

AGENDA
COUNCIL LEGISLATIVE & ORDINANCE COMMITTEE
MEETING
Thursday, April 30, 2020 – 4:00 PM
Southwest Minnesota State University, Social Science
Building, Room 235

Review of Minutes

Consideration of Approval of Minutes for November 6, 2019 Legislative & Ordinance Committee Meeting.

New Business

1. Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment.
2. Section 86 247 Landscaping and 86-248 Storage.
3. Review draft ordinance to prohibit delivery of liquor.
4. Review tobacco ordinance amendments.
5. Review amendments to the animal ordinance regarding fowl.

Adjourn

NOTE: Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Administration Office (537-6760) in advance of the meeting to make any necessary arrangements.

-UNAPPROVED-

CITY OF MARSHALL
COUNCIL LEGISLATIVE & ORDINANCE COMMITTEE MEETING
Minutes of the November 6, 2019 – 5:00 PM
Minnesota Room

MEMBERS PRESENT: Councilmember's Glenn Bayerkohler, John DeCramer and Steven Meister

STAFF PRESENT: Jason Anderson, Assistant City Engineer/ Zoning Administrator, Ilya Gutman, Plans Examiner/ Assistant Zoning Administrator, City Attorney, Dennis Simpson and Kyle Box, City Clerk

The meeting was called to order at 5:00 p.m. by Chairperson Bayerkohler.

Bayerkohler asked for a motion to approve October 21, 2019 minutes. MOTION BY MEISTER, SECONDED BY DECRAMER, to approve the minutes as written. ALL VOTED IN FAVOR.

Bayerkohler asked for a motion to remove the agenda item from the table. MOTION BY MEISTER, SECONDED BY DECRAMER, to remove the agenda item from the table. ALL VOTED IN FAVOR.

Chairperson Bayerkohler asked for discussion on the amendment to add interim us permits. Plan Examiner/ Assistant Zoning Administrator, Ilya Gutman provided the background information on the agenda item and the changes made from the last committee meeting. There was further discussion by the committee and staff on specific wording within the proposed ordinance.

MOTION BY DECRAMER, SECONDED BY MEISTER to approve the draft ordinance for council review. ALL VOTED IN FAVOR.

Member DeCramer asked for discussion on snow removal on private streets. There was further discussion by the committee and staff to provide a minimum 16-foot clear drivable path on the street.

MOTION BY DECRAMER, SECONDED BY MEISTER to approve the draft ordinance for council review. ALL VOTED IN FAVOR.

Chairman Bayerkohler called for discussion on Ordinance amendment section 86-1 definitions. Ilya Gutman, Plans Examiner/ Assistant Zoning Administrator provided the background information on the agenda item. There was further discussion on the electric vehicle station requirements.

MOTION BY MEISTER, SECONDED BY DECRAMER to approve the draft ordinance for council review. ALL VOTED IN FAVOR.

MOTION BY MEISTER, SECONDED BY DECRAMER, to adjourn the meeting. Meeting adjourned at 5:35 P.M.

Respectfully Submitted,

Kyle Box
City Clerk

MEMORANDUM

TO: Members of the Legislative & Ordinance Committee
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., Director of Public Works/Zoning Administrator *JRA/cld*

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: April 24, 2020

SUBJECT: Ordinance amendment to Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment.

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Section 86-161 Height Modifications, 86-162 Yard modifications, 86-163 Accessory buildings, and 86-164 Accessory equipment.

Background

These proposed changes are mostly based on staff experience with applications and voiced concerns. Some changes are purely technical in nature, some are a result of the development of the City Tree Policy, and others are related to the creation of an Interim permit concept that allows temporary deviations from the Ordinance. This opportunity was also used to clean up some language and clarify some concepts.

Below are the most significant proposed changes.

- Allowing to build a front door landing without a variance even if a house is located too close to the street.
- Requiring at least 3 feet of clearance along alleys for snow removal and more for garages for cars parking in front of them.
- Clarifying yard requirements for three street corner lots, flag lots, and lots open to roadway easements rather than streets.
- Allowing larger accessory structures for smaller existing houses.
- Allowing motor-homes and RV's to be placed on driveways for longer than 10 days by an Interim Use permit, but limiting projection into the right of way.
- Allowing secondary detached garages without driveway and limiting required driveway pavement to the required front yard.
- Allowing accessory equipment in front yards if fully screened by the fence.

At the March 11, 2020, regular Planning Commission meeting, Fox made a motion, second by Knieff to recommend to City Council an approval as recommend by staff. All voted in favor of the motion.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Sec. 86-161. - Height modifications.

- ~~(a) Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one floor in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.~~
- (ab) Height limitations set forth elsewhere in this chapter may be increased by 100 percent when applied to the following:
- (1) Church spires, belfries or domes which do not contain usable space.
 - (2) Monuments.
 - (3) Water towers.
 - (4) Flagpoles.
 - (5) Chimneys or smokestacks.
 - (6) Cooling towers.
- (b) Height limitations set forth elsewhere in this chapter may be increased by 25 percent when applied to the following:
- (17) Elevator and mechanical penthouses
 - (2) Clearstories and other above roof structures with a footprint less than 10 percent of the roof area.

(Code 1976, § 11.19(4)(A); Ord. No. 466, § 2, 10-15-2001)

Sec. 86-162. - Yard modifications.

Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:

- (1) Cornices, ~~canopies awnings, marquees,~~ or eaves may extend into the required front yard a distance not exceeding four feet, six inches, and the required side yard distance not exceeding two feet, ~~six inches. Cornices, canopies or eaves may have a maximum projection of more than four feet, six inches, but not greater than 25 percent of the required or observed front yard setback, by recommendation for adjustment by the board of zoning adjustment and approval of the city council after notice of a public hearing has been given to the owners of lands within 200 feet of the affected property, and such notice has been officially published. The application form and fees shall be the same as for a variance procedure.~~
- (2) Fire escapes may extend into the required front yard a distance not exceeding four feet, six inches.
- (3) A landing place, deck or uncovered porch may extend into the required front yard to a distance not exceeding eight feet, if the landing place or porch has its floor no higher than the entrance floor of the building, except a landing place installed at the main entrance of existing residential structure and projecting no more than 4 feet from the structure may extend 15 feet into required front yard. A four foot square landing, not including stair, or a five foot square landing serving a ramp, shall always be permitted at the main entrance of existing residential structures if replacing an existing landing; An open railing no higher than three feet, ~~six inches,~~ may be placed around such place.
- (4) A bay window having a bow, or angled sides, with windows on all faces projecting no more than two feet from the building wall may extend 20 feet into required front yard.

- (54) The ~~above enumerated~~ architectural features listed in paragraphs 1 through 4 may also extend into any the required rear yard to the same extent as permitted for extension into the required front yard. If an easement coincides with, or is wider than, a required yard, architectural features listed in paragraphs 1 and 2 may extend into such easement not more than two feet with written approval of the City Engineer.
- (65) ~~Walls, R~~etaining walls, fences, ~~and or~~ other similar structures located in any yard, ~~except signs and as otherwise permitted by this article,~~ shall not exceed seven feet in height in any of the classes of residential and business districts. Barbed wire or electrical fencing materials are prohibited in these locations.
- (76) ~~Walls, R~~etaining walls, fences or any other structures, both permanent and temporary, located in the front any yard of a corner lot at the intersection of streets, except pilon signs and as otherwise permitted by this article, shall not exceed three feet in height as measured above the curb within a 25-foot visibility triangle radius of the property corner at such intersection and within a 10-foot visibility triangle adjacent to alleys and driveways in any of the classes of residential and business districts.
- (87) On double frontage lots, the required front yard shall be provided on both streets. On corner lots, the required front yard shall be provided on all streets.
- (98) In determining the depth of rear yard for any building where the rear yard opens into an alley, one-half the width of the alley, but not exceeding ten feet, may be considered as a portion of the rear yard.
- (10) Any structure, including fences, built in the rear or side yard that opens into an alley, must not be placed less than three feet from the property line defining this alley. Any garage with overhead door facing, and having a direct vehicle access from, an alley must not be placed less than 18 feet from the alley.
- (119) No front, side or rear yard shall be required in the downtown district, which area shall be designated on the official zoning map.
- (129) On a corner lot fronting two intersecting streets, either yard opposite the street may be designated the rear yard. On a corner lot fronting three streets, the fourth yard shall meet the requirements of a side yard.
- (13) On a flag lot, the lot side facing the street this lot has an access from shall be designated the front yard. For such lots, the lot depth calculations shall not include the length of the narrow access portion of the lot.
- (14) On a lot that faces, and is exclusively accessed from, a public roadway easement or recorded access easement providing access to at least one other property beyond said lot, the lot side facing the easement shall be designated the front yard.
- (11) ~~A bay window having a bow, or angled sides, with windows on all faces may project into the required front yard a distance not exceeding two feet.~~

