



CITY OF MARSHALL
Planning Commission
A g e n d a
Wednesday, June 12, 2024 at 5:30 PM
City Hall, Council Chambers

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Consider Approval of the Minutes from the Regular Meeting Held on May 8, 2024

PUBLIC HEARING

2. Conduct a Public Hearing on a Conditional Use Permit for a Triplex in a B-1 Limited Business District.
3. Consider the request for a Conditional Use Permit to install a Billboard at 1604 East College Drive
4. Airport Zoning Ordinance and amend a Zoning map
5. Registration/Zoning for THC retail sales

NEW BUSINESS

OLD BUSINESS

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.

**MINUTES OF THE
MARSHALL PLANNING COMMISSION MEETING
MAY 8, 2024**

MEMBERS PRESENT: Lee, Pieper, Deutz, Agboola, Stoneberg, Muchlinski, Doom
MEMBERS ABSENT:
OTHERS PRESENT: Jason Anderson, Ilya Gutman, Amanda Schroeder

1. Call to Order.

The meeting was called to order by Chairperson Lee.

2. Approval of the Minutes.

Lee asked for the approval of the minutes of the April 10, 2024, regular meeting of the Marshall Planning Commission. DOOM MADE A MOTION, SECOND BY MUCHLINSKI, to approve the minutes as written. ALL VOTED IN FAVOR OF THE MOTION. MOTION PASSED 7:0.

Consider the request of Brad Meulebroeck for exterior finishes not listed in the ordinance at 300 West Main Street. This building is located within Central Heritage District.

Gutman informed this request is for a building located on the corner of Third Street and Main Street. Gutman shared this request relates to the Central Heritage District, and the request applies to the appearance only. The ordinance was established in 2011 in order to keep Central Heritage District's character from the past. There are several materials listed in the ordinance that are permitted, such as Brick, Stucco, EIFS, Stone, or Precast Concrete. Gutman informed the material requested to be used is similar to wood. Deutz asked if there is an ordinance related to color pallet. Anderson replied yes, it is earth tones. Muchlinski asked if this type of material has been used anywhere else in Marshall. Gutman stated that it has been used in Downtown, but not for the entire building as shown in the picture. Lee stated her only concern is to have it be used on the entire building. Lee suggested to use a small amount of brick along the bottom and this wood material along the top. Brad Meulebroeck, the owner of 300 West Main Street, stated that he would take down the tile that is currently on the building due to the tiles falling off and being a hazard. Brad stated that Block 11 could be utilized as an example for the use of this wood material. Deutz asked what the cost will be for this project. Brad stated he is unsure not knowing what is behind the tile. DOOM MADE A MOTION, SECOND BY PIEPER to approve the request because LP wood board and batten siding meets the intent and purpose of the Heritage District Exterior Construction standards. ALL VOTED IN FAVOR. MOTION PASSED 7:0.

Preliminary Plat of Lockwood Second Addition

Anderson shared the property owner is proposing a replat to make one large lot. Anderson informed with a proposed building addition going over an existing lot line that would be non-conforming with the ordinance. Anderson stated that there are no concerns or issues with this request and will continue to work with the surveyor and property owner to complete the final plat. Muchlinski asked if the location is all zoned the same. Anderson affirmed that it is all General Business. MUCHLINSKI MADE A MOTION, SECOND BY STONEBERG, to close the public hearing. All VOTED IN FAVOR. AGBOOLA MADE A MOTION SECOND BY PIEPER to recommend approval of the preliminary plat of Lockwood Second Addition to the City Council, subject to utility companies review and recommendations. ALL VOTED IN FAVOR. MOTION PASSED 7:0.

Preliminary Plat of Peachy Subdivision

Anderson shared property owner Troy Deutz is looking to subdivide parcels. Anderson informed this location is an unplatted area and the ordinance does not allow subdividing of unplatted parcels. The property owner is planning to plat both of the parcels into the same subdivision and create two pieces of land. Anderson stated the existing buildings on this site are being in the process of being demolished for future opportunity. Anderson stated that there are no issues or concerns with this request and will continue to work with the surveyor and property owner to complete the final plat. STONEBERG MADE A MOTION, second by DEUTZ, to close the public hearing. All VOTED IN FAVOR. DOOM MADE A MOTION, SECOND BY DEUTZ to recommend approval of the preliminary plat of Peachy Subdivision to the City Council, subject to utility companies review and recommendations. ALL VOTED IN FAVOR. MOTION PASSED 7:0.

~~–UNAPPROVED–~~

3. Other Business

Chairperson Lee asked for nominations for 2024/2025 officers. Lee indicated Robert's Rules of Order states you do not need a second nomination. DOOM nominated Cathy Lee for Chairperson. ALL VOTED IN FAVOR. LEE nominated Larry Doom for Vice Chairperson. ALL VOTED IN FAVOR. MOTION PASSED 7:0. Since there was no other business, A MOTION WAS MADE BY DOOM, SECOND BY PIEPER, to adjourn the meeting. ALL VOTED IN FAVOR. MOTION PASSED 7:0 Chairperson Lee declared the meeting adjourned.

Respectfully submitted,
Karla Ellis, Recording Secretary

**CITY OF MARSHALL
AGENDA ITEM REPORT
PC 6/12/24**

| | |
|-------------------------------------|--|
| Presenter: | Ilya Gutman |
| Meeting Date: | Wednesday, June 12, 2024 |
| Category: | PUBLIC HEARING |
| Type: | ACTION |
| Subject: | Conduct a Public Hearing on a Conditional Use Permit for a Triplex in a B-1 Limited Business District. |
| Background Information: | <p>This is a request by the owner for a Conditional Use Permit to allow creating a third apartment in a building out of existing commercial space. This building is located in a B-1 Limited Business District and within the limits of the Downtown District. Apartment buildings are a Conditional Use in a Limited Business District.</p> <p>There used to be a License bureau in this building along with two apartments. The bureau has moved, and the owner wants to replace it with another apartment, bringing the total number of apartments in the building to three. This building is in downtown, so yards, parking, and lot coverage regulations are not applicable. This lot was rezoned to B-1 Limited Business district in 1986 to allow business use.</p> <p>One Family Residence District regulations are in Section 86-97. The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49.</p> <p>Please see attached Finding of Facts for more detailed information.</p> |
| Fiscal Impact: | None known |
| Alternative/ Variations: | None recommended |
| Recommendations: | <ol style="list-style-type: none"> 1. Motion to close public hearing. 2. Staff recommends a motion to recommend to City Council an approval of the request to grant a Conditional Use Permit for a triplex in a B-1 Limited Business District. |

Marshall Planning Commission
Report to City Council – Request for Conditional Use Permit
302 West Redwood Street, City of Marshall, Lyon County, Minnesota

WHEREAS, the office of the City of Marshall Zoning Administrator received an application for conditional use permits dated April 25, 2024, for a multiple dwelling related to property located at 302 West Redwood Street,

WHEREAS, the applicant for the conditional use permits was the property owner Moriah Properties LLC,

WHEREAS, a written request for a conditional use permit is subject to the Minnesota 60-day rule as codified in Minnesota Statutes §15.99. The 60-day rule requires an approval or denial of a conditional use permit within 60 days of the time conditional use permit request is submitted. If no action occurs on the request for conditional use permit within 60 days, it is deemed approved pursuant to Minnesota Statute;

WHEREAS, City staff representatives from the Community Planning Department reviewed the application for the conditional use permit;

WHEREAS, conditional use permits are granted only for those uses specifically listed as conditional uses for a particular zoning district;

WHEREAS, this property is zoned B-1 Limited business district as defined in Ordinance Sec. 86-102 and multiple family dwellings is a conditional use in this district;

WHEREAS, a public hearing was scheduled for June 12, 2024, to consider the request for a conditional use permit and notice of that hearing was published and was mailed pursuant to provisions of Ordinance Sec. 86-47 and further in compliance with Minnesota Statutes;

WHEREAS, the public hearing was held as scheduled and the Planning Commission considered the following standard criteria for conditional use permit review as outlined in Ordinance Sec. 86-49:

- (1) Whether the proposed use is compatible with the existing neighborhood environment and use.
- (2) The adequacy of the access to roads and rights-of-way.
- (3) The additional traffic generated by facility.
- (4) The landscaping, fencing and/or screening plan.
- (5) The outside storage provisions.
- (6) The accessory buildings provisions.
- (7) The facility size.
- (8) The area of site.
- (9) The off-street parking facilities.
- (10) The density of the population and structures.
- (11) The duration of proposed interim use.
- (12) The natural features of the area.
- (13) The availability of existing utility and public service facility.
- (14) The future maintenance provisions.
- (15) Whether the proposed use will be injurious to the property or improvements in the area adjacent to such proposed use and the community as a whole.

