



**Roll Call Number**

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**Agenda Item Number**

30 A

**Date** ..... December 4, 2023 .....

An Ordinance entitled, "AN ORDINANCE vacating air and surface rights-of-way within Southwest 7<sup>th</sup> Street adjoining 106 Southwest 7<sup>th</sup> Street",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage. Second by \_\_\_\_\_.

FORM APPROVED:

(First of three required readings)

/s/ Chas M. Cahill  
Chas M. Cahill  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

**CERTIFICATE**

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ Mayor

\_\_\_\_\_ City Clerk

Prepared by: Chas M. Cahill, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 (515) 283-4533  
 Return to: City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, Iowa 50309

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE vacating air and surface rights-of-way within Southwest 7<sup>th</sup> Street adjoining 106 Southwest 7<sup>th</sup> Street.

WHEREAS, all prior requirements of law pertaining to the vacation of public right-of-way have been fully observed; and

WHEREAS, it is desirable that the public right-of-way herein described be vacated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Sec. 1. That a portion of air and surface rights-of-way within Southwest 7<sup>th</sup> Street adjoining 106 Southwest 7<sup>th</sup> Street, more specifically described as follows, be and is hereby vacated:

AIR RIGHTS

A PART OF THE VACATED SW 7TH STREET PUBLIC RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO LOTS 7 AND 8, BLOCK 5, ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 3 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE NE CORNER OF SAID LOT 8; THENCE S15°38'13"E, 78.00 FEET ALONG THE EAST LINE OF SAID LOTS 7 & 8, SAID EAST LINE COINCIDES WITH THE WEST RIGHT-OF-WAY LINE OF SW 7TH STREET AS IT IS PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N74°21'47"E, 6.00 FEET TO A POINT THAT IS 6.00 FEET EAST OF SAID WEST RIGHT-OF-WAY; THENCE S15°38'13"E, 24.00 FEET ALONG A LINE THAT IS 6.00 FEET EAST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE TO A POINT; THENCE S74°21'47"W, 6.00 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE OF SW 7TH STREET AND SAID EAST LINE OF LOT 7; THENCE N15°38'13"W, 24.00 FEET ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID EAST LINE OF LOT 7 TO THE POINT OF BEGINNING AND CONTAINING 144 SQUARE FEET MORE OR LESS.

THE PREVIOUS DESCRIPTION IS RESTRICTED BETWEEN THE FOLLOWING ELEVATIONS:

BOTTOM OF EASEMENT = 54.32 FEET

TOP OF EASEMENT = 69.32 FEET

A REFERENCE ELEVATION OF THE FIRST FLOOR OF 28.32 FEET AND A GROUND ELEVATION OF 26.30 FEET.

SURFACE RIGHTS

A PART OF THE SW 7TH STREET PUBLIC RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO LOTS 7 AND 8, BLOCK 5, ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 3 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE NE CORNER OF SAID LOT 8; THENCE S15°38'13"E, 84.00 FEET ALONG THE EAST LINE OF SAID LOTS 7 & 8, SAID EAST LINE COINCIDES WITH THE WEST RIGHT-OF-WAY LINE OF SW 7TH STREET AS IT IS PRESENTLY ESTABLISHED, TO THE POINT OF BEGINNING; THENCE N74°21'47"E, 5.00 FEET TO A POINT THAT IS 5.00 FEET EAST OF SAID WEST RIGHT-OF-WAY; THENCE S15°38'13"E, 8.00 FEET ALONG A LINE THAT IS 5.00 FEET EAST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE TO A POINT; THENCE S74°21'47"W, 5.00 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE OF SW 7TH STREET AND SAID EAST LINE OF LOT 7; THENCE N15°38'13"W, 8.00 FEET ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID EAST LINE OF LOT 7 TO THE POINT OF BEGINNING AND CONTAINING 40 SQUARE FEET MORE OR LESS.

Sec. 2. The City of Des Moines hereby reserves an easement upon the property described above for the continued use and maintenance of any utilities now in place, with the right of entry for servicing same.

Sec. 3. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance and proof of publication thereof together with proof of publication of the notice of the public hearing on this matter to be properly filed in the office of the Recorder of Polk County, Iowa.

Sec. 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney