



CITY OF MARSHALL
Legislative & Ordinance Committee
A g e n d a
Tuesday, June 27, 2023 at 12:45 PM
344 W. Main St., City Hall

APPROVAL OF AGENDA

APPROVAL OF MINUTES

- [1.](#) Consider Approval of the Minutes

NEW BUSINESS

- [2.](#) Administrative Citations
- [3.](#) UTV Permit Ordinance Discussion
- [4.](#) Section 18-2 Required Key Box
- [5.](#) Section 86-247 Landscaping

ADJOURN

Disclaimer: These agendas have been prepared to provide information regarding an upcoming meeting of the Common Council of the City of Marshall. This document does not claim to be complete and is subject to change.

CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Chair
Meeting Date:	Tuesday, June 27, 2023
Category:	APPROVAL OF MINUTES
Type:	ACTION
Subject:	Consider Approval of the Minutes
Background Information:	Enclosed are the minutes from the previous meeting.
Fiscal Impact:	
Alternative/ Variations:	Staff encourages Members to provide any suggested corrections to the minutes in writing to City Clerk, Steven Anderson, prior to the meeting.
Recommendations:	That the minutes from the meeting held on May 08, 2023, be approved as filed with each member and that the reading of the same be waived.

CITY OF MARSHALL
LEGISLATIVE AND ORDINANCE COMMITTEE
MINUTES
Monday, May 8, 2023

MEMBERS PRESENT: See Moua-Leske, James Lozinski, and Steve Meister
MEMBERS ABSENT: None
STAFF PRESENT: Sharon Hanson, City Administrator; Jason Anderson, Director of Public Works/ City Engineer; Ilya Gutman, Plans Examiner; Eric Luther, Liquor Store Manager; Pamela Whitmore, City Attorney (via zoom); and Amy VanKeulen, Administrative Assistant.

At 12:45 Chair Lozinski called the meeting to order.

Consider Approval of the Minutes

There were no changes to the minutes from April 4, 2023.

Motioned by Meister; Seconded by Moua-Leske to approve the minutes. All voted in favor.

Interim Cannabis Ordinance

Whitmore shared an overview on how the city can prepare for the Legislature likely passing a law expanding the type of Cannabis products that will be legal under Minnesota Statutes. She shared the House has passed HF100, and the Senate passed its companion bill (SF73), which shares much in common with the House. However, since it is not a mirror image of the House bill, both bills now must go through a conference committee to work out the minor differences. By all accounts, those differences are predicted to get ironed out by May 22, 2023 – the end of Session. The Governor has stated he will sign whatever version of this bill hits his desk.

The bill would expand the type of product and level that will be legal in Minnesota. The state will issue up to 13 different types of licenses for businesses in Minnesota. The provision establishing the Office of Cannabis Management has an effective date of July 1, 2023. Local cities won't be able to prohibit it, but may be able to put some minor time, place, and manner of operations in place. The bill does allow cities to put a moratorium ordinance in place. Whitmore recommends repealing the current ordinance and putting a new ordinance in place under state statute for up to a year. Meister asked about the impact of tax and license revenue if we put an ordinance in place. Whitmore mentioned the bill does discuss possible revenue sharing with cities, but the majority of profits will go to the state as cities won't be in charge of issuing the licenses. Lozinski asked if we can repeal the moratorium in August if the city agrees with the governor's bill. The committee discussed the benefits of putting a moratorium in place. Whitmore shared by putting a moratorium in place, it allows the city to see what the state outcome will be as cities will have little control over it.

Hanson asked if legislation stated a minimum and maximum for types of licenses and/or businesses. Whitmore shared there is currently a provision in the bill stating minimums based on population, but she isn't sure that will stay in. Anderson asked if the business would still fall under the city's business ordinance for zoning. Whitmore shared that they would. Anderson suggested the city put the moratorium in place in order to have time to put together a zoning ordinance with this change. Luther shared the state has to approve the sale of THC based liquor before any municipal liquor stores are allowed to sell. Whitmore reviewed the possible timeline needed for the ordinance based on how the Marshall code reads which is effective upon passing and publication; no 30-day waiting period. According to the city's charter, the new ordinance has to be presented at a hearing and have a separate meeting for a vote.

Lozinski shared he recommends they repeal the current ordinance but put a new moratorium ordinance in place for a year. Whitmore recommended the city put a call for a hearing at the first council meeting in June and put a vote at the second meeting in June. Anderson asked about procedure on the zoning side and Gutman mentioned the city will need to decide which districts to allow it in. Whitmore shared both bills currently allow home growing up to a certain amount in them for personal use.