(Code 1976, § 11.19(4)(B); Ord. No. 374 2nd series, § 1, 8-4-1997; Ord. No. 699 2nd series, § 1, 9-9-2015; Ord. No. 725 2nd series, § 1, 1-23-2018)

Sec. 86-163. - Accessory buildings.

- (a) Purpose. These regulations governing accessory buildings are established to provide for the orderly development ~~of~~ and use of land and to minimize conflicts among land uses by regulating the type, size and location of accessory buildings.

(b) Accessory buildings shall comply with the following regulations in addition to other requirements of this chapter:

- (1) An accessory building must not be placed on a lot where there is no permitted use main building except in a case when such lot is not substandard and is adjacent to the lot where a permitted use main building is located, provided both lots have the same owner(s), and the owner(s) sign and record an agreement prohibiting the sales or transfer of individual lots unless a new main structure is built on a lot where a standalone accessory building, compliant with the city ordinance ~~[this chapter]~~, is located or said accessory building is removed. If such accessory structure is allowed under above conditions, the city ordinance ~~[this chapter]~~ shall be applied as if two adjacent lots are combined into one.
- (2) An accessory building must not be placed less than five feet from the main building or another accessory building.
- (3) An accessory building must not be placed in a required front yard or side yard, or less than 12 feet to the rear property line except one accessory building less than 200 square feet in area and less than ten feet in height may be placed not less than five feet to the side or rear property line. For accessory buildings over 1,000 square feet or over ten feet in height, the distance to the rear property line shall be increased by one-foot for every 100 square feet area increase over 1,000 square feet and every one-foot height increase over ten feet until ordinance required rear yard depth is reached.
- (4) An accessory building must not exceed 1,000 square feet in area in the R-1 one-family residence district, nor exceed 600 square feet in area per dwelling unit in residential structures in any other residential district, nor exceed ~~80~~ 60 percent of the footprint area of the main use building when its footprint exceeds 1,200 square feet in all classes of residential and business districts, except an accessory building size may be increased 50 percent if located on lots of more than seven-tenths of an acre in the R-1 one-family residence district and the R-2 one- to four-family residence district. In all classes of residential and business districts, all accessory buildings combined must not exceed the area of the main building nor occupy more than 25 percent of the area of a rear or front yard.
- (5) In all classes of residential and business districts an accessory building must not be more than one-story or greater than 15 feet in actual height ~~on lots of less than seven-tenths of an acre~~. An accessory building located 25 feet or more from all property lines on a lot of seven-tenths of an acre or more must not be more than one and one-half stories, nor more than 18 feet in actual height. Accessory buildings must not be greater in height than the main building.
- (6) In the R-1 one-family residence district and the R-2 one- to four-family residence district, an accessory building must not be located a lesser distance to a front property line than the main building except an open gazebo under 200 square feet in area and 12 feet in height may be placed in front of the main building on lots of more than seven-tenths of an acre, provided the house front yard depth is at least two times greater than the required front yard. On double frontage lots one accessory building may be permitted on the side opposite to the lot access point provided it meets applicable front yard requirements and matches the main structure in appearance. In all classes of residential and business districts, accessory buildings located in the front yard shall be finished to match the main use building.
- (7) In the R-1 one-family residence district and the R-2 one- to four-family residence district there must not be more than two accessory buildings placed on a lot of less than seven-tenths of an acre ~~(30,492 square feet)~~, nor more than three accessory buildings placed on a lot of more than seven-tenths of an acre. An open gazebo under ~~200~~ 420 square feet in area and 12 feet in height may be built in addition to the number of accessory building limitations indicated above.
- (8) All accessory buildings must be constructed to comply with all requirements of the building code including structural requirements.
- (9) No accessory building shall be used, permanently or temporarily, for human habitation; any building containing provisions for human habitation shall be considered a main use. In the R-1

one-family residence district and the R-2 one- to four-family residence district, one travel trailer, camper, motor-home or recreational vehicle may be used as a temporary guest residence for no more than ten days per calendar year ~~provided it complies with all applicable requirements of this section except as may be allowed by a conditional use permit.~~ If placed in the front yard, it shall not project into public right of way or visibility triangles. The 10 days limit may be extended to 30 days by an interim use permit.

- (10) Trailers, semi-trailers, and storage containers (including, but not limited to, cargo and shipping container and PODS or any structures made of the above components) must not be used as accessory buildings in all classes of residential or business ~~zoning~~ districts. A single unit as described above may be utilized for temporary storage for no more than 30 consecutive days in a calendar year. The 30 days limit may be extended to 180 days by applying for an interim use temporary structure building permit and complying with all requirements of the city and building codes.
- (11) Any accessory building exceeding 300 400 square feet, ~~shall have a floor structure or be installed over a floating concrete slab and, if~~ capable of storing street legal motorized vehicles, shall be provided with a street driveway access ~~to the public right of way in a form of a driveway that shall be paved complying with section 86-206 from the street through the required front yard. No driveway shall be required for secondary garages, provided a minimum double garage is attached to the house; however, if such driveway is installed, it shall be paved within the public right-of-way.~~
- (12) Accessory buildings, ~~including any projections,~~ must not be located within any utility easements. Overhangs and eaves may extend into such easement not more than two feet with written approval of the City Engineer.
- (13) In all classes of residential and business districts accessory buildings, ~~(including carports) but excluding temporary structures installed for less than 90 days,~~ must not use cloth, canvas, plastic sheathing, tarps, or similar materials as finish building materials.
- (14) Temporary Family Health Care Dwellings are not permitted ~~Opt-out of Minn. Stat. § 462.3593, pursuant to authority granted by Minn. Stat. § 462.3593, Subd. 9.~~

(Code 1976, § 11.19(4)(C); Ord. No. 574, § 1, 6-4-2007; Ord. No. 614, § 1, 10-13-2009; Ord. No. 681 2nd series, § 1, 9-24-2013; Ord. No. 699 2nd series, § 1, 9-9-2015; Ord. No. 711 2nd series, § 1 8-8-2016)

Sec. 86-164. - Accessory equipment.

- (a) In all the classes of residential districts, accessory equipment shall be subject to the following qualifications:
 - (1) Accessory equipment, except a single basketball hoop, shall not be located in any required front yard, side yard, or be located within 12 feet of any rear lot line except accessory equipment cumulatively less than 200 five square feet in area and less than eight four feet in height, ~~children playgrounds,~~ and sport courts may be placed not less than five feet to the side or rear property line.
 - (2) Accessory equipment shall not exceed 12 feet in height when measured from the lowest point of the finished surface of the ground within five feet of the support structure to the top of the equipment, ~~except that e~~ Equipment mounted on the roof of the main building shall not project beyond the highest portion of the pitched roof structure of the building nor exceed four feet above the flat roof structure.
 - (3) When the accessory equipment is attached structurally and not just electrically to the main building, it shall comply in all respects with the requirements of this chapter as applicable to the main building and also to the requirements of the building code.