WHEREAS, Staff offered the following information to the Planning Commission with a recommendation for the Planning Commission to recommend approval to the Council:

- (1) The lot in question is adjacent to an R-4 higher density multiple family district and several multi-family buildings are present in the area.
- (2) The property has access from both the street and an alley behind.
- (3) No additional traffic (compared to the previous business use) will be generated; in fact, there will be less traffic.
- (4) Since this is not a new building, landscaping requirements are not applicable.
- (5) The standard B-1 outside storage provisions will be applicable, which generally prohibit any outside storage.
- (6) The standard B-1 accessory buildings provisions will be applicable.
- (7) This building is located in the Downtown district so building size limitations do not apply.
- (8) This building is located in the Downtown district, so lot size limitations do not apply.
- (9) This building is located in the Downtown district so parking requirements do not apply.
- (10) The density of the area will not change in any significant way.
- (11) Not applicable to conditional use permits.
- (12) The lot is unremarkable and similar to adjacent lots.
- (13) Existing utility and public service facility are adequate for proposed use.
- (14) Since this building will stay under single ownership, the owner will be required to take care of the building in the same manner as before.
- (15) The proposed use change will not change anything in the area and will not have any negative effects on the neighborhood.

WHEREAS, the Planning Commission has evaluated all applicable considerations and finds and determines that granting a requested conditional use permit will not be injurious to the adjacent properties and that all standards for hearing are satisfied.

It is therefore recommended by the Planning Commission to the Marshall City Council that the conditional use permits be approved as recommended by staff.

Marshall Planning Commission

By: Cathy Lee
Its: Chair

**CITY OF MARSHALL
AGENDA ITEM REPORT
PC 6/12/24**

| | |
|--------------------------------|--|
| Presenter: | Ilya Gutman |
| Meeting Date: | Wednesday, June 12, 2024 |
| Category: | PUBLIC HEARING |
| Type: | ACTION |
| Subject: | Consider the request for a Conditional Use Permit to install a Billboard at 1604 East College Drive |
| Background Information: | <p>The owner applied for a Conditional Use Permit for an advertising sign at 1604 East College Drive. This sign will be a traditional billboard, not a digital sign.</p> <p>The applicant requests two panels total, 17 feet by 20 feet each, installed at about 20-degree angle to each other to face traffic in both directions. The overall height of the sign is requested to be 30 feet. Each side is less than the maximum allowed length of 55 feet and there are no residential districts or other advertising signs within 100 feet of the proposed sign, so this request meets specific requirements for advertising signs.</p> <p>Section 86-49 Standard for hearing includes 15 specific criteria for granting a conditional use permit and it seems that this request satisfies all applicable criteria.</p> <p>Advertising sign definition may be found in Section 86-1 under Sign, Advertising, and sign regulations for this zoning district are in Section 86-185 (3). The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49. An aerial photo, site diagram, and sign drawings are all attached</p> |
| Fiscal Impact: | None known. |
| Alternative/Variations: | |
| Recommendations: | <p>Close public hearing.</p> <p>Staff recommends a <u>motion</u> to recommend to City Council an approval of the request of the Owner for a Conditional Use Permit for an advertising sign at 1604 East College Drive, subject to the following conditions:</p> <ol style="list-style-type: none"> i. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property. ii. This permit is for the sign structure described as follows: <ol style="list-style-type: none"> a. Two non-digital panels installed at an angle to each other. b. Each sign panel shall be no greater than 17 feet by 20 feet. c. The overall height of the sign shall be no more than 30 feet. <p>Prior to sign installation, a sign permit application must be applied and paid for. Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.</p> <p>The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner and all future sign and landowners are fully responsible for maintenance, together or separately.</p> |

**FINDING OF FACTS
CONDITIONAL USE PERMITS
FOR 1604 EAST COLLEGE DRIVE
WITHIN THE CITY OF MARSHALL, MINNESOTA**

WHEREAS, an application has been submitted by WTR LLC (“Applicant”) to the City Council requesting approval of a conditional use permits for an advertising sign under the Zoning Code, Article 86-VI, Section 86-185, in the City of Marshall for the following location:

LOCATION: 1604 East College Drive.

LEGAL DESCRIPTION: See Exhibit A

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A Conditional Use Permit to install an advertising sign on the property located at 1604 East College Drive and legally described above, and

WHEREAS, notice required pursuant to Minnesota Statutes Section 462.357 including the time, place and purpose of the hearing was published in the official newspaper at least ten days prior to the day of the hearing; and

WHEREAS, notice required pursuant to Minnesota Statutes Section 462.357 was mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the request relates; and

WHEREAS, the Planning Commission held a public hearing as required by the city Zoning Code on June 12, 2024, and

WHEREAS, Zoning Ordinance Section 86-185 (c) requires that all advertising signs be permitted only by conditional use permit and be placed at least 100 feet from other advertising signs and from any residence district, and

WHEREAS, staff assert that application for conditional use permit for advertising sign will meet the ordinance provisions for approval, and

WHEREAS, the Planning Commission has discussed the above findings and, after discussion, held a vote on the request, and

WHEREAS, the Planning Commission, based on the above findings, has recommended to the City Council to a request for a conditional use permit for an advertising sign with certain conditions, arising out of the motion offered by and seconded by , and declared carried on the following vote Ayes: Nays: , and

WHEREAS, the City Council reviewed the Minutes of the Planning Commission and heard from staff, and

WHEREAS, Staff reiterated its findings to the Council at the June 25, 2024, Council meeting,

NOW THEREFORE, THE COUNCIL HAS RESOLVED, that the City Council accepts and adopts the following findings:

1. Because of the nature of the proposed use and its location, the requested conditional use will not:
 - a. Be inconsistent with adjacent properties.
 - b. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Code.

FURTHER, THE COUNCIL HAS RESOLVED, that the City Council of the City of Marshall hereby approves the requested conditional use permit for an advertising sign, subject to on-going compliance with all of the

following conditions:

1. If within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been initiated, the CUP shall become null and void unless a petition for an extension of time in which to complete the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
2. Pursuant to Marshall Code Article 86-II, Division 86-II-2, Section 86-49, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of a conditional use permit approval or from when circumstance sufficiently change to justify a review.
3. The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
4. The owner shall obtain all relevant and required permits, including the City's sign permit and State permit, prior to beginning any work.
5. The installed sign shall be as follows:
 - i. The sign must be installed as shown on attached sketch. A survey showing the exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
 - ii. This permit is for the sign structure described as follows:
 - a. Two panels (not-digital) installed at an angle to each other (two sign panels total).
 - b. Each sign panel shall be no greater than 17 feet by 20 feet.
 - c. The overall height of the sign shall be no more than 30 feet.Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along with the sign permit application.
 - iii. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner and all future sign and landowners are fully responsible for maintenance, together or separately.
6. The City reserves the right to revoke the Conditional Use Permit if the applicant or if ownership of the property has transferred, then the current owner, has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.

Approval is contingent upon execution and return of this document to the City Planning Office.

I have read and agree to the conditions of this resolution as outlined above.

Property Owner / Applicant

Date

SITE PLAN: MN-48 WTR LLC C/O Wayne Erbes

ADDRESS: 1604 College Dr E, Marshall, MN 56258



Legend:

Existing ROW ● - - - - ●

PANEL SCHEDULE

| # | DESCRIPTION | CB AMPS | KW | NOTES |
|---|---------------|---------|------|---------------------|
| 1 | OUTDOOR LIGHT | 20 | 0.10 | 1-100W LED FIXTURES |
| 2 | OUTDOOR LIGHT | 20 | 0.10 | 1-100W LED FIXTURES |

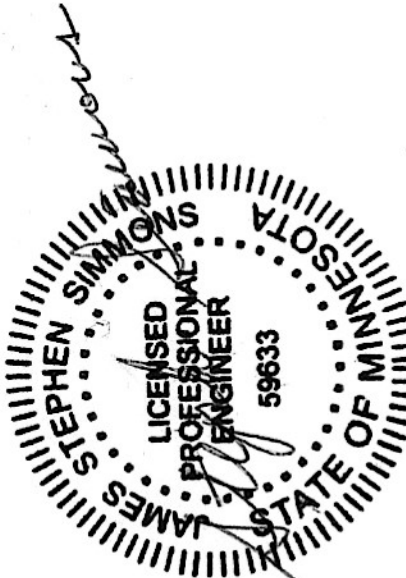
PANEL:
60 A.-120/240 VAC-SINGLE PH. 3W
2 CIRCUIT-3R ENCLOSURE
CUTLER-HAMMER CH4L125R OR EQ.

