMENTS:

- Attachment 1, Department Comments
- Attachment 2, Proposed Amendments

EXHIBIT A

RECORD OF PROCEEDINGS  
LEGAL DESCRIPTION AMENDMENTS  
**Planning and Zoning Commission March 14, 2019**

Legal Description Amendments  
Citywide

**Applicant:** City of Springfield

Mr. Hosmer stated that this is a request to amend Legal Description Amendments. Planning and Zoning Commission initiated amendments to Section 36-367 of the Zoning Ordinance on February 14, 2019. Staff in the past has had ongoing issues with the accuracy of legal descriptions being submitted for zoning changes. Staff estimates that at least one-third of all legal descriptions submitted for review are inaccurate. This has required staff to correct or require corrections for legal descriptions that do not close, do not describe contiguous tracts and even legal descriptions of property in another jurisdiction. To address this situation, staff is requesting amendments to the Zoning Ordinance to require that legal descriptions be sealed by a registered land surveyor with an attached sketch of the legal description. Zoning cases that involve only full lots and blocks in an approved subdivision will be exempt from this requirement. Staff requests that Commission approve the amendments to the Zoning Ordinance as specified.

Note: Language to be added is underlined or ~~stricken~~.

Sec. 36-367. - Amendments.

- (1) Authority. The city council may from time to time by ordinance amend, supplement, change, modify or repeal the boundaries of the districts or regulations herein or subsequently established.
- (2) Initiation of amendment. Amendments may be proposed by the council, the planning and zoning commission, or by a person owning or having an interest in property in the City of Springfield. If the council initiates an amendment, its proposal shall be transmitted to the planning and zoning commission for the commission's report and recommendation.
- (3) Application for amendment. Any person owning or having an interest in property or the planning and zoning commission may file an application for a text amendment or a change in zoning district classification with the secretary of the planning and zoning commission upon such forms as the commission may specify by rule. The application for amendment shall contain the following information depending on the type of application:
  - (a) For changes in the zoning district classification (rezoning):
    1. Applicant's name and address and his interest in the subject property.
    2. The owner's name and address, including trustees, and, if different than the applicant, the owner's signed consent to the filing of the application and authorization for the applicant to act in his behalf.

3. The street address (or common description) ~~and~~
4. Boundary description of the property to be re-zoned, and supporting documents as follows:
  - a. If rezoning a complete existing lot(s) in a recorded subdivision, provide a copy of the platted subdivision indicating the lot(s) to be rezoned; or A copy of the deed of record or legal description of the property as prepared by and certified by a land surveyor or attorney.
  - b. In all other cases, a sketch created or approved by a Professional Land Surveyor shall be submitted. The sketch need not be a boundary survey and may include a note to the surveyor's satisfaction stating that it: is not to be considered a boundary survey; is intentionally not in compliance with Missouri Standards; and should not be used to determine land boundaries on the ground. The sketch should graphically represent the boundary in relation to the criteria described below:
    - i. If in a subdivision the sketch shall show, at a minimum, the name of the subdivision, the lots and portions of lots involved, the book and page of the current deed of record, the description of the area to be rezoned, the name of adjacent streets and alleys, north arrow, and proposed zoning change.
    - ii. If the property is unplatted it shall show, at a minimum, the smallest aliquot part encompassing the parcel (typically, Quarter Section or Quarter Section or smaller), Section Township and Range, the book and page of the current deed of record, the description of the area to be rezoned, the name(s) of adjacent streets and alleys, north arrow, and proposed zoning change.
  - c. When providing sketches as specified in 4.b.i. and 4.b.ii. above, the Professional Land Surveyor shall also submit a letter stating the following:
    - i. I have reviewed the attached description and sketch provided for rezoning. In my professional opinion, the description properly represents the boundary of the area to be rezoned and the sketch substantially conforms to the description.
5. The zoning classification and present use of the subject property.
6. A description of the proposed use if any.

Ms. Cox asked if staff was having to do additional work.

Mr. Hosmer noted that staff had to spend a lot of time getting the correct legal description and getting a sketch with the legal description will assist the staff in time.

Mr. Doennig ask about the process for minor subdivisions.

Mr. Hosmer stated that the developer would have to have the legal description in that process.

Mr. Doennig opened the public hearing.

Don Berry, 1200 E. Woodhurst, Lee Engineering, asking if staff is requiring a surveyor to review major subdivision plats.

Mr. Hosmer stated that staff is requiring that a shall state that in their professional opinion, that the description and sketch of the property represents the boundary.

Mr. Doennig closed the public hearing.

Mr. Coltrin commented on the upfront cost and believes that it does not guarantee to be any better or improve the situation and does not want the amendment change and will be voting no.

Mr. Hosmer stated that he does not believe it will add additional costs and this won't be perfect, but with the sketch provided as well as the description believes that it will help.