- (4) Accessory equipment must not be placed on a lot where there is no permitted use main building except in a case when such lot is not substandard and is adjacent to the lot where a permitted use main building is located, provided both lots have the same owner(s), and the owner(s) sign and record an agreement prohibiting the sales or transfer of individual lots unless a new main structure is built on a lot where accessory equipment, compliant with the city ordinance ~~[this chapter]~~, is located or said accessory equipment is removed. If such accessory equipment is allowed under above conditions, the city ordinance ~~[this chapter]~~ shall be applied as if two adjacent lots are combined into one, except a sports court may be located at a lesser distance to a front property line than the main building.
- (5) In the R-1 one-family residence district and the R-2 one- to four-family residence district accessory equipment must not be located a lesser distance to a front property line than the main building except accessory equipment less than six five square feet in area and less than four feet in height or ~~(unless fully screened from public right-of-way by solid fence)~~. On double frontage lots accessory equipment may be permitted on the side opposite to the lot access point provided it meets applicable front yard requirements.
- (6) Accessory equipment, including any projections, must not be located within any utility easements.
- (b) In all the classes of business ~~and industrial~~ districts, accessory equipment shall be subject to subsections (a)(1), (2), (3) and (6).
- (c) In all the classes of industrial districts, accessory equipment shall be subject to subsections (a)(1), (3) and (6).

(Code 1976, § 11.19(4)(D); Ord. No. 681 2nd series, § 1, 9-24-2013)



MEMORANDUM

TO: Members of the Legislative & Ordinance Committee
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., Director of Public Works/Zoning Administrator *JRA/cld*

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: April 24, 2020

SUBJECT: Ordinance amendment to Section 86-247 Landscaping and 86-248 Storage

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Section 86-247 Landscaping and 86-248 Storage.

Background

These changes are mostly technical in nature caused by the development of the City Tree Policy and creation of an Interim Use permit concept that allows temporary deviations from the Ordinance. It is similar to conditional use permit but allows time limits. It also cleans up some language and clarifies some concepts.

At the March 11, 2020, regular Planning Commission meeting, Schroeder made a motion, second by Lee to recommend to city council an approval as recommend by staff. All voted in favor of the motion.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Sec. 86-247. - Landscaping.

- (a) In all classes of residential and business districts, all exposed ground areas surrounding a principal and accessory use, including street boulevards and easements, and which are not devoted to parking, drives, walks, patios, designated retail display areas or other such uses shall be landscaped except vegetation areas left in a natural state during initial construction may remain if properly maintained. Downtown district is exempted from the landscaping requirements.
- (1) Fences, bushes, shrubs, and any other landscape elements placed upon easements are subject to removal at owner's expense if required for maintenance or improvement of the utility. The city shall not be required to pay compensation for the items to be removed from a utility easement. Retaining walls shall not be placed upon easements.
 - (2) ~~Trees and any other vegetation shall be planted in such a manner that, when fully grown, no projection into the public right-of-way or easements occurs below nine feet above ground.~~ Trees planted within or adjacent to public right-of-way shall comply with the city tree policy.
 - (3) All landscaped areas shall be kept neat, clean, uncluttered and be properly maintained. Landscaped area shall not be used for the recurring parking of vehicles, ~~(except as provided for in section 86-230 for overflow parking,)~~ or the storage or display of materials, supplies, and merchandise.
 - (4) Vegetation within a 25-foot visibility triangle of the property corner at street intersections and within a 10-foot visibility triangle adjacent to alleys and driveways ~~25 feet of the property corner at street intersections~~ shall not be taller than three feet measured from the top of the street curb. All vegetation upon, and adjacent to, boulevards shall comply with the City Tree Policy ~~except one deciduous tree may be planted within that area.~~
 - (5) Vegetable gardens are allowed in R-1 and R-2 residence districts but shall not be located in the front yard or side yards and shall not occupy more than 25 percent of the area of a rear yard; larger gardens may be allowed by an interim conditional use permit. Vegetable gardens must not be placed on a lot where there is no permitted use main building except when such lot is adjacent to the lot where a permitted use main building is located and both lots have the same owner(s), in which case the vegetable garden can occupy 20 percent of the area of a rear yard calculated for these two lots combined. Community gardens may be allowed in all other zoning districts by an interim conditional use permit, only; ~~except interim conditional~~ use permit is not required in agricultural district.
- (b) Landscape area shall occupy not less than 25 percent of the exposed ground area of the lot. Landscape area shall include not less than 50 percent live materials (vegetation) with the balance being permeable landscaping decorative materials such as landscape rock or mulch.
- (1) Grade slope over one-foot in three feet is prohibited unless existing site grading is unique and special measures are taken to prevent erosion.
 - (2) The trees shall be planted at a rate of at least one tree per 5,000 square feet of landscaped area or one tree per 50 feet of lot street frontage, whichever is greater; existing trees protected during construction may be counted toward the total number of trees required. If more than five trees are required, at least two species shall be used.
 - (3) Overgrown vegetation and sizable broken limbs shall be trimmed; dead or severely damaged trees shall be replaced. Infected trees shall be treated in accordance with chapter 828 Vegetation.
 - (4) Elms, ash, and box elder trees shall not be used unless disease resistant species are utilized.
- (c) In all classes of business and industrial zoning districts yards adjoining any of the classes of residence districts or public parks shall be landscaped with buffer planting screens unless an adjacent residence district property contains a non-residential use. In R-3 and R-4 multiple family residence districts, yards adjoining lower classes of residence districts shall be landscaped with

buffer planting screens unless a multiple family residence district property contains exclusively one-to four-family residences.

- (1) Buffer planting screens shall be at least 80 percent opaque year-round and six feet high. Planting screens shall be planted in such manner that, when fully grown, they remain entirely within the property boundaries. A maintenance-free opaque fence or other means deemed comparable to planting screens by the city staff may be used to substitute for the required buffer planting screens provided requirements of subsection (b) are met.

(d) Building enlargement and expansions over 50 percent of existing building footprint area or construction of additional main use buildings on site shall cause an entire site landscaping review by city staff for Ordinance compliance.

- (ed) All requirements of this section shall be satisfied within one year of receiving a temporary certificate of occupancy. All new site work performed on existing occupied sites shall comply with the landscaping requirements.

(Code 1976, § 11.19(3)(A)(1); Ord. No. 687, § 1, 6-10-2014; Ord. No. 727 2nd series, § 1, 4-24-2018)

Sec. 86-248. - Storage.