Motion made by Meister; Seconded by Moua-Leske to recommend the current ordinance be repealed and a new ordinance be brought to city council. All voted in favor.

Motion made by Moua-Leske; Seconded by Meister to adjourn the meeting at 1:20 p.m. All voted in favor.

Respectfully Submitted,

Amy VanKeulen
Administrative Assistant

CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Pamela Whitmore
Meeting Date:	Tuesday, June 27, 2023
Category:	NEW BUSINESS
Type:	INFO/ACTION
Subject:	Administrative Citations
Background Information:	An alternative method of enforcement for city code violations is being sought rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in City Code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened, and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address Code violations. To provide more flexibility in addressing Code violations on an individualized basis that will be more efficient and effective an alternative enforcement process is necessary. Therefore, to protect the health, safety, and welfare of the citizens of the city, a process for the use and imposition of administrative civil penalties will provide the public and the city with a more effective alternative method for addressing city code violations.
Fiscal Impact:	
Alternative/ Variations:	
Recommendations:	To provide feedback on the Administrative Citation Policy.

Chapter 2

Article 2-VII ADMINISTRATIVE CITATIONS.

Section 2-400 Purpose

The City Council seeks to offer an alternative method of enforcement for city code violations rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in City Code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address Code violations. In order to provide more flexibility in addressing Code violations on an individualized basis that will be more efficient and effective, the City Council finds that an alternative enforcement process is necessary. Therefore, to protect the health, safety, and welfare of the citizens of the city, it is the City Council's intent to create a process for the use and imposition of administrative civil penalties that will provide the public and the city with a more effective alternative method for addressing city code violations.

Section 2-401 Authority

The City is authorized to enact this administrative citation scheme pursuant to §1-8 of the Marshall City Code, §12.08 of the Marshall City Charter, Minn. Stat. §§410.33, 412.221, 412.861, and 412.871.

- (a) **Administrative offense.** A violation of any provision of the City code is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
- (b) **Exemption.** Alcohol and tobacco license violations, and motor vehicle violations are not subject to administrative citation under this ordinance.

Section 2-402 Alternative Methods of Enforcement

A violation of the Code is a misdemeanor pursuant to §1-8 of the Code; however, this section seeks to gain compliance with the Code as an alternative to the commencement of any formal civil or criminal court action. The administrative civil penalties proceedings are in addition to any other legal or equitable remedy available to the city for Code violations. The city may, in its discretion, choose not to issue an administrative citation and may initiate criminal charges instead.

Section 2-403 Authority to Issue Compliance Letters and Administrative Citations

Any person authorized to enforce provisions of the Code is authorized to issue compliance letters and administrative citations for violations under this Section.

Section 2-404 Compliance letter.

- (a) If a city employee or agent determines that a City Code violation has occurred, when appropriate, a compliance letter shall be issued. The compliance letter shall contain the following information:
- (1) A description or address of the property on which the Code violation has occurred;
 - (2) The nature of the violation, including a reference to the appropriate Code section;
 - (3) A compliance deadline, providing a reasonable time for compliance based on the nature of the violation; and
 - (4) A statement that failure to correct the violation may result in the imposition of an administrative citation, including a civil penalty and stating the amount of the penalty as provided in the fee schedule.
- (b) *Service of compliance letter.* The compliance letter may be served on the offender by certified mail, by electronic mail with proof of delivery confirmation and receipt requested, by personal service or by posting a copy in a conspicuous place in or about the building or property affected by the letter.
- (c) *Reasonable extensions.* Following service of the compliance letter, the city shall attempt to work to resolve the violation, including, but not limited to, offering reasonable extensions for compliance.
- (d) *Exceptions to issuance of a compliance letter.* For violations of any of the following sections, the city shall not be required to issue a compliance letter and may proceed directly to issuance of an administrative citation as provided in §2-405 below.
- (1) If the same offender commits a subsequent violation within 12 months after a compliance letter has been issued for a same or similar offense. If the offense involves a property related offense, then the subsequent violation must occur at the same property within this 12-month period for this subsection to apply...
 - (2) For any license violations, including, but not limited to, not having a license.
 - (3) For traffic or parking violations issued under Chapter 74 of the Code.
 - (4) For violations involving animals at large and potentially dangerous or dangerous animals under Chapter 14 of the Code.
 - (5) For any violation of §42-89, Loud Noise.
 - (6) For violations of Chapter 34, Fire Prevention Code.
 - (7) When a condition exists that requires immediate action to protect the public health, safety, and welfare, including any condition that represents a life-threatening condition.
 - (8) Disorderly conduct or other similar behavior that tends to disrupt, injure, or annoy a reasonable person for which a compliance letter would be moot, as the conduct or behavior has terminated.