Mr. Doennig asked where the legal description problems/errors are coming from.

Mr. Hosmer stated that it comes from varied individuals, companies, etc., and approximately 30% are inaccurate.

Ms. Broekhoven asked how long into the process is the staff is finding the errors and if it would be better for this requirement be at the end of the rezoning process (before it is officially zoned to make sure the property could be rezoned).

Mr. Hosmer noted that Development Review has had several staff changes and recently had a staff member who checked the legals extensively but has retired and we have seen it occur during all phases of the project and by putting the process towards the end, it may delay the project by stringing out the process. Mr. Hosmer noted that staff is spending time in getting the information accurate and gave out an example to keep it simple.

Mr. Thomas asked if the legal process is outdated for the rezoning process and asked about checks and balances prior to the final rezone.

Mr. Hosmer noted that this new process/amendment is similar with another city that requires a sketch.

**COMMISSION ACTION:**

Ms. Cox motioned to **approve** Legal Description Amendments (Citywide). Mr. Jobe seconded the motion. Ayes: Doennig, Cox, Rose, Ogilvy, Broekhoven, Thomas, and Jobe. Nays: Coltrin. Abstain: None. Absent: Shuler.

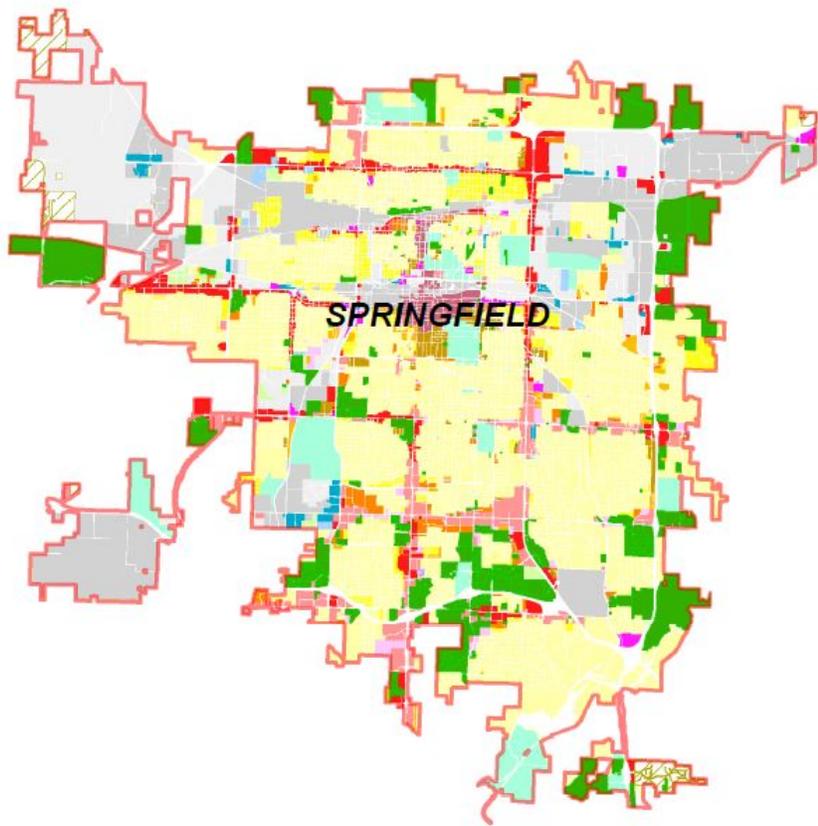


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Bob Hosmer, AICP  
Principal Planner

# Exhibit B

**PLANNING AND ZONING COMMISSION PUBLIC HEARING:** MARCH 14, 2019  
**CITY COUNCIL PUBLIC HEARING:** APRIL 8, 2019



**CASE:**  
Legal Description Amendments

**STAFF:**  
Daniel Neal, 864-1036

**STAFF RECOMMENDATIONS:**  
Approve

**PROPOSED MOTION:**  
Move to approve the proposed amendments to the Zoning Ordinance as submitted in the staff report

## SUMMARY OF REQUEST:

1. Staff is requesting an amendment to Section 36-367, 'Amendments,' of the Zoning Ordinance to consider modifying the requirements for zoning district classification (rezoning) legal descriptions.

## FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed amendment will modify the current requirements to require a sketch to be created or approved by a Professional Land Surveyor with any boundary description as part of a rezoning that is not in a complete existing lot(s) in a recorded subdivision.

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## COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Element* of the *Comprehensive Plan* encourages innovative development and redevelopment through the use of incentives and appropriate regulations, to achieve desired residential and nonresidential development patterns.