- (a) In all classes of residential districts, open storage and accumulation of materials and equipment shall be prohibited. In all other zoning districts, open storage of materials and equipment shall be prohibited in the any required front, and side, and rear yards, except storage shall be allowed in the required rear yard in industrial districts. Unless prohibited elsewhere in the ordinance ~~[this chapter]~~, any other outside storage, including outdoor storage tanks ~~but excluding retail merchandise intended for sale or rent and open to public and displayed in designated areas~~, shall be located or screened so as not to be visible from public right-of-way, public parks or any lot within 500 feet in any of the classes of business or residence districts, except in industrial and agricultural zoning districts screening from public right-of-way is not required. The screening may be achieved by fencing or landscaping means compliant with section 86-247 Landscaping. In all classes of business districts, the storage area shall be paved to control dust and erosion and shall be properly maintained. Temporary storage of building materials intended for construction use on premises shall be allowed during ongoing construction and up to one week prior to construction and is exempt from the above requirements provided a valid building permit is displayed on site.
- (b) Outdoor display of retail merchandise intended for sale or rent and open to public shall be allowed in all classes of business and industrial zoning districts. In all classes of business districts, the display area, except live plants sales area, shall be so designated and paved to control dust and erosion and facilitate moving of displayed products. Except licensed automobile, motorcycle, off-road vehicle, and boat sales lots, and small motorized farm and lawn care equipment sales, the display area shall not be located in the required front and side yards. Outdoor display areas adjacent to any of the classes of residence districts shall be screened by fencing or landscaping means compliant with section 86-247 Landscaping. Outdoor display area shall be adequately lighted.
- (c) Outdoor display and sale during garage sale only shall be allowed in all classes of residential zoning districts and residential properties within other zoning districts during garage and yard sales only. The display area shall be located entirely within the pertinent residential property. ~~The following conditions shall be complied with unless a conditional use permit for home occupation is obtained.~~
 - (1) Any related signage shall be limited to premises and to other private properties provided permission from the property owners is obtained; all signage shall be erected not earlier than one-day before sale and shall be removed at the termination of the sale. Such signs shall be limited to three square feet each.
 - (2) There shall be no more than four garage sales conducted during any period of 12 calendar months; there shall be no more than two garage sales conducted during any period of 30

calendar days; there shall be no garage sales conducted for more than four consecutive days; and there shall be no garage sales conducted before 7:00 a.m. or after 8:00 p.m.

- (d) Building enlargement and expansions over 50 percent of existing building footprint area, construction of additional buildings on site, or changes of use resulting in new exterior storage or display area shall cause an exterior storage/display area review by city staff for Ordinance compliance.
- (e) Trash, garbage, refuse, recycling materials or any other items intended for disposal shall be stored in designated containers or dumpsters which, with the exception of R-1 and R-2 residence districts, shall be located within areas set for collection of garbage as prescribed by section 50-23. In R-1 and R-2 residence districts trash cans shall not be stored in the required front yard except on the day of garbage collection. In R-1 and R-2 residence districts furniture and other bulky items may be left at the curb for pick up by the licensed garbage hauler or anywhere in the front yard for anyone to take for no more than 48 hours. In all classes of business and industrial districts, Ssimilar items intended for disposal may be piled together for temporary storage no longer than six months within garbage collection areas in a single stack not higher than five feet and with area no more than 100 square feet.
 - (1) In all classes of multiple-family and business zoning districts, garbage collection areas shall be paved and fully enclosed with secured access and shall not be located in the required front yard. The enclosure shall be between five and six feet high and fully opaque. If it is located next to the building, it shall be finished with materials matching the exterior of the building.
 - (2) Temporary construction dumpsters intended for demolition and other construction debris may be located outside of such enclosures during ongoing construction and up to one week before and after construction provided a valid building permit is displayed on site. No temporary construction dumpster shall be set on public right-of-way or public parking lot unless a city permit is secured.
- (f) Storage containers, ~~(including, but not limited to, trailers, semi-trailers, cargo and shipping containers, PODS, and dumpsters.)~~ are not allowed as permanent storage structures in all classes of residential or business zoning districts. Utilization of these types of containers for temporary use is allowed in accordance with section 86-163 Aaccessory buildings. The above limitations do not apply to temporary construction dumpsters as regulated in subsection (e).
- (g) In all classes of residential districts, a licensed boat, open or closed trailer, camper, motor-home, or recreational vehicle or other motorized vehicle, but no more than three units, may be stored outside on the property as regulated in section 74-131. One snowmobile, ATV, golf cart, riding mower, trailer, boat, or camper can be displayed for sale in the front yard, provided it has not been purchased or consigned for resale and is not displayed for longer than seven consecutive days or longer than 30 days in a calendar year. No storage or accumulation of any materials in open trailers is permitted.

(Code 1976, § 11.19(3)(A)(2); Ord. No. 687, § 1, 6-10-2014)

Editor's note— Ord. No. 687, § 1, adopted June 10, 2014, amended the title of § 86-248 to read as set out herein. Previously § 86-248 was titled storage of materials.



MEMORANDUM

TO: Members of the Legislative & Ordinance Committee
Sharon Hanson, City Administrator

FROM: Kyle Box, City Clerk

DATE: April 30, 2020

SUBJECT: Delivery of Liquor Prohibited

Action Recommendation:

Staff recommend that the L&O Committee approve the draft ordinance prohibiting the delivery of liquor within the City of Marshall to the City Council for consideration.

Background:

The draft ordinance was prepared by the City Attorney, at the request of staff, after staff had received notification that the delivery of intoxicating liquor was being delivered to Marshall residents from a licensed vendor outside the City of Marshall.

Delivery of off-sale intoxicating liquor is permitted by a licensed vendor in Minnesota. Municipalities have the authority to further restrict liquor regulations within its city limits.

The draft ordinance language is attached.

Sec. 6-147. – Delivery of liquor prohibited.

(a) *Prohibition.* Intoxicating liquor shall not be transported or delivered by any means whatsoever by any person, or business entity, or their authorized agents, into or within the City of Marshall except as may be permitted herein.

(b) *Permitted exceptions.*

1. Delivery or transportation of intoxicating liquor by persons or business entities licensed to engage in the sale and delivery of intoxicating liquor at wholesale is hereby allowed and permitted within the city, provided that said deliveries are made only to those persons or business entities which are licensed to engage in the sale of intoxicating liquors and have been issued a retailers identification card by the state liquor control commissioner.
2. Nothing in this section shall prohibit the delivery of sacramental wines to churches within the city.
3. Nothing in this section shall prohibit the delivery of those products defined as intoxicating liquors to pharmacies for the use of said products in the preparation of medications.
4. This section shall not be construed to prohibit or prevent the holder of a full year on sale intoxicating license issued by the city from transporting or delivering intoxicating liquor while providing catering services pursuant to a valid caterer's permit issued by the State of Minnesota
5. This section shall not be construed to prohibit or prevent an individual from transporting liquor for his or her own use, provided that said individual has obtained and is transporting said liquor as is otherwise permitted by law.



Office of the City Attorney

109 South Fourth Street

Marshall, MN 56258

Ph. (507) 537-1441

Fax: (507) 537-1445

Email: dsimpson@qdlawfirm.com

MEMORANDUM
VIA EMAIL TRANSMITTAL

TO: Kyle Box, City Clerk
CC: Sharon Hanson, City Administrator
FROM: Dennis H. Simpson, City Attorney
DATE: April 3, 2020
RE: Draft Liquor Ordinance Delivery Prohibited

At your request I have reviewed a couple of the sample ordinances that you have previously provided to me. I believe that the City of Bemidji ordinance is a good starting point and I have modified that ordinance and am providing to you a draft of the proposed prohibition on the delivery of intoxicating liquor in the City of Marshall. Please review and comment. I am available to meet at any time with the L&O Committee regarding this matter. This draft prohibition would also apply to the Tall Grass Liquor Store and would not allow that business to deliver intoxicating liquor within the City of Marshall. Thank you for your immediate attention to this matter.

DHS:jlh



MEMORANDUM

TO: Members of the Legislative & Ordinance Committee
Sharon Hanson, City Administrator

FROM: Kyle Box, City Clerk

DATE: April 30, 2020

SUBJECT: Amendments to the Tobacco Ordinance

Action Recommendation:

Staff recommend that the L&O Committee approve the amendments to the tobacco ordinance to the City Council for consideration.

Background:

On December 20, 2019, the President signed legislation amending the Federal Food, Drug, and Cosmetic Act, and raising the federal minimum age for sale of tobacco products from 18 to 21 years. This legislation (known as “Tobacco 21” or “T21”) is effective immediately, and it is now illegal for a retailer to sell any tobacco product—including cigarettes, cigars, and e-cigarettes—to anyone under 21. The new federal minimum age of sale applies to all retail establishments and persons with no exceptions.

The draft ordinance language is attached.