Section 2-405 Administrative Citation

- (a) Upon the failure to correct the violation specified in the compliance letter within the time frame established in the compliance letter or any extension thereof granted by

the city, or for any offense for which a compliance letter is not required, an administrative citation may be issued.

- (b) The administrative citation shall be served by certified mail, regular mail or by personal service and shall contain the following information:
- (1) A description or address of the property on which the Code violation has occurred;
 - (2) Reference to the Code that is alleged to be violated;
 - (3) The amount of the administrative civil penalty for the specific Code violation, which shall be due and payable to the city within 30 days of the date the citation is mailed or personally served;
 - (4) A statement that the violation must be corrected or a subsequent administrative or a criminal citation may be issued;
 - (5) A statement that the Code violation and the amount of the administrative civil penalty may be contested to be heard before an independent hearing officer by notifying the City Clerk in writing within ten days after the citation was mailed or personally served; and
 - (6) A statement that failure to pay the administrative civil penalty may constitute a lien upon the property where the violation occurred or a personal obligation on the violator.

- (c) No peace officer will issue an administrative citation in violation of Minn. Stat. §169.999

Section 2-406 Payment of Penalty and Correction of Violation

If the offender pays the administrative civil penalty and corrects the Code violation, no further action will be taken for that same violation.

Section 2-407 Payment of Penalty Without Correction of Violation

If the offender pays the administrative civil penalty but fails to correct the Code violation, the city may issue a subsequent administrative citation, initiate criminal proceedings, or initiate any other proceedings or remedies available in order to enforce correction of the Code violation.

Section 2-408 No Payment of Penalty and No Correction of Violation

- (a) If the offender fails to pay the administrative civil penalty and fails to correct the Code violation, the city may do any of the following, or any combination thereof:
- (1) Issue a subsequent administrative citation, thereby commencing a new administrative penalties process;
 - (2) Find that the unpaid fee constitutes a lien upon the real property where the violation occurred, if the property or the improvements of the same were the subject of the violation;
 - (3) Find that the unpaid fee constitutes a personal obligation of the violator;
 - (4) Suspend or revoke any licenses or permits issued by the city related to the violation;
 - (5) Initiate criminal proceedings; and/or

- (6) Initiate other enforcement action authorized by law, including the cost of unpaid special charges as special assessments against the property benefitted to the extent allowed under Minn. Stat. 429.101.

Section 2-409 Contesting an Administrative Citation

- (a) An offender receiving an administrative citation may contest the alleged Code violation and the amount of the administrative civil penalty.
- (b) In order to contest any part of the administrative citation, the offender must notify the City Clerk in writing within ten calendar days after the citation is mailed or personally served, stating that the offender contests the alleged violation, the amount of the penalty, or both, and pay a \$ filing fee.

Section 2-410 Administrative Hearing Procedure

- (a) *Hearing officers.* The City Council will periodically approve a list of lawyers or former judges, from which the City Clerk will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer will be considered a public officer as defined by Minn. Stat. §609.415. The hearing officer must not be a city employee. The City Administrator or their designee must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and city staff. These reports must be provided to the City Council.
- (b) *Notice of hearing.* Within ten (10) days of the request for a hearing, the City Clerk will schedule the hearing and will notify the violator of the date, time, and place for the hearing. Parties are expected to be available for two (2) hours. Notice of the hearing must be mailed to the violator or the property owner, if different from the violator, and the hearing officer at least ten (10) days in advance of the scheduled hearing, unless a shorter time is accepted by all parties. The notice must contain the names of the violator or property owner, the identity of the hearing officer, the location of the alleged violation and the type of alleged violation.
- (c) *Removal of hearing officer.* No later than five (5) days before the date of the hearing, the violator may make a written request that the assigned hearing officer be removed from the case. The City Clerk will automatically grant one (1) request for removal. A subsequent request must be directed to the assigned hearing officer who will decide whether they can fairly and objectively review the case. If the hearing officer determines they cannot fairly and objectively review the case, the hearing officer shall notify the City Clerk in writing at least one (1) day before the scheduled hearing date. The City Clerk will then assign another hearing officer. If the City Clerk is unable to assign a hearing officer from the City's approved Hearing Officer list, the City Clerk, upon approval by City Council, may schedule a hearing before an independent hearing officer from the office of administrative law judges.
- (d) *Continuance.* A request for a continuance must be made to the City Clerk at least five (5) days prior to the scheduled date. Continuances will be granted only for good cause shown and for no more than ten (10) days from the originally assigned date.