ELECTRICAL NOTES

1. ALL WORK SHALL MEET OR EXCEED ALL NEC STANDARDS
2. PROVIDE BONDING IN ALL APPLICABLE LOCATIONS PER NEC 250.104(C)

| REV | NO | DESCRIPTION | DATE | BY | DATE |
|-----|----|-------------------------------------|------|----|--------|
| A | 1 | ADDED BONDING TO BASE OF STEEL POLE | | JM | 3/7/20 |

REVISIONS

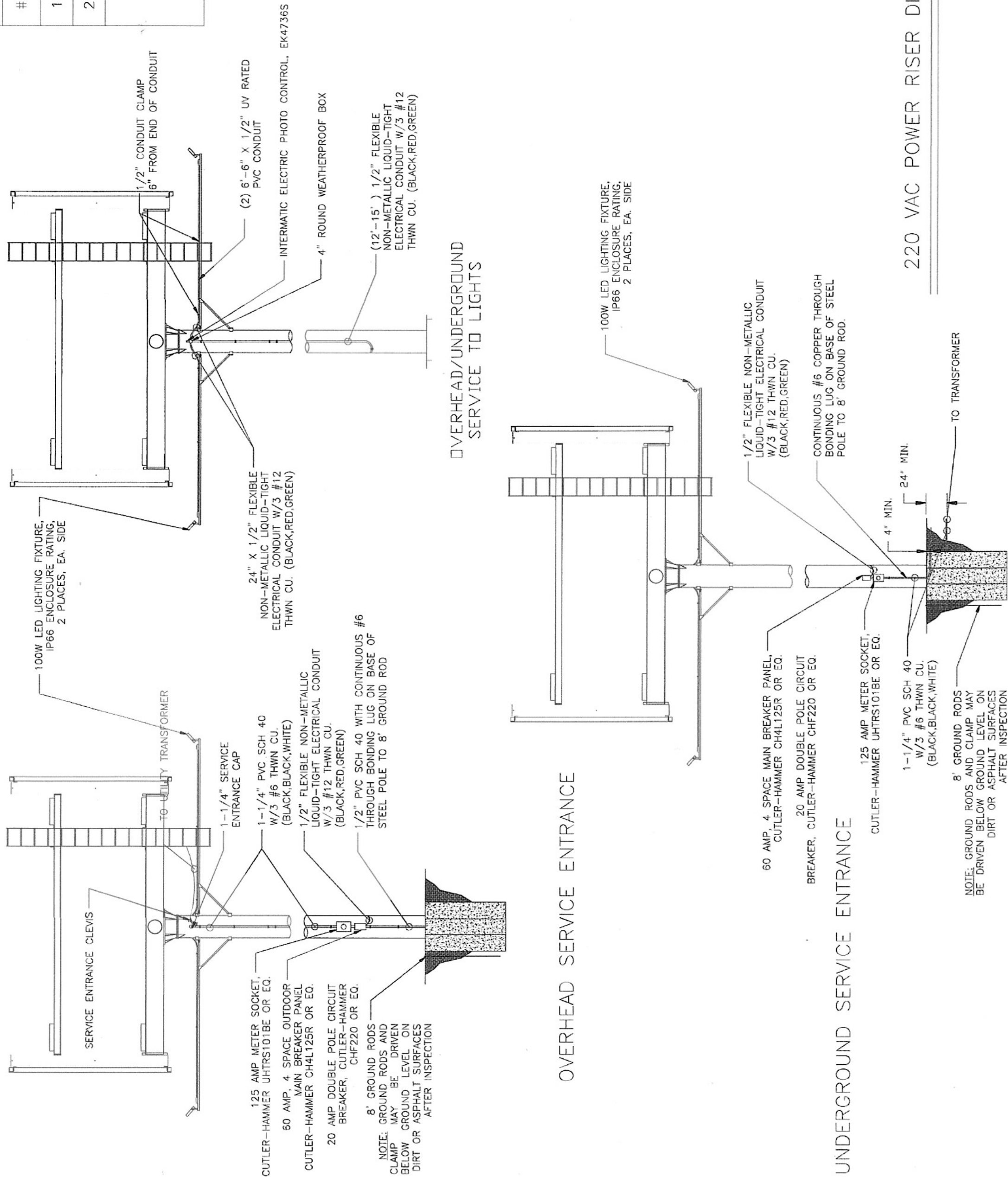


April 24, 2024

SUMMIT LOCATIONS

| | |
|------------|---|
| FILE | MONOPOLE ELECTRIC SINGLE FACE |
| LOCATION | WTR LLC 1604 COLLEGE DR. E. MARSHALL, MN 56258 |
| DESIGNER | J. STEPHEN SIMMONS P.E. #59633 304 FUDGE AVE. EATON, OH 45320 PHONE: 937-735-9643 EMAIL: jstephen.simmons@gmail.com |
| DRAWN BY | JSS |
| CHECKED BY | |
| DATE | 09/08/2021 |
| SCALE | NONE |
| SHEET | 1 OF 1 |

220 VAC POWER RISER DIAGRAM



NOTE: GROUND RODS AND CLAMP MAY BE DRIVEN BELOW GROUND LEVEL ON DIRT OR ASPHALT SURFACES AFTER INSPECTION

PLANNING COMMISSION – 06/12/2024

AGENDA ITEM REPORT

| | |
|---------------------------------|---|
| Meeting Date: | Wednesday, June 12, 2024 |
| Category: | PUBLIC HEARING |
| Type: | ACTION |
| Subject: | Airport Zoning Ordinance and amend a Zoning map |
| Background Information: | <p>The Joint Airport Zoning Board (JAZB) last met for a public hearing on the proposed SW MN Regional Airport Zoning Ordinance on September 5, 2023. At that meeting, the JAZB recommended approval of the proposed airport zoning ordinance and authorized the submittal to MnDOT Aeronautics for review.</p> <p>Following this meeting, TKDA staff submitted the ordinance and supporting documents to MnDOT-Aeronautics for their review and consideration. MnDOT agreed that the JAZB made efforts to comply with MN State Statutes and that proper steps were taken, and the Director of MnDOT Aeronautics approved the airport zoning ordinance. Included with the packet is the Commissioner’s Order from MnDOT.</p> <p>The final step and process for the JAZB was to adopt the airport zoning ordinance on 2/6/2024. MnDOT required a formal JAZB resolution, included in the packet, with signatures from the members of the JAZB.</p> <p>City staff believe that it makes sense to include the airport zoning ordinance within the City zoning ordinance. Since the new Airport Zoning Ordinance will become a part of the City Zoning Ordinance (Article 86-VII), State Statutes requires that it goes in front of the Planning Commission, and a recently revised City Ordinance indicates that the Planning Commission conducts a public hearing.</p> <p>In conjunction with the new airport zoning, the main city Zoning Map is also being revised by adding three airport safety zones: A, B, and C, as shown in Exhibit B4 of the new Airport Zoning Ordinance. After final approval by the Council, all safety zones will be added to the official City zoning map.</p> |
| Fiscal Impact: | None |
| Alternative/ Variations: | No alternative actions recommended. |
| Recommendations: | <p>Recommendation No. 1 Close the public hearing.</p> <p>Recommendation No. 2 Recommend to the City Council adding Article 86-VII Airport Zoning ordinance to the Zoning Ordinance and revising zoning map by adding airport safety zones.</p> |

**CITY OF MARSHALL
ORDINANCE AIRPORT SAFETY ZONING**

The Common Council of the City of Marshall, in the State of Minnesota, do ordain as follows:

SECTION 1: **ADOPTION** “ARTICLE 86-VII JOINT AIRPORT ZONING” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

ARTICLE 86-VII JOINT AIRPORT ZONING(*Added*)

SECTION 2: **ADOPTION** “Southwest Minnesota Regional Airport Zoning Ordinance” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Southwest Minnesota Regional Airport Zoning Ordinance(*Added*)

SECTION 3: **ADOPTION** “Title And Introduction” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Title And Introduction(*Added*)

SOUTHWEST MINNESOTA REGIONAL AIRPORT ZONING ORDINANCE
MARSHALL-LYON COUNTY JOINT AIRPORT ZONING BOARD AN ORDINANCE
REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND
OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF
PROPERTY, IN THE VICINITY OF THE SOUTHWEST MINNESOTA REGIONAL
AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE
BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS
AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED
HEREIN; REFERRING TO THE SOUTHWEST MINNESOTA REGIONAL AIRPORT
ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS
ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF
ADJUSTMENT; AND IMPOSING PENALTIES. AN ORDINANCE AMENDING AND
REPLACING THE MARSHALL MUNICIPAL AIRPORT ZONING ORDINANCE TO
INCORPORATE ZONING TO REFLECT THE CURRENT RUNWAY 12-30
CONFIGURATION; TO REFLECT FUTURE PLANS FOR RUNWAY 2-20 PER THE
AIRPORT LAYOUT PLAN; TO REVISE PROCEDURAL REQUIREMENTS; AND TO
UPDATE OTHER PROVISIONS OF THE AIRPORT SAFETY ZONING ORDINANCE
IS NOW IN ORDER. IT IS HEREBY ORDAINED BY THE MARSHALL-LYON
COUNTY JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY
CONFERRED BY MINNESOTA STATUTES SECTION 360.061 THROUGH 360.074,
AS FOLLOWS:

SECTION 4: **ADOPTION** “Section I: Purpose And Authority” of the
Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section I: Purpose And Authority(*Added*)

The Marshall-Lyon County Joint Airport Zoning Board (JAZB) was created and established
by joint action of the City Council of the City of Marshall, in coordination with the City
Council of the City of Ghent, the Board of Commissioners of Lyon County, and the Town
Board of Grandview Township. The establishment of the JAZB was also closely coordinated
with the jurisdictions of The City of Minneota, and the Townships of Amiret, Clifton,
Eidsvold, Fairview, Lake Marshall, Lynd, Nordland, Sodus and Westerheim, all of which
thereafter declined their right of representation on the JAZB following the request made
pursuant to Minn. Stat. 360.063 Subd. 3(c). Pursuant to the provisions and authority of
Minnesota Statutes Section 360.063, the Marshall-Lyon County Joint Airport Zoning Board
hereby finds and declares that:

- A. An airport hazard endangers the lives and property of the users of the Southwest
Minnesota Regional Airport, as well as the property or occupants of land in its

vicinity; if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of said Airport and the public investment therein.

- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region that is served by the Southwest Minnesota Regional Airport.
- C. For the protection of public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- E. The prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.
- F. The Southwest Minnesota Regional Airport is an essential public facility that serves an important public transportation role and provides a public good.

SECTION 5: **ADOPTION** “Section II: Short Title” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section II: Short Title(*Added*)

This Ordinance shall be known as the “Southwest Minnesota Regional Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in Exhibit “A”, which is attached to this Ordinance.

SECTION 6: **ADOPTION** “Section III: Definitions” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section III: Definitions(*Added*)

As used in this Ordinance, unless the context otherwise requires:

“AIRPORT” means the Southwest Minnesota Regional Airport located in Section 6, Township 111 North, Range 41 West, 5th Principal Meridian.

“AIRPORT ELEVATION” means the established elevation of the highest point on the usable landing area which elevation is established to be 1182.8 feet above mean sea level.

“AIRPORT HAZARD” means any structure, tree, or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

“COMMISSIONER” means the Commissioner of the Minnesota Department of Transportation.

“CONFORMING USE” means any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this Ordinance or any amendment to this ordinance.

“DWELLING” means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

“EXISTING LAND USES” means an area which were in existence at the time of the adoption of this ordinance shall be considered a conforming use that shall not be prohibited except as provided below in SECTION V B 5, EXEMPTIONS – EXISTING LAND USES

“HEIGHT,” for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

“LANDING AREA” means the area of the airport used for the landing, taking off, or taxiing of aircraft.

“LOW DENSITY RESIDENTIAL STRUCTURE” means a single-family or two-family home.

“LOW DENSITY RESIDENTIAL LOT” means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

“NONCONFORMING USE” means any pre-existing structure, tree, natural growth, or land use which is inconsistent with the provisions of this Ordinance or an amendment hereto.

“NONPRECISION INSTRUMENT RUNWAY” means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

“OTHER THAN UTILITY RUNWAY” means a runway that is constructed for and intended to be used by jet aircraft or aircraft of more than 12,500 pounds maximum gross weight; or is 4,900 feet or more in length.

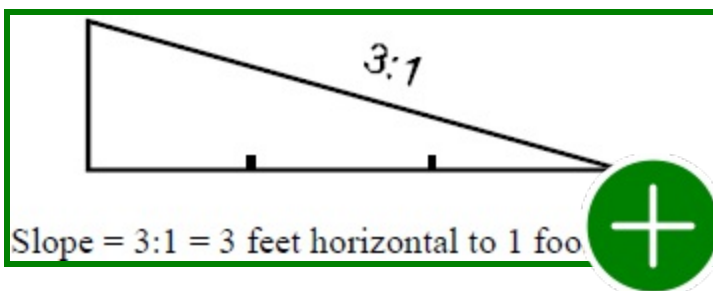
“PERSON” means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

“PLANNED,” as used in this Ordinance, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Minnesota Department of Transportation Office of Aeronautics, and the City of Marshall.

“PRECISION INSTRUMENT RUNWAY” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

“RUNWAY” means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

“SLOPE” means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



“STRUCTURE” means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, earth formations, and overhead transmission lines.

“TRAVERSE WAYS,” for the purpose of determining height limits as set forth in this Ordinance, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

“TREE” means any object of natural growth.

“UTILITY RUNWAY” means a runway that is constructed for, and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less; and is less than 4,900 feet in length.

“VISUAL RUNWAY” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

“WATER SURFACES” for the purpose of this ordinance, shall have the same meaning as land for the establishment of protected zones.

“ZONING ADMINISTRATOR” means the City of Marshall Planning and Zoning Administrator

SECTION 7: ADOPTION “Section IV: Air Space Obstruction Zoning” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section IV: Air Space Obstruction Zoning(*Added*)

A. AIR SPACE ZONES: In order to carry out the purpose of this Ordinance, as set forth above, the following air space zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:
 - a. Extending 200 feet beyond each end of Runway 12/30 and Runway 2/20.
 - b. Coinciding with each end of Runway 12/30 and Runway 2/20. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
 - c. 1,000 feet for Runway 12/30.
 - d. 500 feet for Runway 2/20.
2. HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1332.8 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - a. 10,000 feet for Runway 12/30 and Runway 2/20. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.
3. CONICAL ZONE: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the

horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface.

4. APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:
 - a. 50:1 for Runway 12/30, a precision instrument runway
 - b. 34:1 for Runways 2/20, a non-precision runway The approach surface expands uniformly to a width of:
 - c. 4,000 feet for Runway 12/30 at a distance of 10,000 feet, then continues at the same rate of divergence for an additional 4,000 feet to the periphery of the conical surface.
 - d. 3,500 feet for Runway 2/20 at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface.

5. PRECISION INSTRUMENT APPROACH ZONE: All that land which lies directly under an imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Runway 12/30, a precision instrument runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate width of 16,000 feet.

6. TRANSITIONAL ZONE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

- B. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any air space zone created in SECTION IV A so as to project above any of the imaginary air space surfaces described in said SECTION IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

SECTION 8: **ADOPTION** “Section V: Land Use Safety Zoning” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section V: Land Use Safety Zoning(*Added*)

- A. SAFETY ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Southwest Minnesota Regional Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:
1. SAFETY ZONE A: All land in that portion of the approach zones of a runway, as defined in SECTION IV A hereof, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:
 - a. 4,814 feet for Runway 12.
 - b. 4,814 feet for Runway 30 with the outer length affixed to the eastern most edge of the right-of-way of Country Club Drive.
 - c. 3,199 feet for Runway 2.
 - d. 3,199 feet for Runway 20.
 2. SAFETY ZONE B: All land in that portion of the approach zones of a runway, as defined in SECTION IV A hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:
 - a. 2,407 feet for Runway 12.
 - b. 2,407 feet for Runway 30 with the inner length affixed to the western most edge of the right-of-way of Country Club Drive.
 - c. 1,599 feet for Runway 2.
 - d. 1,599 feet for Runway 20.
 3. SAFETY ZONE C: All land which is enclosed within the perimeter of the horizontal zone, as defined in SUBSECTION IV A hereof, and which is not included in Safety Zone A or Safety Zone B.
 4. EXCEPTIONS – EXISTING LAND USES: The following described properties are designated as Existing Land Uses that do not present an airport hazard so severe that public safety considerations outweigh the public interest in continuing the existing land use as outlined by MN Statutes 360.0655 Subd. 2 (Protection of Existing Land Uses). The following existing land uses were in existence at the time of the adoption of this ordinance and are exempt from the USE RESTRICTIONS of SECTIONS V B 2 and V B 3 below, and are subject to the provisions of SECTION V B 5 below.