ORDINANCE NO., _____ SECOND SERIES
AN ORDINANCE AMENDING CHAPTER 42, ARTICLE VI. – TOBACCO

The City Council of Marshall, Minnesota ordains:

Chapter 42, Article VI of the Marshall City Code is hereby amended, which shall read as follows:

ARTICLE VI. - TOBACCO

DIVISION 1. - GENERALLY

Sec. 42-131. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products and tobacco related devices.

Individually packaged means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this section shall not be considered individually packaged.

Loosies means the common term used to refer to a single or individually packaged cigarette.

Minor means any natural person who has not yet reached the age of ~~18~~21 years.

Moveable place of business means any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Retail establishment means any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Sale means any transfer of goods for money, trade, barter or other consideration.

Self-service merchandising means open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Tobacco or tobacco products means any substance or item containing tobacco leaf including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clipping, cuttings and sweepings of tobaccos; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

Tobacco related devices means any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

Vending machine means any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

Cross reference— Definitions generally, § 1-2.

Sec. 42-132. - Purpose of article.

Because the city recognizes that many persons under the age of 1821 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices, and such sales, possession and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 1821 years and that those persons who reach the age of 1821 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this article shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

Sec. 42-133. - Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

Sec. 42-134. - Violations.

- (a) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his right to be heard on the accusation.
- (b) *Hearings.* If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- (c) *Hearing officer.* The hearing officer for any violations of this article shall be the city administrator or a person duly designated by him.

- (d) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation, and the penalty to be imposed for a violation of this article, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
- (e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city.
- (f) *Misdemeanor prosecution.* Nothing in this article shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this article. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- (g) *Continued violation.* Each violation and every day in which a violation occurs or continues shall constitute a separate offense.

Sec. 42-135. - Penalties for violation of article.

- (a) *Licensees and employees.* Any licensee, and any employee of a licensee, found to have violated this article shall be charged an administrative fine of \$75.00 for a first violation of this article; \$200.00 for a second offense at the same license premises within a 24-month period; and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for a period to be determined by council resolution. In addition to these administrative fines, the license may be suspended. Any expenses incurred by the city in appointing and conducting the hearing shall also be added to the administrative fine above stated.
- (b) *Other individuals.* Other individuals, other than minors regulated by this article, found to be in violation of this article by providing or selling to minors shall be charged an administrative fee of \$75.00.
- (c) *Minors.* Any minor found in unlawful possession of, or who unlawfully purchases or attempts to purchase tobacco, tobacco products or tobacco related devices, shall be prosecuted as a misdemeanor.
- (d) *Misdemeanor.* Nothing in this article shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.

State Law reference— Similar provisions, Minn. Stat. § 461.12(3), (4).

Sec. 42-136. - Offenses involving minors.

- (a) *Illegal sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any minor.
- (b) *Illegal possession.* It shall be a violation of this article for any minor to have in his possession any tobacco, tobacco product or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (c) *Illegal use.* It shall be a violation of this article for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco related device.

- (d) *Illegal procurement.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (e) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise his true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

State Law reference— Similar provisions, Minn. Stat. § 609.685.

Secs. 42-137—42-150. - Reserved.

DIVISION 2. - DEALERS^[5]

State Law reference— Municipal regulation and licensing of retail sale of tobacco, Minn. Stat. § 461.12, subd. 1.

Subdivision I. - In General

Sec. 42-151. - Responsibility.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this article shall be construed as prohibiting the city from also subjecting the licensee to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

Sec. 42-152. - Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than ~~18~~²¹ years, to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his employee, and shall produce any identification, if any exists, for which he is asked. Nothing in this article shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

Sec. 42-153. - Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product or tobacco related device:

- (1) To any person under the age of ~~18~~²¹ years.
- (2) By means of any type of vending machine, except as may otherwise be provided in this article.
- (3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product or tobacco related device, and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee and the customer.
- (4) By means of loosies.
- (5) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances, except nicotine and other substances found naturally in tobacco or added as part of any otherwise lawful manufacturing process.
- (6) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

Sec. 42-154. - Vending machines.

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

Sec. 42-155. - Self-service sales.

It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco related device between the licensee or his employee and the customer. All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

Secs. 42-156—42-170. - Reserved.

Subdivision II. - License^[6]

Cross reference— Business licenses, § 22-21 et seq.

Sec. 42-171. - Required.

No person shall sell or offer to sell any tobacco, tobacco products or tobacco related devices without first having obtained a license to do so from the city.

Sec. 42-172. - Applications.

An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk shall forward the application to the council for action at its next regularly scheduled council meeting. If the city clerk shall determine that an application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.

Sec. 42-173. - Approval or denial.

The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the city clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.

Sec. 42-174. - Basis for denial.

The following shall be grounds for denying the issuance or renewal of a license under this article; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article.

- (1) The applicant is under the age of ~~18~~21 years.
- (2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
- (3) The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding 12 months of the date of application.
- (4) The applicant fails to provide any information required on the application, or provides false or misleading information.
- (5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding such a license.

Sec. 42-175. - Movable place of business.

No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

Sec. 42-176. - Fees.

No license shall be issued under this article until the appropriate license fee shall be established pursuant to a resolution of the city council. No licenses shall be issued until the fee is paid in full.

Sec. 42-177. - Term.

All licenses issued under this article shall be valid for the calendar year of which they are issued for. There shall be no proration of any application fees under this article.

Sec. 42-178. - Renewals.

The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant, and shall not entitle the holder to an automatic renewal of the license.

Sec. 42-179. - Display.

All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

Sec. 42-180. - Transfers.

All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

Sec. 42-181. - Revocation.

Any licensee who violates this article, or commits an illegal act pursuant to this article, shall have their license revoked by the city.

This Ordinance shall take place upon its passage and publication according to law.

Passed by the Common Council of the City of Marshall, Minnesota this day of, 2020.

Mayor

Attested:

City Clerk



MEMORANDUM

TO: Members of the Legislative & Ordinance Committee
Sharon Hanson, City Administrator

FROM: Kyle Box, City Clerk

DATE: April 30, 2020

SUBJECT: Chickens

Action Recommendation:

Staff do not recommend that any action be taken.

Background:

At the request of the City Council staff have started to research and discuss a draft ordinance that would allow chickens (fowl) within city limits. Currently, the animal ordinance prohibits 'farm' animals, including chickens, from being raised inside the city of Marshall.

Staff have multiple concerns moving forward with this ordinance request. Staff representatives from Administration, Public Safety, Public Works/ Community Planning will be in attendance to provide further discussion.

The attached draft ordinance has been tailored from other communities, however, is only intended to begin discussion and gather direction. Staff would not recommended approval of this draft as written.

Two news articles regarding the above subject and the draft ordinance language are attached.

Alternative Recommendation:

That the L&O Committee allow staff to make necessary changes to the draft ordinance allowing fowl within the city of Marshall and bring it back to the L&O Committee (or City Council) for consideration.

ORDINANCE NO., SECOND SERIES
AN ORDINANCE AMENDING CHAPTER 14 – ANIMALS

The City Council of Marshall, Minnesota ordains:

Chapter 14 of the Marshall City Code is hereby amended, which shall read as follows:

ARTICLE I. - IN GENERAL

Sec. 14-1. - Definitions.

The following words, terms and phrases, used in this section have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Animals mean cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, dog, cats, and all other animals and feathered fowl; provided, however, that this definition shall extend to this chapter only.

Animal control authority means the director of public safety or his designated representative.

Animal shelter means facility operated for the purpose of impounding or caring for animals held under the authority of this Code.

At large means off the premises of the owner and not under restraint.

Cat means any domestic feline animal (*Felis domesticus*) male, female, sexed or neutered.