(e) *File transmittal.* Upon receipt of any request for a hearing the City Administrator or their designee will compile a file on each case consisting of the following:

- (1) Copy of Compliance letter, if applicable;
- (2) Copy of the citation issued;
- (3) Copy of any case history in the issuing employee's department;
- (4) Photographs and/or videotape of property or Code violation where available;
- (5) Supplemental report detailing the facts in support of any determination that the offense constitutes a serious threat of harm to the public health, safety, or welfare; and
- (6) Proof of mailing and/or posting of notice on the property if citation was not personally served on the violator

The file must be ready for the hearing officer to pick up on the business day preceding the scheduled hearing. Upon the request of the hearing officer, the City may send the file to the hearing officer electronically.

(f) *Presentation of case.* At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and may receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

(g) *Decision.* The decision of the hearing officer must be in writing and contain findings of fact, conclusions of law, and an order. The decision will be mailed to the parties within ten (10) days after the hearing. The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, or to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

- (1) The duration of the violation;
- (2) The frequency or reoccurrence of the violation;
- (3) The seriousness of the violation;
- (4) The history of the violation;
- (5) The violator's conduct after issuance of the Compliance Letter;
- (6) The violator's conduct after issuance of the notice of hearing;
- (7) The good faith effort by the violator to comply;
- (8) The impact of the violation upon the community;
- (9) Prior record of Code violations; and
- (10) Any other factors appropriate to a just result.

The hearing officer may not impose a fine greater than the established fine, except that the hearing officer may impose a fine for each week that the violation continues if the violation caused a serious threat of harm to the public health, safety, or welfare as determined by the hearing officer, or if the violator intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.

- (h) *Failure to appear.* The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. "Good cause" is limited to: death in the immediate family or documented incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing.
- (i) *Owner found in violation.* If the violation is upheld, then the violator must pay a fee of \$_____ toward the cost of the hearing.

Section 2-411 Judicial review

An aggrieved party may obtain judicial review of the decision of the hearing officer as provided in state law.

Section 2-412 Schedule of Administrative Civil Penalties.

- (a) The city shall adopt a fee schedule of administrative civil penalties for city code violations by resolution.
- (b) The maximum amount of an administrative civil penalty may not exceed twice the maximum fine authorized by state law for misdemeanor offenses or the maximum fine authorized by state law for an administrative process.
- (c) Non-payment. If a civil penalty is not paid within the time specified, it will constitute:
 - a. A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation; or
 - b. A personal obligation of the violator in all other situations.
- (d) Lien. A lien may be assessed against the property and collected in the same manner as taxes.
- (e) Personal obligation. A personal obligation may be collected by appropriate legal means.
- (f) Late Fees/Charges.
 - a. The fine will increase by ten percent (10%) for each week, starting ten (10) days after the citation was issued, that no action is taken to correct the violation.
 - b. If payment arrives more than one (1) week after it was due, an additional ten percent (10%) of the fine may be assessed, together with interest, for each seven-day period, or part thereof, that the fine remains unpaid after the due date.
- (g) License revocation or suspension. Failure to pay a fine is grounds for suspending or revoking a license or permit related to the violation

Section 2-413 Additional Criminal Penalties

The following are misdemeanors, punishable in accordance with state law:

- (1) Failure, without good cause, to pay a fine or request a hearing within ten (10) days after issuance of an administrative citation;
- (2) Failure, without good cause, to appear at a hearing that was scheduled under §2-410;
- (3) Failure to pay a fine imposed by a hearing officer within ten (10) days after it was imposed, or such other time as may be established by the hearing officer.

If the final adjudication in the administrative penalty procedure is a finding of no violation, then the city may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the city from pursuing a criminal conviction for a violation of the same provisions based on a different set of facts. A different date of violation will constitute a different set of facts.

Zoning Code

Article 86-I

Section 86.26 **Section 86-26 Zoning Administrator; Office Established; Duty Generally**

The office of the zoning administrator is hereby established for which the council may appoint such employee or employees of the city as it may deem proper. This chapter shall be administered and enforced by the Zoning Administrator. In furtherance of the authority, the Zoning Administrator shall:

- (1) Determine that all building permits comply with the terms of this chapter;
- (2) Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter and in compliance with the Building and Housing Codes incorporated in this Code;
- (3) Maintain permanent and current records of this chapter including but not limited to, all maps, amendments and conditional uses, variances, appeals and applications therefor;
- (4) Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies;
- (5) Institute in the name of the city any appropriate actions or proceedings against a violator as provided by law or City Code; and
- (6) Serve as an ex-officio non-voting member of the Planning Commission.

CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Steven Anderson
Meeting Date:	Tuesday, June 27, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	UTV Permit Ordinance Discussion
Background Information:	Staff would like discussion on allowable vehicles, renewals, and the application process.
Fiscal Impact:	
Alternative/ Variations:	
Recommendations:	Provide feedback and direction on the ordinance.

ARTICLE 74-VII SNOWMOBILES, ALL-TERRAIN VEHICLES AND MOTORIZED GOLF CARTS

DIVISION 74-VII-1 GENERALLY (RESERVED)

DIVISION 74-VII-2 (RESERVED)

DIVISION 74-VII-3 SPECIAL VEHICLES: MOTORIZED GOLF CARTS, ALL-TERRAIN VEHICLES, MINI-TRUCKS AND UTILITY TASK VEHICLES

State law reference(s)—Snowmobiles, Minn. Stat. § 84.81 et seq.; all-terrain vehicles, Minn. Stat. § 84.92 et seq.; motorized golf carts, Minn. Stat. § 169.045; local regulation of snowmobiles, Minn. Stat. § 84.87, subd. 3; local regulation of all-terrain vehicles, Minn. Stat. § 84.928, subd. 6.

DIVISION 74-VII-1 GENERALLY (RESERVED)

DIVISION 74-VII-2 (RESERVED)

Editor's note(s)—Ord. No. 617 2nd series, § 1, adopted December 22, 2009, repealed the former division 2, §§ 74-211—74-222 in its entirety, which pertained to snowmobiles and all-terrain vehicles, and derived from the Code of 1976, §§ 8.20(1), (2), (5), (6)(D, E, G—I), (7)(A, B), (8), and (10).

DIVISION 74-VII-3 SPECIAL VEHICLES: MOTORIZED GOLF CARTS, ALL-TERRAIN VEHICLES, MINI-TRUCKS AND UTILITY TASK VEHICLES

Subdivision 74-VII-3-I In General

Subdivision 74-VII-3-II Permit For Class 2 All-Terrain Vehicles And Utility Task Vehicles

Editor's note(s)—Ord. No. 679 2nd series, § 1, adopted September 24, 2013, amended the title of div. 3 to read as set out herein. Previously div. 3 was titled motorized golf carts and four-wheel all-terrain vehicles.

State law reference(s)—Motorized golf carts and four-wheel all-terrain vehicles, Minn. Stat. § 169.045.

Subdivision 74-VII-3-I In General

Section 74-241 Definitions

Section 74-242, 74-243 (Reserved)

Section 74-241 Definitions

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

All-terrain vehicles or vehicle means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 1,000 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

Class 1 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of less than 1,000 pounds.

Class 2 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of 1,000 to 1,800 pounds.

Boulevard means that portion of the street or highway between the roadway and private property.

Driver means the person driving and having physical control over the class 2 all-terrain vehicle or the utility task vehicle and being a licensee.

Motorized golf cart means any passenger conveyance being driven with four wheels with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

Mini-truck means as defined in Minn. Stat. § 169.011, subd. 40(a), a motor vehicle that has four wheels, is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements. A mini-truck does not include: a neighborhood electric vehicle or a medium-speed electric vehicle as defined by section 73.11; or a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, as it may be amended from time to time.

Operate means to ride in or on, and control the operation of a class 2 all-terrain vehicle or utility task vehicle.

Operator means every person who operates, or is in actual physical control of a class 2 all-terrain vehicle or utility task vehicle.

Public property means property that may be used by the public, subject to reasonable regulation by a governmental body. Such property includes but is not limited to city parks, city parking lots and public school parking lots and grounds.

Roadway means that portion of a street or highway improved, designed or ordinarily used for vehicular travel but not including the boulevard. For purposes of this article, roadways not dedicated for public use and not maintained by the city are not included within this definition.

Utility task vehicles means a side-by-side, four-wheel drive vehicle, that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cc or less, and has a total dry weight of 1,800 to 2,600 pounds. Minn. Stat. § 169.045, subd. 1(3).

(Code 1976, § 8.42(2); Ord. No. 617 2nd series, § 2, 12-22-2009; Ord. No. 679 2nd series, § 1, 9-24-2013)

Cross reference(s)—Definitions generally, § 1-2.

Section 74-242, 74-243 (Reserved)

Editor's note(s)—Ord. No. 679 2nd series, § 1, adopted September 24, 2013, repealed §§ 74-242, 74-243, in their entirety. Former §§ 74-242, 74-243 pertained to crossing intersecting highways and times of operation, respectively, and were derived from Code 1976, §§ 8.42(10), (13).