- a. [Table 1 : Existing Land Uses - Runway 30 Approach \(Maps B7 and B8\)](#)
- b. [Table 2: Existing Land Uses - Runway 20 Approach \(Map B9\)](#)

B. USE RESTRICTIONS:

1. [GENERAL: Subject at all times to the height restrictions set forth in SECTION IV B, no use shall be made of any land in any of the safety zones defined in SECTION V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.](#)
2. [ZONE A: Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture \(seasonal crops\), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation \(non-spectator\), cemeteries, and automobile parking.](#)
3. [ZONE B: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:](#)
 - a. [Each use shall be on a site whose area shall not be less than three acres.](#)
 - b. [Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.](#)
 - c. [Each site shall have no more than one building plot upon which any number of structures may be erected.](#)
 - d. [A building plot shall be a single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:](#)
 - e. [The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.](#)
4. [ZONE C: Zone C is subject only to height restrictions set forth in SECTION V B, and to the general restrictions contained in SECTION V B 1.](#)
5. [EXEMPTIONS – EXISTING LAND USES](#)
 - a. [Existing Land Uses which existed at the time of the adoption of this ordinance, as set forth in SECTION V A 4 above, and as shown on the zoning map, are subject to the height restrictions of SECTION IV B and the general restrictions of SECTION V B 1. Land uses which](#)

come into existence after the adoption of this ordinance, are treated as though they were not an Existing Land Use and are subject to Zone A or Zone B restrictions as the case may be.

b. Existing Land Uses which violate any of the following restrictions are prohibited as safety hazards and must be acquired, altered, or removed at public expense. Those conditions are as follows:

(1) The following land uses, if they exist in Safety Zones A or B, are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances;

(2) Any structure which a person or persons customarily use as a principal residence and which is located entirely inside Safety Zone A within 1000 feet of the end of the primary zone;

(3) Any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zone A or B and which penetrates an imaginary approach surface as defined by SECTION IV A;

c. Any land use in Safety Zone A or B which violates any of the following standards:

(1) the land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communication between the airport and aircraft;

(2) the land use must not make it difficult for pilots to distinguish between airport lights and other lights;

(3) the land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

d. Any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subparagraphs b.(1)(a), (b) or (c) above. An "isolated" residential building lot is one located in an area in which the predominant land use is single family or two-family residential structures; and

e. Any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off, or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:

(1) possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;

(2) possibility that the land use may, in case of an aircraft accident, cause an explosion, fire, or the release of harmful or noxious fumes, gases, or substances;

(3) tendency of the land use to increase the number of persons

that would be injured in case of an aircraft accident;
(4) effect of the land use on availability of clear areas for emergency landings;

(5) flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

Since the existing land uses are exempted by MN Statutes 360.0655 Subd 2, the properties as identified and alterations thereof shall be exempted from the conditions and restrictions of this zoning ordinance provided the primary land use of the property remains as-is as of the time of adopting this ordinance. It is the opinion of the Marshall-Lyon County Joint Airport Zoning Board that the continued use of the existing subject parcels in the manner that they are currently used does not present an airport hazard so severe that public safety considerations outweigh the public interest in continuing the existing land use, preventing disruption to that land use. Exemption of these parcels from the conditions and restrictions of this zoning ordinance shall remain in effect so long as the primary use and zoning of the parcels remains unchanged.

SECTION 9: **ADOPTION** “Section VI: Airport Map” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section VI: Airport Map(*Added*)

The several zones herein established are shown on the Southwest Minnesota Regional Airport Zoning Map consisting of 9 sheets, prepared by Toltz, King, Duvall, Anderson & Associates, and dated July 2023, attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this Ordinance.

SECTION 10: **ADOPTION** “Section VII: Non-Conforming Uses” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section VII: Non-Conforming Uses(*Added*)

Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently prosecuted and completed within two years thereof.

SECTION 11: **ADOPTION** “Section VIII: Permits” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section VIII: Permits(*Added*)

- A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
1. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
 2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this ordinance as set forth in SECTION IV and the land use limitations set forth in SECTION V.
- B. EXISTING USES: Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. NONCONFORMING USES ABANDONED OR DESTROYED: Whenever the zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the zoning administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight percent per annum from the date the cost and expense is incurred until paid and shall be collected in the same manner as are general taxes.

1.

SECTION 12: **ADOPTION** “Section IX: Variances” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section IX: Variances(*Added*)

Any person desiring to erect a structure or increase the height of any existing structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner, by certified mail, that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective sixty days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6a. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance provided any variance so allowed may be subject to any reasonable conditions that the Board or Commissioner may deem necessary to effectuate the purpose of this Ordinance. The Board of Adjustment may request review of a variance application by the Mn/DOT Office of Aeronautics prior to making a decision.

SECTION 13: **ADOPTION** “Section X: Hazard Marking And Lighting” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section X: Hazard Marking And Lighting(*Added*)

- A. NONCONFORMING USES: The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Southwest Minnesota Regional Airport.
- B. PERMITS AND VARIANCES: Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning administrator or Board, shall require the owner of the structure or tree in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION 14: **ADOPTION** “Section XI: Airport Zoning Administrator” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XI: Airport Zoning Administrator(*Added*)

It shall be the duty of the City of Marshall Planning & Zoning Administrator, Lyon County Zoning Administrator, City of Ghent Administrator, and Grandview Township Administrator to serve as the Airport Zoning Administrator to administer and enforce the regulations prescribed herein for lands within their respective municipalities. In the event that one or more of the above-described Airport Zoning Administrators does not administer this Ordinance or enforce its regulations, the Marshall-Lyon County Joint Airport Zoning Board hereby appoints the City of Marshall Planning & Zoning Administrator (or their designee) to administer this Ordinance in the municipality or municipalities. If any official position designated above ceases to exist or to perform or serve its present function, the successor position as designed by the applicable jurisdiction shall become the Airport Zoning Administrator for that entity and shall perform or serve such functions. Applications for permits and variances shall be made to the Airport Zoning Administrator upon a form furnished by the Airport Zoning Administrator and pursuant to their applicable zoning ordinance and Board of Adjustment procedures. Permit or development certificate applications shall be promptly considered and granted or denied by them in accordance with the regulations prescribed herein, in the zoning ordinance for the individual jurisdiction, and all applicable statutes. Variance applications shall be forthwith transmitted by the Airport Zoning Administrator for action by the Board of Adjustment, hereinafter provided for. The Airport Zoning Administrator shall transmit copies of all permits and variances granted or denied pertaining to the provisions of this Ordinance to the City of Marshall Planning & Zoning Administrator.

SECTION 15: **ADOPTION** “Section XII: Board Of Adjustment” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XII: Board Of Adjustment(*Added*)

- A. ESTABLISHMENT: The City of Marshall Planning Commission shall serve as the Board of Adjustment for the Southwest Minnesota Regional Airport Safety Zoning Ordinance within the City of Marshall. The Lyon County Planning Commission shall serve as the Board of Adjustment for the Southwest Minnesota Regional Airport Safety Zoning Ordinance outside of the City of Marshall.
- B. POWERS: The Board of Adjustment shall have and exercise the following powers:

1. Hear and decide appeals from any order, requirement, decision, or determination made by the administrator in the enforcement of this Ordinance.
2. Hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass.
3. Hear and decide specific variances.

C. PROCEDURES:

1. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the zoning administrator and shall be a public record.
2. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.
3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the zoning administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

SECTION 16: ADOPTION “Section XIII: Appeals” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XIII: Appeals(*Added*)

- A. Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in his administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this Ordinance as it concerns such governing body or board.
- B. All appeals hereunder must be commenced within 30 days of the zoning administrator’s decision, by filing with the zoning administrator a notice of appeal

specifying the grounds thereof. The zoning administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the zoning administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance, by certified mail, to the members of the Board of Adjustment in the manner set forth in Minnesota Statutes Section 360.068, Subdivision 2.

- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board of Adjustment after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the zoning administrator and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney.
- E. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the zoning administrator.

SECTION 17: **ADOPTION** “Section XIV: Judicial Review” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XIV: Judicial Review(*Added*)

Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or of any action of the commissioner taken under section 360.063, subdivisions 6 or 6a, or any governing body of a municipality or county, or any joint airport zoning board, which believes that a decision of a board of adjustment or action of the commissioner is illegal may appeal in accordance with Minnesota Statutes Chapter 14.

SECTION 18: **ADOPTION** “Section XV: Penalties” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XV: Penalties(*Added*)

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The airport zoning administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper under the laws of Minnesota Statutes Section 360.073 and other applicable law.

SECTION 19: **ADOPTION** “Section XVI: Conflicts” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XVI: Conflicts(*Added*)

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 20: **ADOPTION** “Section XVII: Severability” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XVII: Severability(*Added*)

- A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land,

- and to this end the provisions of this Ordinance are declared to be severable.
- B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION 21: **ADOPTION** “Section XVIII: Effective Date” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section XVIII: Effective Date(*Added*)

This ordinance shall take effect on the 6th day of February, 2024. Copies thereof shall be filed with the Commissioner through the Office of Aeronautics and the Office of the Lyon County Recorder. Passed and adopted after public hearing by the Marshall-Lyon County Joint Airport Zoning Board this 6th day of February, 2024.