Dangerous animal means any live, domestic or wild animal that has;

- (1) Without provocation, inflicts substantial bodily harm upon a human being on public or private property;
- (2) Killed a domestic animal without provocation; or
- (3) Been found to be potentially dangerous, or after the owner has been notified that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Designated veterinarian means a veterinarian licensed to practice veterinary medicine in the state, who has a practice located within the city, and who has agreed to act as an agent of the city for the purpose of selling dog and cat licenses.

Dog means any domestic animal (*Canis familiaris*) male or female, sexed or neutered.

Has been bitten means has been seized with the teeth or jaws, so that the skin of the person or animal seized has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin as determined by a licensed physician. The term "has been bitten" shall also include contact of saliva with any mucous membrane.

Own means keep, harbor or have control, charge or custody of a dog or cat. This term shall not apply to dog or cats owned by others which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of less than 30 days.

Owner means any person, partnership or corporation owning, keeping, harboring or having charge or control of, or permitting any animal to habitually be or remain on, or be lodged or fed within such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs and cats owned by others for a period of less than 30 days. An animal is deemed harbored if it is fed or sheltered for three consecutive days or more.

Potentially dangerous animals means any animal that has:

- (1) When unprovoked, bites a human or domestic animal;
- (2) When unprovoked, chases or approaches a person upon the public streets, sidewalks, or any public property in an attitude of attack; or
- (3) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Public nuisance means an act or failure to perform a legal duty by an animal owner.

Rabies control authority means the animal control authority.

Restraint means any animal secured by a leash or lead or within the real property limits of its owner.

Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Vaccination against rabies means the inoculation of a dog or cat with a rabies vaccine licensed for the species by the United States Department of Agriculture and recommended in the current Compendium of Animal Rabies Vaccines prepared by the National Association of State Public Health Veterinarians. (Wherever cat rabies is a problem, officials should include cats). Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine in the state or in a state where the practice is located.

Sec. 14-2. - General regulations.

- (a) No persons shall rob, injure or destroy any birds' nests within the limits of any park or parkway within the corporate limits of this municipality, nor aim or discharge any air gun, slingshot or other weapon, or throw any stone or other missile at any bird or bird's nest or wild animal within a park or parkway within the corporate limits of this municipality, nor in any manner capture or kill any bird or wild animal therein.
- (b) It is unlawful for any person to keep any animal, not in transit, in any part of the city not permitted by the zoning code except for domestic pets which shall be kept for personal use only.
- (c) It is unlawful for any person to keep any animals in any structure infested by rodents, vermin, flies or insects.
- (d) No persons shall at any time set, lay, prepare or have in possession any trap, snare, artificial light, net, bird line, ferret or other contrivance for the killing, capturing or taking of any bird or wild animal within any park or parkway within the corporate limits of this municipality.
- (e) No person shall allow, permit or place any animal upon any public park, bike path or foot bridge, or upon any grass, turf, boulevard, city park, cemetery, garden or private property, without the specific permission from the owner. The restrictions of this subsection do not prohibit the appearance of any dog or cat upon streets or public property when the dog or cat is on a leash or under the control of the person charged with its care.
- (f) No person shall allow or permit any animal to defecate upon any public park, bike path or foot bridge, or upon any grass, turf, boulevard, city park, cemetery, garden or private property, without specific permission from the owner, unless any and all excrement is immediately removed and disposed of in a sanitary manner by the person charged with the animal's care. Any person having custody or control of any animal when such animal is upon any of the places or areas described in this subsection to have in his possession a device or equipment for excrement removal.
- (g) All owners must provide proper nourishment, including water and food for their animals. Owners must maintain their property in a sanitary condition and must clean up and dispose of animal waste in a reasonable time so as to protect the public health safety and a general welfare.

Sec. 14-3. - Prohibited animals.

No person, corporation, or business shall keep, maintain or harbor within the city, any of the following animals:

- (1) Any animal or species prohibited or regulated by state or federal law.
- (2) Any member, hybrid or crossbreeds and offspring from all subsequent generations of the cat family (felid) including but not limited to lions, tigers, cougars, bobcats, leopards, and jaguars, but excluding those recognized as domesticated house cats.
- (3) Any naturally wild member, hybrid or crossbreeds and offspring from all subsequent generations of the canine family (canid) including but not limited to wolves, foxes, coyotes, dingoes, and jackals, but excluding those recognized as domesticated dogs.
- (4) Any member or relative of the rodent family including but not limited to skunks (whether or not descended), raccoons or squirrels.
- (5) Any poisonous, venomous, constricting or inherently dangerous member of reptile or amphibian families, crocodiles and alligators, except when confined to the owner's residence.
- (6) Any farm animals including but not limited to cattle, oxen, buffalo, sheep, mules, goats, pigs, or other hoofed animals, chickens, ducks, geese, turkeys, pheasants, or other fowl, except as permitted in **Sec. 14.4. – Fowl** or in the agricultural zoning district defined in chapter 86.
- (7) Any, monkeys, apes, gorillas, or lemurs.
- (8) Any bees, chinchillas or mink.
- (9) Rabbits kept and maintained for breeding, production, or any other use excluding those recognized as domesticated pets.
- (10) Any other animal that is not explicitly listed in this section which can be reasonable defined by the terms of this section.

~~Secs. 14-4 – 14-20. Reserved.~~

Sec. 14.4 – Fowl

- (a) No person shall keep, harbor, or maintain care, custody, or control over any fowl such as a chicken, turkey, duck, or pigeon, without obtaining a permit. Any person desiring a permit shall make written application to the City of Marshall. Approval of application is subject to reasonable conditions prescribed by the City of Marshall. Failure to adhere to permit conditions shall constitute cause for adverse action against the permit and shall be a violation of this section.
- (b) The City of Marshall may grant a permit pursuant to this section only after the applicant has provided evidence of notification to all immediately adjacent property owners, in a format supplied by or approved by and to the satisfaction of the City of Marshall. If the applicant is a renter, approval from the property owner shall be required. Neighbor notification will be the responsibility of the property owner, though it may be carried out by the applicant.
- (c) The requirements of this section shall not prohibit the adoption of fowl to the public by any releasing agency, private shelter, rescue group, or public sheltering agency provided the adoption contract specifies that the animal cannot be sold, transferred, or otherwise disposed of for a period of six (6) months following the adoption without written consent of the releasing agency, except for euthanization by a licensed veterinarian to prevent pain and suffering or disease transmission.

- (d) No person having the care, custody, and control of any fowl shall abandon said fowl or allow any fowl to run at large off the property of its owner or custodian.
- (e) All permits shall expire twelve (12) months from the date of issuance unless sooner revoked. The application fees for such permits shall be as established in the license fee schedule and shall be payable upon application. The City of Marshall may inspect the premises annually or as deemed necessary.
- (f) Permits shall be classified into three (3) tiers, with Tier I consisting of one (1) to six (6) hens, Tier II of seven (7) to fifteen (15) hens, and Tier III of sixteen (16) to thirty (30) hens, with associated fees as established in the license fee schedule.
- (g) Standards of care, practice, restrictions, and enclosure requirements include the following:
- (1) Residential coops, pens or other structures shall be limited to six (6) fowl of any kind per permit. Permits in excess of the allowable number shall need to be approved by the City of Marshall and may require additional conditions.
 - (2) Location of coop, run, or pen must be in compliance with all zoning code requirements and enclosed to ensure fowl are confined to permittee's property. The enclosure must be of proper size for the number and type of fowl being housed as prescribed by the City of Marshall.
 - (3) Residential coops, pens, or other structures shall be an allowed accessory to a dwelling subject to the following:
 - a. The use shall be located not less than twenty (20) feet from any habitable building on an adjacent property.
 - b. The use shall be visually screened from any adjacent residential use.
 - c. The use shall be constructed of durable materials and shall be compatible with the principal structure and adjacent residential properties.
 - d. The use shall be located entirely to the rear of the principal residential structure.
 - (4) Fecal waste or litter shall be removed at such reasonable times to prevent odors from emitting over property lines. Such waste or litter must be double bagged and disposed of in city garbage or composted provided the method used and the location does not present a public nuisance or health issue.
 - (5) Slaughter of any kind shall be prohibited within the City of Marshall.
 - (6) Roosters shall be prohibited without additional considerations and special permit.
 - (7) A permit to keep more than six (6) fowl or to keep roosters shall require the written consent of at least eighty (80) percent of the occupants of the several descriptions of real estate situated within one hundred (100) feet of the applicant's real estate. Such written consent shall be required on the initial application and as often thereafter as the City of Marshall deems necessary.
 - (8) Any coop found to be a public nuisance provided notice to abate the issues has failed to correct the issue within a reasonable time is prohibited and all permits associated with the coop may be revoked or denied. The coop and all fowl shall be removed by the property owner within forty-eight (48) hours of notice of the revoked or denied permit at the expense of the permit holder or applicant.
 - (9) The City of Marshall may deny, suspend, revoke or take other authorized adverse action against any permit applied for or granted pursuant to this section if any condition or requirement is violated or if the keeping of fowl becomes a public nuisance or for other good cause.
 - (10) Public nuisance for the purpose of coops includes, without limitation, any chicken coop that on three (3) or more occurrences in a twelve (12) month period receives complaints of noise, odor, or any other violation from more than one complainant, provided the complaints are founded and established by the City of Marshall.