Subdivision 74-VII-3-II Permit For Class 2 All-Terrain Vehicles And Utility Task Vehicles

[Section 74-261 Operation Of Motorized Golf Cart, All-Terrain Vehicles, Or Mini-Trucks](#)

[Section 74-262 Required](#)

[Section 74-263 Applications](#)

[Section 74-264 Fee](#)

[Section 74-265 Period Of Validity](#)

[Section 74-266 Restrictions](#)

[Section 74-267 Duty Of Police To Enforce Division](#)

[Section 74-268 Revocation](#)

[Section 74-269 Appeal](#)

Section 74-261 Operation Of Motorized Golf Cart, All-Terrain Vehicles, Or Mini-Trucks

No person shall operate a motorized golf cart, class 1 all-terrain vehicle, or mini-truck on streets, alleys, sidewalks or other public property within the city.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-262 Required

1. No person shall operate a class 2 all-terrain vehicle or utility task vehicle on roadways, streets, or alleys, without obtaining a permit as provided herein.
2. Class 2 all-terrain vehicles and utility task vehicles MAY NOT be operated in the following areas of the city:
 1. Any area posted that ATV's or utility task vehicles are not allowed.
 2. On or along the Burlington Northern railroad right-of-way.
 3. On city sidewalks, bike or pedestrian trails (except bike paths designated on city streets).
 4. On public or private property unless permission is posted.
 5. Within the boulevard of a city roadway.
3. Authorized city staff may operate city owned class 2 all-terrain vehicles and utility task vehicles without obtaining a permit within the city on city streets, sidewalks, trails, rights-of-way, and public property when conducting city business.
4. Authorized city staff and persons authorized by the director of public safety may operate a motorized golf cart, all-terrain vehicle, utility task vehicles or mini-truck on streets, alleys, sidewalks or other public property within the city for special celebrations and events sanctioned by the city.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-263 Applications

1. Every application for a permit shall be made on a form supplied by the city and shall contain all of the following information:
 1. The name and address of the applicant who shall have ownership interest of the class 2 all-terrain vehicle or the utility task vehicle.
 2. Model name, make, and year and number of the class 2 all-terrain vehicle or the utility task vehicle.
 3. Current driver's license for all individuals that are eligible to operate the vehicle.
 4. Other information as the city may require.
2. Business that sell class 2 all-terrain vehicles or utility task vehicles may apply for a dealer permit with the following requirements:
 1. The provision of subsection (a)(2) is excluded.
 2. The permitted business shall be responsible that each class 2 all-terrain vehicle or utility task vehicle operated in allowed areas meeting the provisions of sections 74-262 and 74-266.
 3. The business shall post the city issued dealer permit as the city may require.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-264 Fee

The annual permit fee shall be as set forth in the resolution establishing fees and charges as may be amended from time to time by the city council.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-265 Period Of Validity

1. Permits shall be granted by the director of public safety for a period of one-year and may be renewed annually January 1 to December 31.
2. No permit shall be granted or renewed unless the following conditions are met:

1. The applicant must provide evidence of insurance in compliance with the provisions of state statutes concerning insurance coverage for the class 2 all-terrain vehicle or utility task vehicle.
2. The applicant has not had his or her driver's license revoked as the result of criminal proceedings.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-266 Restrictions

The following restrictions apply to the operation of permitted class 2 all-terrain vehicles or utility task vehicles:

1. A class 2 all-terrain vehicle or utility task vehicle may be operated under permit on designated roadways if it is equipped with all of the following:
 1. Rollover protection bar.
 2. Seatbelts for driver and all occupants pursuant to the design occupant load.
 3. At least two headlights.
 4. At least one tail light.
 5. Front and rear turn-signal lights.
 6. An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror to provide the driver with adequate vision from behind as required by Minn. Stat. § 169.70.
 7. Permit display as may be required by the city upon approval.
2. Class 2 all-terrain vehicle or utility task vehicles are permitted to operate only on designated roadways, city streets or alleys - except as prohibited by section 74-262(b)(1)—(5) — but not state or federal highways, except to cross at designated intersections.
3. Class 2 all-terrain vehicles and utility task vehicles may only be operated on designated roadways from sunrise to sunset, unless equipped with original equipment headlights, tail lights, and rear facing brake lights. They shall not be operated in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet. (Minn. Stat. § 169.045 subd. 3)
4. Every person operating a class 2 all-terrain vehicle or utility task vehicle under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of Minn. Stat. ch. 169, as it may be amended from time to time.
5. The number of occupants on the class 2 all-terrain vehicle or utility task vehicle may not exceed the design occupant load.
6. The drivers of the class 2 all-terrain vehicle or utility task vehicle must be approved in the application and shall be able to provide proof of authorization while operating the class 2 all-terrain vehicle or utility task vehicle as may be required by the city upon permit approval.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-267 Duty Of Police To Enforce Division