## SUMMARY OF PROPOSED TEXT AMENDMENT:

1. Planning and Zoning Commission initiated amendments to Section 36-367 of the Zoning Ordinance on February 14, 2019.
2. For several years now, staff has had ongoing issues with accuracy in legal descriptions submitted for zoning changes. Staff estimates that one-third of all legal descriptions submitted are inaccurate. These range from legal descriptions that do not close; properties that are pieced-together with legal descriptions that do not describe contiguous tracts and even legal descriptions that describe property in the wrong jurisdictions i.e. Greene County or other cities.
3. To address this situation, staff is initiating amendments to the Zoning Ordinance to require legal descriptions to be approved by a Professional Land Surveyor and shall state that in their professional opinion, the description and the sketch of the property properly represents the boundary of the area to be rezoned and the sketch substantially conforms to the description. Zoning cases that involve only full lots and blocks in an approved subdivision will be exempt from this requirement since these are recorded documents on file with the City of Springfield.
4. Before an amendment shall be approved by ordinance, the Planning and Zoning Commission shall have first had a public hearing regarding the proposed amendment and made an official report to the City Council regarding the Planning and Zoning Commission's recommendation regarding said amendment. Once the Planning and Zoning Commission has made its official report, any further review by the Planning and Zoning Commission shall not be required unless City Council elects to refer a matter back to the Planning and Zoning Commission for further review.

## STAFF COMMENTS:

Staff requests that the Planning and Zoning Commission approve amendments to the Zoning Ordinance of the city code as specified.

## PUBLIC COMMENTS:

The Development Issues Input Group (DIIG), Downtown Springfield Association (DSA), Commercial Club and all Registered Neighborhood Associations were notified of these amendments and public hearing dates.

**DEPARTMENT COMMENTS:**

ATTACHMENT 1  
DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No comments.

CITY UTILITIES COMMENTS:

No comments.

CLEAN WATER SERVICES DIVISION COMMENTS:

No objections to proposed language.

FIRE DEPARTMENT COMMENTS:

No comments.

PUBLIC WORKS STORMWATER DIVISION COMMENTS:

There is no issue with stormwater for zoning amendment.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

Traffic has no issues with the proposed zoning text amendment.

## REQUIREMENTS FOR APPROVAL:

### Attachment 2

Note: Language to be added is underlined or ~~stricken~~.

#### Sec. 36-367. - Amendments.

- (1) *Authority.* The city council may from time to time by ordinance amend, supplement, change, modify or repeal the boundaries of the districts or regulations herein or subsequently established.
- (2) *Initiation of amendment.* Amendments may be proposed by the council, the planning and zoning commission, or by a person owning or having an interest in property in the City of Springfield. If the council initiates an amendment, its proposal shall be transmitted to the planning and zoning commission for the commission's report and recommendation.
- (3) *Application for amendment.* Any person owning or having an interest in property or the planning and zoning commission may file an application for a text amendment or a change in zoning district classification with the secretary of the planning and zoning commission upon such forms as the commission may specify by rule. The application for amendment shall contain the following information depending on the type of application:
  - (a) For changes in the zoning district classification (rezoning):
    1. Applicant's name and address and his interest in the subject property.
    2. The owner's name and address, including trustees, and, if different than the applicant, the owner's signed consent to the filing of the application and authorization for the applicant to act in his behalf.
    3. The street address (or common description) ~~and~~
    4. Boundary description of the property to be re-zoned, and supporting documents as follows:
      - a. If rezoning a complete existing lot(s) in a recorded subdivision, provide a copy of the platted subdivision indicating the lot(s) to be rezoned; or ~~A copy of the deed of record or legal description of the property as prepared by and certified by a land surveyor or attorney.~~
      - b. In all other cases, a sketch created or approved by a Professional Land Surveyor shall be submitted. The sketch need not be a boundary survey and may include a note to the surveyor's satisfaction stating that it: is not to be considered a boundary survey; is intentionally not in compliance with Missouri Standards; and should not be used to determine land boundaries on the ground. The sketch should graphically represent the boundary in relation to the criteria described below:
        - i. If in a subdivision the sketch shall show, at a minimum, the name of the subdivision, the lots and portions of lots involved, the book and page of the current deed of record, the description of the area to be rezoned, the name of adjacent streets and alleys, north arrow, and proposed zoning change.
        - ii. If the property is unplatted it shall show, at a minimum, the smallest aliquot part encompassing the parcel (typically, Quarter Section or Quarter Quarter Section or smaller), Section Township and Range, the book and

page of the current deed of record, the description of the area to be rezoned, the name(s) of adjacent streets and alleys, north arrow, and proposed zoning change.

c. When providing sketches as specified in 4.b.i. and 4.b.ii. above, the Professional Land Surveyor shall also submit a letter stating the following:

i. I have reviewed the attached description and sketch provided for rezoning. In my professional opinion, the description properly represents the boundary of the area to be rezoned and the sketch substantially conforms to the description.

5. The zoning classification and present use of the subject property.
6. A description of the proposed use if any.