(11) No person, business, or entity shall maintain or cause to be maintained any commercial business related to the keeping of fowl on residential property unless otherwise permitted by the City of Marshall. If so permitted, commercial coops must:

- a. Maintain any applicable business license, health department permit, zoning permit, and permit issued by the City of Marshall.
- b. Be limited to thirty (30) fowl of any kind with at least four (4) square feet provided for each fowl housed inside the physical coop and ten (10) square feet for each fowl while housed in outside run.
- c. Be maintained in such a manner as to prevent a public nuisance.
- d. Comply with all zoning and health regulations as well as any other applicable law.
- e. Be properly identified.
- f. Provide adequate care, as defined in this title.
- g. Provide adequate safeguards to protect the fowl from animals and to prevent unauthorized access to the fowl by general members of the public.
- h. Be kept in good repair, maintained in a clean and in a sanitary condition, and free of any vermin, obnoxious smells, and substances.

Secs. 14.5-14.20 Reserved

This Ordinance shall take place upon its passage and publication according to law.

Passed by the Common Council of the City of Marshall, Minnesota this day of, 2020.

Mayor

Attested:

City Clerk

Outbreaks of *Salmonella* Infections Linked to Backyard Poultry

Final Update



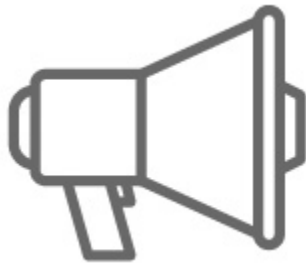
Investigation Notice

Posted October 22, 2019 at 5:00 PM ET

CDC and public health officials in many states investigated 13 multistate outbreaks of *Salmonella* infections linked to contact with backyard poultry. These outbreak investigations are over.

Backyard poultry can carry *Salmonella* germs that can make people sick, even when the birds look healthy and clean. Backyard flock owners should always follow to stay healthy around their poultry.

Final Outbreak Information



At A Glance

- Reported Cases: 1134
- [States](#): 49
- Hospitalizations: 219
- Deaths: 2



- As of October 22, 2019, these outbreak investigations are over.
- The outbreaks in 2019 represent the largest recorded number of people to become sick with *Salmonella* after contact with backyard poultry.
- 1,134 people infected with the outbreak strains of *Salmonella* were reported from 49 states and the District of Columbia.
 - Of 740 people with information available, 219 (30%) were hospitalized. Two deaths were reported, one from Texas and one from Ohio.
 - Of 988 ill people with information available, 212 (21%) were children younger than 5 years.
- [Epidemiologic, laboratory, and traceback evidence](#) indicated that contact with backyard poultry, such as chicks and ducklings, from multiple hatcheries was the likely source of these outbreaks.
 - In interviews, 392 (63%) of 619 ill people reported contact with chicks or ducklings.
 - People reported getting chicks and ducklings from several sources, including agricultural stores, websites, and hatcheries.
 - Six of the outbreak strains that made people sick were identified in samples collected from poultry.

Advice to Backyard Flock Owners



People can get sick with *Salmonella* infections from touching backyard poultry and the places where they live and roam. Backyard poultry can carry *Salmonella* germs but look healthy and clean and show no signs of illness.

- **Wash your hands.**
 - Always wash your hands with soap and water right after touching backyard poultry or anything in the area where they live and roam.
 - Adults should supervise handwashing by young children.
 - Use an alcohol-based hand sanitizer with at least 60% alcohol if soap and water are not readily available. Consider storing hand sanitizer at your coop.
- **Poultry belong outside.**
 - Don't let backyard poultry inside the house, especially in areas where food or drink is prepared, served, or stored.
 - Set aside a pair of shoes to wear while taking care of poultry and keep those shoes outside of the house.
 - Stay outdoors when cleaning any equipment or materials used to raise or care for poultry, such as cages, or feed or water containers.
- **Handle birds safely.**
 - Do not let children younger than 5 years of age handle or touch chicks, ducklings, or other live poultry without supervision. Children younger than 5 years of age are more likely to get sick from exposure to germs like *Salmonella*. Don't eat or drink where poultry live or roam.
 - Don't kiss backyard poultry or snuggle them and then touch your face or mouth.
- **See CDC's [backyard poultry](#) information for more tips on how to stay healthy around your birds.**

Advice to Stores and Hatcheries

- **Participate in USDA's National Poultry Improvement Plan *Salmonella* monitored program.**
 - Hatcheries should participate in USDA's National Poultry Improvement Plan voluntary [Salmonella monitored program pdf icon](#)[PDF – 279 KB][external icon](#) and utilize [best management practices pdf icon](#)[PDF – 1.40 MB][external icon](#) to reduce *Salmonella* contamination in hatchery environments.
- **Source birds from hatcheries that participate in USDA's National Poultry Improvement Plan voluntary *Salmonella* monitored program pdf icon**[PDF – 279 KB][external icon](#).
 - Stores should source birds from hatcheries that participate in these *Salmonella* prevention measures.
- **Provide information on *Salmonella* to store employees and customers.**
 - Place information in clear view where poultry are displayed.
 - This sample [flyer pdf icon](#)[PDF – 631 KB] describes *Salmonella* and includes steps to prevent illness.
- **Display birds safely in stores.**
 - Display poultry out of reach of customers, especially children, to prevent touching.
 - Provide handwashing stations or alcohol-based hand sanitizer with at least 60% alcohol next to poultry display areas. Tell customers to wash hands right after leaving these areas.
 - Clean and sanitize the areas where poultry are displayed between shipments of new poultry. Be sure to remove debris first so that the disinfectant is applied to a surface that is generally clean. Apply the disinfectant on the surface for the proper contact time listed on the disinfectant label.
- **For more information, please read [this journal article for retail stores](#)[external icon](#).**

Symptoms of *Salmonella* Infection



- Most people infected with *Salmonella* develop diarrhea, fever, and stomach cramps 12 to 72 hours after being exposed to the bacteria.
- The illness usually lasts 4 to 7 days, and most people recover without treatment.
- In some people, the illness may be so severe that the patient needs to be hospitalized. *Salmonella* infection may spread from the intestines to the bloodstream and then to other places in the body.
- Children younger than 5 years, adults 65 years and older, and people with weakened immune systems are more likely to have a severe illness.
- For more information, see the CDC [Salmonella](#) website.