It shall be the duties of any police officer of this municipality to enforce the provisions of this chapter against any person found to be violating this chapter.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-268 Revocation

The city council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this chapter or Minn. Stat. ch. 169, as it may be amended from time to time

time, or if there is evidence that the permit holder cannot safely operate the class 2 all-terrain vehicle or utility task vehicle on designated roadways.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

Section 74-269 Appeal

Any person who is aggrieved by the actions of the city council for the denial of the permit or in a revocation of a permit shall have the right to appeal such action to the district court in the county. Such appeal shall be taken by filing with such court, within 14 days of the date of the action complained of, a written statement setting forth fully the grounds for the appeal.

(Ord. No. 679 2nd series, § 1, 9-24-2013)

**CITY OF MARSHALL
LEGISLATIVE & ORDINANCE COMMITTEE
AGENDA ITEM REPORT**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, June 27, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Section 18-2 Required Key Box
Background Information:	This new section is adding requirements for installation of key boxes (generally known by its most common brand name Knox Box) on most commercial buildings. These boxes contain keys and documentation that may be vital for the fire department or police in case of fire or other emergencies, as it will facilitate quick and easy access to buildings and orientation within the building after gaining access. Currently, the fire department is sometimes forced to break the front door or window in order to enter the building in cases of fire alarms, for example, so this regulation may be beneficial to the property owners as well.
Fiscal Impact:	None.
Alternative/ Variations:	None recommended.
Recommendations:	Staff recommends the recommendation to the City Council approving the new Section 18-2 that will require key boxes for most commercial buildings.

Section 18-2 Required Key Box.

(a) The following structures shall be equipped with a key box (also called “lock box” or “Knox box”):

(1) Commercial or industrial buildings protected by an automatic alarm system or automatic fire suppression system.

(2) Multi-family residential buildings that have restricted access through locked doors and have a common corridor for access to the living units.

(3) All governmental buildings, hospitals, and nursing care facilities.

(4) All commercial or industrial structures that have an alarm system designed to monitor security or fire status that results in an alert that is audible or transmitted to a central monitoring location or that is designed with heightened security or access limitations that preclude, or may interfere with, ready access to the interior of the building by emergency personnel.

(5) Any building whose owner doesn’t want it to be broken into in case of emergency.

(b) The above structures shall be equipped with a key box at the following times:

(1) All newly constructed structures subject to this section shall have a key box installed and operational prior to the issuance of occupancy permit.

(2) All structures subject to this section that undergo additions, remodeling, upgrades, repairs or change of occupancy requiring a building permit shall have a key box installed at the time of construction.

(3) All commercial and industrial structures protected by an automatic fire suppression system in existence on the effective date of this section shall install a key box within one year from the effective date of this section.

(c) The key box shall be installed at the front of the building near the main entrance in a conspicuous and easily accessible location at a height of a minimum of 60 inches and not to exceed 72 inches, or another location determined by the Fire Chief. In multi-tenant building, a separate key box shall be installed near each tenant’s main entrance at locations as described above.

(d) The Fire Chief may designate the type of key box system to be implemented within the city and shall have the authority to require all structures to use the designated system.

(e) The required key box shall contain the following:

(1) Main entry key(s) that will allow for access to the building.

(2) Keys to all secured interior accessed tenant spaces.

(3) Keys to the following rooms: all locked mechanical and electrical rooms, sprinkler system room, elevator control room, and other similar spaces; all keys shall be clearly identified.