SECTION 22: **ADOPTION** “Exhibit B: Maps” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Exhibit B: Maps(*Added*)

- B1 Airspace Zoning Map
- B2 Runway 12 Extended Approach
- B3 Runway 30 Extended Approach
- B4 Land Use & Zoning Map
- B5 Runway 12/30 Land Use & Zoning Map
- B6 Runway 2/20 Land Use & Zoning Map
- B7 Existing Land Use - Runway 30 Custom Safety Zone A
- B8 Existing Land Use - Runway 30 Custom Safety Zone
- B9 Existing Land Use - Runway 20 Safety Zones A & B

SECTION 23: **ADOPTION** “Exhibit A” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Exhibit A(Added)

This Ordinance affects all or a portion of the following sections of land:

| NAME AND NUMBER OF TOWNSHIP | AIR SPACE OBSTRUCTION ZONING: Section IV of Ordinance; Page(s) B1, B2, & B3 of Zoning Map | LAND USE SAFETY ZONING: <u>Section V of Ordinance; Page(s) B4, B5 & B6 of Zoning Map</u> |
|---|---|---|
| <u>City of Marshall</u> | <u>Sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17</u> | <u>Sections: 4, 5, 6, 7, 8, 9, 16, 17, 18</u> |
| <u>City of Ghent</u> | <u>Sections: 10, 15, 16</u> | <u>Sections: -</u> |
| <u>City of Minneota</u> | <u>Sections: 25, 26, 35, 36</u> | <u>Sections: -</u> |
| <u>Amiret Township</u> | <u>Sections: 4, 5, 6, 7, 8, 9, 17, 18</u> | <u>Sections: -</u> |
| <u>Clifton Township</u> | <u>Sections: 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, 34</u> | <u>Sections: -</u> |
| <u>Eidsvold Township</u> | <u>Sections: 36</u> | <u>Sections: -</u> |
| <u>Fairview Township</u> | <u>Sections: 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, 34</u> | <u>Sections: 28, 29, 30, 31, 32, 33</u> |
| <u>Grandview Township</u> | <u>Sections: 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36</u> | <u>Sections: 25, 26, 35, 36</u> |
| <u>Lake Marshall Township</u> | <u>Sections: 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36</u> | <u>Sections: 4, 5, 6, 7, 8, 9, 16, 17, 18</u> |
| <u>Lynd Township</u> | <u>Sections: 1, 2, 3, 10, 11, 12, 13, 14, 24</u> | <u>Sections: 1, 2, 11, 13</u> |
| <u>Nordland Township</u> | <u>Sections: 1, 2, 11, 12, 13, 14, 23, 24</u> | <u>Sections: -</u> |
| <u>Sodus Township</u> | <u>Sections: 2, 7, 12</u> | <u>Sections: -</u> |
| <u>Westerheim Township</u> | <u>Sections: 29, 30, 31, 32, 33</u> | <u>Sections: -</u> |

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

_____.

Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall

CITY OF MARSHALL
AGENDA ITEM REPORT
PC 6/12/24

| | |
|--------------------------------|---|
| Presenter: | Ilya Gutman |
| Meeting Date: | Wednesday, June 12, 2024 |
| Category: | PUBLIC HEARING |
| Type: | ACTION |
| Subject: | Registration/Zoning for THC retail sales |
| Background Information: | <p>The City currently prohibits (via a moratorium) almost all business operations related to hemp-based products (also referred to as 151 Products because they are authorized by Minnesota Statutes, 151.72 and Lower-Potency Hemp Edibles, as defined for purposes of future state licensing). The two exceptions are that hemp-based beverages may be made at a brewery or distillery and an exclusive liquor store may still sell hemp-based beverages. The moratorium is set to expire in July 2024. The current estimate is that the State will begin issuing licenses in early 2025 but that seems unlikely based on the little traction of the rulemaking process so far.</p> <p>State law has remained mostly unchanged after this year legislative session and the state will be licensing the sale of both the hemp-based products, and the higher-level cannabis products, once the regulatory scheme is established. Additionally, the law remains unchanged with respect to allowing local governmental authorities some basic zoning authority with respect to these establishments, like locations of retailers. State law also still requires businesses to register with the Minnesota Department of Health, and to follow the sales, packaging, and other related regulations contained in Minn. Stat. 151.72. Enforcement of violations is currently under the purview of the Minnesota Department of Health, but will be transferred to the local governmental authority once licensing is in place.</p> <p>Staff, along with the L&O committee, discussed getting a framework in place so that retailers of the Lower Potency Hemp based products/151 Products could start selling those products in the City of Marshall before waiting for final State rulemaking. The proposed ordinance creates a registration system which complies with state law and enables the City to know where these products are sold for purposes of compliance checks (similar to tobacco type compliance checks). Additionally, the proposed ordinance allows the City to charge a registration fee to help offset the costs associated with compliance checks.</p> <p>The proposed ordinances also include proposed amendments to existing zoning which would prohibit retail sales of these products in residential districts as “home occupation” and also creates reasonable distance requirements between retailers selling these products and schools (500 feet from primary building as identified on city-maintained map). This supports feedback and concern staff has heard from educators, as well as public safety. Since this ordinance includes zoning provisions, the Statutes require that it goes through public hearing and the City Ordinance places this public hearing in front of the Planning Commission.</p> <p>There has been a desire expressed by some in the public for the current moratorium to be lifted on the hemp-based products to allow sales and support local economy. Along with the proposed registration ordinance, the proposed amendments to the existing zoning, and the repeal of the current moratorium, staff recommends to the City Council adopting a new moratorium on the higher-level cannabis products until the State has finalized its regulatory scheme, but this new</p> |

| | |
|-------------------------------------|--|
| | moratorium ordinance will go straight to the Council as it is not a Zoning ordinance and therefore does not require the Planning Commission input. |
| Fiscal Impact: | |
| Alternative/ Variations: | |
| Recommendations: | <ol style="list-style-type: none"> 1. Motion to close public hearing. 2. Recommend approval of proposed ordinance to the City Council. |

**CITY OF MARSHALL
ORDINANCE THC REGISTRATION**

**AN ORDINANCE ESTABLISHING REGISTRATION REQUIREMENTS FOR THE
SALE OF INTOXICATING CANNABINOID PRODUCTS AND AMENDING THE
CITY’S ZONING CODE TO ESTABLISH DISTANCE REQUIREMENTS FROM
CERTAIN BUSINESSES AND PROHIBIT CERTAIN HOME OCCUPATIONS**

The Common Council of the City of Marshall do ordain as follows:

SECTION 1: **ADOPTION** “ARTICLE 22-VIII REGISTRATION
REQUIREMENTS FOR THE SALE OF INTOXICATING CANNABINOID
PRODUCTS” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

ARTICLE 22-VIII REGISTRATION REQUIREMENTS FOR THE SALE OF
INTOXICATING CANNABINOID PRODUCTS(*Added*)

SECTION 2: **ADOPTION** “Section 22-220 Definitions” of the Marshall
Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-220 Definitions(*Added*)

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:

CBD means a compound of the cannabis plant known as cannabidiol.

Intoxicating Hemp Product means any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid other than CBD in combination with food ingredients, and is not a drug, and meet the requirements to be sold under Minnesota Statutes, §151.72. This does not include any product intended to be consumed by combustion or vaporization of the product, by inhalation of smoke, aerosol, or vapor from the product or through injection or application to a mucus membrane or nonintact skin. A product intended to only contain CBD but which may contain less than trace amounts of tetrahydrocannabinol (THC) as an unintended result of the manufacturing process is not considered an Intoxicating Hemp Product.

Intoxicating Hemp Product Business means a business that sells Intoxicating Hemp Products at retail for off-site consumption.

Premises means the area from which an Intoxicating Hemp Product Business sells Intoxicating Hemp Products and for an On-Site Intoxicating Hemp Product Business and Liquor Store shall mean the licensed premises pursuant to its license issued under Minnesota Statutes, Chapter 340A.

Liquor Store means a business licensed pursuant to Minnesota Statutes, Chapter 340A to sell alcoholic beverages in original packages for consumption off the licensed premises only.

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. Movable Place of Business does not include On-Site Intoxicating Hemp Product Businesses selling Intoxicating Hemp Products at a location pursuant to a caterer's permit.

On-Site Intoxicating Hemp Product Business means a business with an on-sale liquor license pursuant to Minnesota Statutes, Chapter 340A and which sells Intoxicating Hemp Products that are intended to be consumed as a beverage, for on-site consumption.

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

THC means the chemical compound of the cannabis plant tetrahydrocannabinol.

SECTION 3: ADOPTION “Section 22-221 Purpose” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-221 Purpose(*Added*)

The city recognizes that the sale of certain products containing the psychoactive cannabis compound THC is legal when those sales are to individuals 21 years of age or older, and that the increase of these types of products in the community increases the likelihood that youth will have access to and use products containing THC. The use of those products by individuals under the age of 21 places a burden on all levels of government, resulting in financial and other public resources being needed to address both violations of laws and regulations regarding such use, including the impacts on health . The purpose of this chapter is to regulate the sale of products containing THC for the purpose of enforcing and further existing laws and regulations.