Investigation Details

October 22, 2019

CDC and public health officials in several states investigated 13 multistate outbreaks of *Salmonella* infections with serotypes Agona, Alachua, Altona, Anatum, Braenderup, Enteritidis, Infantis, Manhattan, Montevideo, Muenchen, Newport, and Oranienburg. Epidemiologic, laboratory, and traceback evidence indicated that contact with backyard poultry, such as chicks and ducklings, from multiple hatcheries was the likely source of these outbreaks.

Public health investigators used the PulseNet system to identify illnesses that were part of these outbreaks. PulseNet is the national subtyping network of public health and food regulatory agency laboratories coordinated by CDC. DNA fingerprinting is performed on *Salmonella* bacteria isolated from ill people by using a standardized laboratory and data analysis method called whole genome sequencing (WGS). CDC PulseNet manages a national database of these sequences that are used to identify possible outbreaks. WGS gives investigators detailed information about the bacteria causing

illness. In these outbreaks, WGS showed that bacteria isolated from ill people were closely related genetically. This means that people in these outbreaks were more likely to share a common source of infection.

A total of 1,134 people infected with the outbreak strains of *Salmonella* were reported from 49 states and the District of Columbia. A list of the states and the number of cases in each is on the [map of reported cases page](#).

Illnesses started on dates from January 1, 2019, to October 9, 2019. Ill people ranged in age from less than 1 year to 99 years, with a median age of 34. Of 988 ill people with age information available, 212 (21%) were children younger than 5. Fifty-six percent were female. Of 740 people with information available, 219 (30%) were hospitalized. Two deaths were reported from Ohio and Texas.

[Whole genome sequencing](#) (WGS) was conducted to identify any [predicted antibiotic resistance](#) in 814 isolates from ill people and 38 isolates from food, animals, or the environment. A total of 187 isolates had predicted antibiotic resistance or decreased susceptibility to one or more of the following antibiotics: amoxicillin-clavulanic acid (5% of 187 isolates), ampicillin (6%), cefoxitin (5%), ceftriaxone (5%), chloramphenicol (4%), ciprofloxacin (<1%), fosfomycin (7%), gentamicin (2%), kanamycin (1%), nalidixic acid (<1%), streptomycin (6%), sulfamethoxazole (6%), tetracycline (4%), and trimethoprim-sulfamethoxazole (<1%). There was no antibiotic resistance predicted for 665 (78%) isolates. Testing of 52 clinical isolates using standard [antibiotic susceptibility testing](#) methods by CDC's [National Antimicrobial Resistance Monitoring System \(NARMS\)](#) laboratory provided comparable results (fosfomycin and kanamycin were not tested by this method). If antibiotics are needed, some infections related to these outbreaks may be difficult to treat with some commonly recommended antibiotics and may require a different antibiotic choice.

In interviews, ill people answered questions about animal contact in the week before they became ill. Of 619 people interviewed, 392 (63%) reported contact with backyard poultry before becoming ill. Ill people reported buying poultry from various sources, including agricultural stores, websites, and

hatcheries. Six of the outbreak strains that made people sick were identified in samples collected from poultry.

As of October 22, 2019, these outbreak investigations are over.

'We Are Swamped': Coronavirus Propels Interest In Raising Backyard Chickens For Eggs

April 3, 2020 4:25 PM ET

[BILL CHAPPELL](#)
[Twitter](#)



Chicken hatcheries say they're seeing a spike in interest from people wanting to raise the birds at home. A poultry expert says that for the average person keeping half a dozen chickens in the summer, "you would get plenty of eggs for the family."

Mike Segar/Reuters

The coronavirus pandemic is heightening interest in raising young chickens for a reliable supply of eggs, with hatcheries saying they're seeing a flood of new customers.

"We are swamped with orders," says Nancy Smith, owner of the [Cackle Hatchery](#) in Lebanon, Mo. "We can't answer all the phone calls, and we are booked out several weeks on most breeds."

For families adapting to disruptions brought on by COVID-19, raising hens is seen as an answer to vexing questions about the availability of staple items at grocery stores. Starting a backyard flock could also be a rewarding project for Americans who now face the prospect of spending weeks or months at home, with schools closed and workers laid off, furloughed, or working remotely.

Folks who are feeling cooped up, in other words, may want to start a coop of their own.

"People are at home so they're looking for something for their families to do while they're home," says Kendall Fox of the [Freedom Ranger Hatchery](#) in Lancaster County, Pa. "The other reason is the security of having food in their backyard."

Subscribe to the Coronavirus Daily Podcast

- [NPR ONE](#)
- [APPLE PODCASTS](#)
- [GOOGLE PODCASTS](#)
- [POCKET CASTS](#)
- [SPOTIFY](#)
- [RSS](#)

Fox says he has seen "a pretty large increase" in people wanting to raise their own chickens. The new customers are all over the U.S., he says, adding that the small orders are bringing a much-needed boost at a time when many large orders are being canceled by farmers who supply restaurants and processed food plants.

"A lot of the stores and processing plants in New York City have closed as well," Fox says, "and a lot of our birds end up there."

The idea of raising chickens of one's own might conjure an image of pastoral bliss, of a simpler life that clucks along outdoors. But throngs of people are now rushing to acquire that lifestyle.

"We've never seen anything like this and I've been here since 1964," Smith says, describing the spike in her business.

Suggesting that some customers might be affected by the stress millions of people are now feeling, she adds, "Everyone is very anxious, and in some cases very impatient."

While most newbie farmers are turning to chickens for eggs, some also plan to raise birds for their meat.

"Our most popular breed is the Freedom Ranger, a slower growing colored broiler (meat bird)," Fox says.

To learn more about what people should consider when starting their own flock of chickens, I spoke to John Monaco, president of the [American Poultry Association](#). The group — Monaco says it's the oldest livestock organization in North America — maintains lists of standard breeds and also sanctions poultry shows.

The new public interest in raising chickens is part of a broader pattern, Monaco says.

"Backyard poultry has been on the upswing all over, especially in the rural areas, for the last five or 10 years," Monaco says. "Raising your own chickens and even your own broilers — it's become a lot more fashionable to do it."



THE SALT

Do Backyard Chickens Need More Rules?

He adds, "In our area in Southern California, there's thousands of people that have just small backyard flocks, that raise their own eggs."

As for what breeds people might look for, Monaco says, "It depends on what you want. There's egg layers, that are strictly for egg-laying. There's dual-purpose, which are egg layers but they're also meat birds."

"For egg layers, you have Leghorns and for dual-purpose birds, you have Rhode Island Reds, Plymouth Rocks," he says, adding that the birds are what many of us might have seen on visits to farms, or our grandparents' houses.

"Those are the type of breeds that most people want," Monaco says. "Some of these breeds have been in our standards since 1874."

He then laid out some of the differences between them:

"Leghorns are good egg-layers. They're a medium-sized Mediterranean breed, been around for years, there's different varieties, all different colors. They're a medium-sized bird, but they lay a big egg."

"You get into the Rhode Island Reds and the Plymouth Rocks, they're American breeds, they lay a decent-sized egg, but they're a bigger bird. They're also a meat bird."



THE SALT

Too Many Eggs For One Basket! Backyard Chicken Farmers Scramble To Give Them Away

The number of eggs a hen can lay each week usually depends on the sun, Monaco says.

"It all goes by the amount of light during the day — the more light there is during the day, the more that they lay," he says. "So during the summer months they lay more, and you can get one egg a day out of some of them. The older birds lay less, of course.

"But there've been chickens that have laid over 300 eggs in a year," he says.

For the average citizen farmer who might keep half a dozen chickens during the summer, Monaco says, "you would get plenty of eggs for the family."

Starting a flock doesn't have to be expensive, Monaco says, adding that people can get started by buying some chicks from a feed store.

"For the people that are just looking for a few birds for their backyard, it's just a fun hobby," he says. "They're fun to watch."