- a. Mechanical and electrical rooms.
 - b. Sprinkler system rooms and booster pump rooms.
 - c. Elevator control rooms.
 - d. Roof access panels and stairs.
 - e. Security gates.
 - f. All provided keys shall be clearly labeled and identified.
- (4) Special keys or other controls for fire alarm panels, sub-panels, pull stations reset, etc.
- (5) Building plans or legible sketches showing the following:
- a. Location and designation of all rooms in the building.
 - b. All exits, including stairs and corridors.
 - c. Fire alarm panel and sub-panel locations.
 - d. Roof access.
 - e. Main sprinkler riser and controls.
 - f. Fire department connection location.
 - g. Gas meter location.
 - h. Accessible units locations
 - i. All access codes/cards for entry if equipped with electronic locks.
- (6) Building owner's or operator's emergency contact information
- a. Owner's information and phone number.
 - b. Property manager and maintenance employees' information and phone numbers.
 - c. Monitoring company information and phone number.
 - d. Alarm panel ID and security code.
 - e. Sprinkler service company information and phone number.
- (f) The Fire Chief shall be authorized to implement additional rules and regulations for the use of the key box system.
- (g) It shall be the responsibility of the building owner or operator to ensure that if keys, access codes or information stored in the key box become obsolete, they are replaced and that the Fire Chief is notified within 24 hours of the change.

**CITY OF MARSHALL
LEGISLATIVE & ORDINANCE COMMITTEE
AGENDA ITEM REPORT**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, June 27, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Section 86-247 Landscaping
Background Information:	<p>This change adds a concept of pollinator gardens, that has been recently approved by the Council, and establishes certain parameters and regulations. The earlier version of this change was presented to the L&O several months ago and during the discussion staff was directed to permit these gardens in more cases. Additionally, the new law that just passed requires all cities to allow these gardens, even though it does not preclude establishing local limitations. Staff believe that the present version meets the intent of the L&O directions and also meets the new law.</p> <p>This change has not been presented at the Planning Commission yet, but will go there as soon as it is approved by the L&O because all Zoning related Ordinances must receive Planning Commission recommendations before being presented to the Council.</p>
Fiscal Impact:	None.
Alternative/ Variations:	None recommended.
Recommendations:	Staff recommends the recommendation to the City Council approving the revisions amending Section 86-247 Landscaping.

Section 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 planted within, or adjacent to, public right-of-way shall comply with the city tree policy.

(3) All landscaped areas, including vegetable, flower, and pollinator gardens, 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 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.

(5) ~~Private~~ Vegetable and pollinator gardens are allowed in ~~all R-1 and R-2~~ residence districts but shall not be located in the front yards or required side yards and shall not occupy more than 25 percent of the area of a rear yard. Flower gardens are allowed in all residence and business districts, provided they do not occupy more than 25 percent of the front or rear yard areas; larger gardens may be allowed by an interim 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. All such gardens shall not be placed closer than five feet to all property lines or buildings and shall have a clearly delineated physical border or edging. For purposes of this section, pollinator gardens, or natural landscapes, are defined to mean intentionally designed and managed gardens that contain non-native plants or native species that are listed as pollinator-friendly plants by the State of Minnesota Board of Water and Soil Resources (MNBWSR) or one of MNBWSR's partner organizations with the maximum height of vegetation not to exceed fifteen inches; pollinator gardens may not include any noxious weeds or turf-grass lawns left unattended for the purpose of returning to a natural state, and shall be maintained to remove all unintended vegetation and cut at least once annually between April 15 and July 15 to a height no greater than ten (10) inches.

a. On a lot where there is no permitted use main building, the above gardens may not exceed 100 SF, 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), the garden may occupy 20 percent of the area of a rear yard calculated for these two lots combined.

b. Vegetable and pollinator gardens occupying more than 25 percent of the rear yard and pollinator gardens with vegetation higher than fifteen inches may be allowed by an interim use permit, provided the garden area is limited to 50 percent of the rear yard and the garden is surrounded by a two feet high fence and located at least ten feet from any property line.

c. All pollinator gardens shall have a sign advising that a pollinator garden is being established. This sign must be not smaller than eight inches square, not larger than one

Formatted: Numbered + Level: 1 + Numbering
Style: a, b, c, ... + Start at: 1 + Alignment: Left +
Aligned at: 1.15" + Indent at: 1.4"

Formatted: Numbered + Level: 1 + Numbering
Style: a, b, c, ... + Start at: 1 + Alignment: Left +
Aligned at: 1.15" + Indent at: 1.4"

square foot, and have a height between two and three feet.

(6) Community ~~vegetable~~ gardens may be allowed in all ~~business~~ other zoning districts by an interim use permit; ~~except interim use permit is not required in agricultural district. Such gardens shall not be located in the required yards or closer than ten feet to any building.~~

(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, including flower and pollinator gardens) 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 82, 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 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.

(e) 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; Ord. No. 749 2nd series, § 1, 6-23-2020)

Formatted: Indent: Left: 1.15", Hanging: 0.16",
Tab stops: 1.44", Left + Not at 1.16"

Formatted: Numbered + Level: 2 + Numbering
Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left +
Aligned at: 0.9" + Indent at: 1.15"