SECTION 4: **ADOPTION** “Section 22-222 Registration Required” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-222 Registration Required(*Added*)

Businesses may only sell Intoxicating Hemp Products to customers, for on-site or off-site consumption, if one of the following three conditions apply:

- (a) For on-site consumption, an On-Site Intoxicating Hemp Product Business must be registered with the city before making sales to customers and must have an active on-sale liquor license pursuant to Minnesota Statutes Chapter 340A.
- (b) For off-site consumption, an Intoxicating Hemp Products Business must be registered with the city before making sales to customers.
- (c) No city-issued registration is required for a business selling medical cannabis as part of the Minnesota’s Medical Cannabis Program described in Minnesota Statutes, §§ 152.22 to 152.37 or for a Liquor Store.

SECTION 5: **ADOPTION** “Section 22-223 Registration Application And General Information” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-223 Registration Application And General Information(*Added*)

- (a) **General Application Information** – Both On-Site Intoxicating Hemp Product Businesses and Intoxicating Hemp Product Businesses must submit the following to the City:
 - (1) Complete registration form, including confirmation that the business is registered with the Minnesota Department of Health.
 - (2) A registration fee, which shall be established pursuant to City Council resolution or City Council Fee Schedule.
- (b) **Additional On-Site Intoxicating Hemp Product Business Application Information** – In addition to the application information contained in §22-223 (a), On-Site Intoxicating Hemp Product Businesses must also submit confirmation that the premises has an on-sale liquor license issued pursuant to Minnesota Statutes, Chapter 340A.
- (c) **No Moveable Place of Business** – No Intoxicating Hemp Moveable Place of Business is allowed and, as a result, no registration will be issued for a Moveable Place of Business.

- (d) **Term** – Registrations are valid for a term of one year from the date they are issued by the City. Businesses renewing their registration must submit a renewal fee at the time of renewal.
- (e) **Registration Conditions** – Registrants are subject to the performance standards and penalties in §§ 22-224 - 22-234. Violation of any of the applicable provisions of this chapter is considered a violation of City Code and may result in criminal penalties, administrative fines or the City revoking a registration.

SECTION 6: **ADOPTION** “Section 22-224 Zoning Requirements” of the Marshall Municipal Code is hereby *added* as follows:

A D O P T I O N

Section 22-224 Zoning Requirements(*Added*)

No registration issued under this Chapter shall be granted until all applicable zoning requirements are met or until all conditions for approval of the use have been satisfied.

SECTION 7: **ADOPTION** “Section 22-225 Limit On Registrations” of the Marshall Municipal Code is hereby *added* as follows:

A D O P T I O N

Section 22-225 Limit On Registrations(*Added*)

- (a) **Intoxicating Hemp Product Business.** The City has not established a limit on the number of Intoxicating Hemp Product Business registrations.
- (b) **On-Site Intoxication Hemp Product Businesses.** The City has not established a limit on the number of On-Site Intoxicating Hemp Product Business registrations other than requiring these businesses to have up-to-date on-sale liquor license.

SECTION 8: **ADOPTION** “Section 22-226 Responsibility” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-226 Responsibility(*Added*)

All registrants under this article shall be responsible for the actions of their employees in regard to the sale of Intoxicating Hemp Products, and the sale of such an item by an employee shall be considered a sale by the registrant. Nothing in this article shall be construed as prohibiting the city from also subjecting the registrant to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

SECTION 9: **ADOPTION** “Section 22-227 Compliance Checks and Inspections” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-227 Compliance Checks and Inspections(*Added*)

All On-Site Intoxicating Hemp Businesses and Intoxicating Hemp Product Businesses 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 individuals over the age of 17 years old but less than 21 years old, to enter the premises to attempt to purchase Intoxicating Hemp Products. Prior written parental or guardian consent is required for any person under the age of 18 who participates in a compliance check. Individuals used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Individuals used for compliance checks shall not be guilty of unlawful possession of Intoxicating Hemp Products when such items are obtained as a part of the compliance check. No individual used in compliance checks shall attempt to use a false identification misrepresenting the individual's age, and all individuals lawfully engaged in a compliance check shall answer all questions about the individual's age asked by the registrant or their employee, and shall produce any identification, if any exists, for which they are 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.

SECTION 10: **ADOPTION** “Section 22-228 Prohibited Sales” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-228 Prohibited Sales(*Added*)

It shall be a violation of this article for any person to sell or offer to sell any Intoxicating Hemp Product:

- (a) Not meeting the requirement or by the means authorized in Minnesota Statutes, section 151.72 including, but not limited to:
 - (1) Age Verification - Minn. Stat. §151.72, subd. 5c.
 - (2) Packaging, Labeling, and THC Limits - Minn.Stat. §151.72, subd. 5a.
 - (3) Secure Storage and Sales - Minn. Stat. §151.72, subd. 5a (h).
 - (4) Testing Requirements - Minn. Stat. §151.72, subd. 4.
 - (5) Labeling Requirements - Minn. Stat. §151.72, subd. 5.
- (b) To any person under the age of 21 years.
- (c) By any person under the age of 21 years.
- (d) For a nominal amount or by means of sampling.
- (e) By internet sales or delivery, unless the business utilizes an independent third-party age verification system.
- (f) By an 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

SECTION 11: **ADOPTION** “Section 22-229 On-Site Intoxicating Hemp Business Manufacturing” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-229 On-Site Intoxicating Hemp Business Manufacturing(*Added*)

- (a) On-Site Intoxicating Hemp Product Businesses may manufacture Intoxicating Hemp Products intended to be consumed as a beverage as an accessory use only at breweries and distilleries licensed as such under Minnesota Statutes, Chapter 340A, as long as the manufacturing process for the beverages does not involve the cannabis plant. For purposes of this Section, accessory use is defined to mean not accounting for more than 50% of the production of total product produced at the brewery or distillery. The transporting or distribution of such Intoxicating Hemp Products manufactured as an accessory use at a brewery or distillery to locations outside of the City also is allowed as part of the accessory use.
- (b) Intoxicating Hemp Products manufactured as described in 22-229 (a) may not be sold at retail for off-sale consumption by an On-Site Intoxicating Hemp Product Business.

SECTION 12: **ADOPTION** “Section 22-230 On-Site Intoxicating Hemp Business Registration Condition” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-230 On-Site Intoxicating Hemp Business Registration Condition(*Added*)

An On-Site Intoxicating Hemp Business registration will terminate, with no further action of the City, if the registrant's on-sale liquor license expires, terminates, or is otherwise not effective.

SECTION 13: **ADOPTION** “Section 22-231 Exceptions and Defenses” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-231 Exceptions and Defenses(*Added*)

Nothing in this article shall prevent the providing of Intoxicating Hemp Products to an individual under the age of 21 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.

SECTION 14: **ADOPTION** “Section 22-232 Offenses Involving Individual Under the Age of 21” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-232 Offenses Involving Individual Under the Age of 21(*Added*)

- (a) **Illegal sales.** It shall be a violation of this article for any person to sell or otherwise provide any Intoxicating Hemp Product to any individual under the age of 21.
- (b) **Illegal possession.** It shall be a violation of this article for any individual under the age of 21 to have in their possession any Intoxicating Hemp Product. This subsection shall not apply to individual under the age of 21 lawfully involved in a compliance check.
- (c) **Illegal use.** It shall be a violation of this article for any individual under the age of 21 to use any Intoxicating Hemp Product.
- (d) **Illegal procurement.** It shall be a violation of this article for any individual under the age of 21 to purchase or attempt to purchase or otherwise obtain any Intoxicating Hemp Product, and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of an individual under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce an individual under the age of 21 to illegally purchase or otherwise obtain or use any Intoxicating Hemp Product. This subsection shall not apply to individual under the age of 21 lawfully

involved in a compliance check.

- (e) **Use of false identification.** It shall be a violation of this article for any individual under the age of 21 to attempt to disguise their 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.

SECTION 15: **ADOPTION** “Section 22-233 Violations” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-233 Violations(*Added*)

- (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 their 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 the city administrator.
- (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.

SECTION 16: **ADOPTION** “Section 22-234 Penalties For Violation Of Article” of the Marshall Municipal Code is hereby *added* as follows:

ADOPTION

Section 22-234 Penalties For Violation Of Article(Added)

- (a) **Registrants and employees.** Any registrant, and any employee of a registrant, 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 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 shall be suspended for a period to be determined by council resolution. In addition to these administrative fines, the may be suspended or the registration rescinded. 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) **Possession Under 21.** Any individual under the age of 21 found in unlawful possession of, or who unlawfully purchases or attempts to purchase Intoxicating Hemp Product, 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.

SECTION 17: AMENDMENT “Section 86-50 Home Occupations And Businesses” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-50 Home Occupations And Businesses

- (a) An interim use permit shall be required for all home occupations in agricultural and all residential districts unless any of the following three conditions exist:
 - (1) Such home occupation is supplementary to a business that has its principal place of business legally located elsewhere.
 - (2) Such home occupation is entirely computer and/or internet based.
 - (3) Such home occupation is conducted entirely outside the premises except bookkeeping and regular mail delivery.

In addition to any of the above conditions, the home occupation must be such that the traffic entering such dwelling does not exceed that which is normal and customary for a residence, no business related vehicles or vehicles with business advertisement are parked or stored outside, no vehicular traffic or street parking is generated in greater volume than would normally be expected in a residential neighborhood, no direct sale of goods to the consumer occurs on premises, and it meets all relevant provisions of

subsection (b). As an exception, for businesses compliant with conditions (1) or one business related car, van or light truck with business advertisement may be parked outside at nights and on weekends.

- (b) Home occupations shall at a minimum meet the following conditions:
- (1) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its residential use by the applicant.
 - (2) The home occupation related space may not exceed one-third of the living space of the dwelling, excluding garages and accessory buildings.
 - (3) The conduct of the home occupation shall not result in any change in the outside appearance of the building or land.
 - (4) No exterior display or signs related to the home occupation shall be installed.
 - (5) No direct sale of goods that are not produced, customized, or modified on site shall take place, except during occasional home sale parties not scheduled on a regular basis.
 - (6) No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare or electrical disturbance to radio or television reception and no hazard beyond the one customary for dwellings is created.
 - (7) Only persons that are members of the family and residing in the premises shall be employed on the premises.
 - (8) There shall be no exterior storage of materials, business equipment or vehicles except one business related car, van or light truck with business advertisement may be parked outside at nights and on weekends.
 - (9) Not more than one-half of the accessory buildings shall be used for the storage of merchandise, business equipment, materials or machinery.
 - (10) No separate entrance for customers may be provided or used.
 - (11) No sewer, water or electric usage beyond what is typical for a dwelling shall occur.
 - (12) No regular business hours shall be advertised, including on social media, and all services shall be rendered by appointment only with no general public walk-ins or retail services.
 - (13) If at any time more than two customers may be present, off-street parking shall be provided in addition to parking required for a dwelling. Such parking shall be provided in a location customarily associated with single family dwellings.
 - (14) No customers shall be present between 9:00 p.m. and 6:00 a.m.
 - (15) Additional home occupation related vehicular traffic, including delivery, shall not exceed four vehicles per day.
- (c) All home occupation interim use permits are issued for initial one-year term and may be renewed for future terms, under the same interim use procedure, provided no violations of established conditions were observed. The first renewal shall be for five years, and the second renewal shall be until the property is sold or transferred to another owner. If any of the interim use permit conditions are found to be violated, the permit may be revoked, or future renewal terms may be limited.
- (d) The home occupation interim use permit is granted to an applicant for a specific property and is not transferable to another person or property, thus expiring at the sales or any other type of property transfer.

- (e) The applicant, upon making application, grants to the City upon issuing any home occupation interim use permit the right to inspect the premises in which the occupation is being conducted at any time to ensure compliance with the provisions of this section and any conditions additionally imposed.
- (f) All home occupations involving the following activities, even if formally compliant with subsection (b), are prohibited:
 - (1) Any automotive related activity including, but not limited to, auto repair and detailing.
 - (2) Any children related activity except those licensed by the State and individual lessons.
 - (3) Any animal related activity including, but not limited to, kenneling and breeding, except household pet grooming.
 - (4) Any funeral related activity including, but not limited to, mortuaries and embalming services.
 - (5) Any activity involving commercial cooking, including, but not limited to, restaurants and cafes, except dessert making for private individual customers.
 - (6) Any activity involving multiple garage sales.
 - (7) Any illegal activity.
 - (8) Any activity involving multiple guest assemblies except occasional home sale parties not scheduled on a regular basis.
 - (9) Any activity involving tobacco or alcohol production or sale.
 - (10) Any business licensed under Minnesota Statutes, Chapter 342 or for which a registration is required by City Code, §22-222.

(Ord. No. 747 2nd series, § 1, 12-10-2019)

Editor's note(s)—Ord. No. 747 2nd series, § 1, adopted Dec. 10, 2019, amended § 86-50 to read as set out herein. Previously § 86-50 was titled offices of persons and home occupations and derived from Code 1976, § 11.21(6); and Ord. No. 680 2nd series, § adopted Sep. 24, 2013.

SECTION 18: **AMENDMENT** “Section 86-102 B-1 Limited Business District” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-102 B-1 Limited Business District

- (a) *Intent; scope.* This section applies to the B-1 limited business district. This B-1 district is intended to permit selected businesses in areas adjacent to residential neighborhoods where analysis of the population demonstrates that such establishment are required and desirable.
- (b) *Permitted uses.* The following uses shall be permitted in the B-1 district:

- (1) Antique, gift or florist shops.
- (2) Automobile parking lots excluding repairs and the parking of trucks and buses.
- (3) Barbershops or beauty shops.
- (4) Business or professional offices.
- (5) Businesses requiring a registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Businesses, must be located at elast:
 - a. 500 feet, when measured in a straight line from the center of the primary building of a school, as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, to the property line of the property in which the registered establishment is located. The primary building of each school is established in a map that will be published by the City.
- (6) Candy, ice cream, soft drinks or confectionery stores.
- (7) Churches.
- (8) Day care facility serving any number of individuals.
- (9) Fallout shelter.
- (10) Jewelry stores.
- (11) Laundromats and dry cleaning laundry pickup store.
- (12) Leather goods and luggage shops.
- (13) Medical clinics.
- (14) Municipal or other government administration buildings, police or fire stations, community center buildings, museums or art galleries, and post office stations.
- (15) Pharmacies or drugstores, including gifts, stationery and similar items.
- (16) Photography studios.
- (17) Pipe or tobacco shops.
- (18) Public libraries.

(19) Retail bake or pastry shops.

(20) Retail medical supply stores.

(21) Tailor shops.

(c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the B-1 business district:

(1) Accessory uses customarily incident to the uses permitted in subsections (a) and (b) of this section.

(2) Living quarters of persons employed on the premises.

(3) Private garage.

(4) Private swimming pool when completely enclosed within a chainlink or similar fence five feet high.

(5) Solar energy collectors and systems.

(6) Storage garages where the lot is occupied by a multiple-family dwelling or an institutional dwelling.

(d) *Conditional uses.* All conditional use permits for the B-1 district may only be issued if the proposed use meets the specific requirements of this section and also meets the general regulations as outlined in article VI and meets the eligibility for conditional use permits as specified in article II, division 2. The following uses may be allowed in the B-1 business district by conditional use permit:

(1) Boardinghouses and lodging houses.

(2) Gas station or car wash.

(3) Grocery stores, fruit and vegetable markets.

(4) Liquor stores (for consumption off the premises).

(5) Meat shops and cold storage lockers (excluding slaughtering).

(6) Medical, dental and optical labs.

(7) Mortuaries or funeral homes.

(8) Motels.

- (9) Multiple-family dwellings, apartment buildings or townhouses containing not more than eight dwelling units.
- (10) Offices of persons and home occupations in existing structures when they meet the specific conditions of section 86-50.
- (11) Other business uses of the same general character as listed in subsection (b).
- (12) Parks and recreational areas.
- (13) Public, parochial or other private elementary, middle, junior high or senior high schools offering a curriculum equivalent to the public school system, and not operated for profit.
- (14) Public utility stations and structures.
- (15) Residential facility serving six or fewer individuals.
- (16) Restaurants, cafes, delicatessens or tearooms.
- (17) Shoe stores and shoe repair stores.
- (18) Single-family detached dwellings.
- (19) Two-family dwellings under single ownership, joint ownership or tenants in common.
- (20) Two-family dwellings under split ownership under the following conditions:
 - a. The dwellings have separate utility service lines to each unit.
 - b. The owner execute a common maintenance agreement containing covenants as to uniformity of exterior appearance of the dwellings for the life of the building.
 - c. Proper separation of units exist as provided by the city building code.
 - d. Such dwellings comply with all yard regulations for single-family dwellings, except side yard regulations between the dwelling units.
 - e. The dwelling location on the lot be compatible with the neighborhood.
 - f. Landscaping, fencing, grading, exterior lighting, construction and driveway conform to the surrounding neighborhood.
 - g. Any accessory building is compatible with the dwellings and the surrounding neighborhood.
 - h. The dwellings shall be a maximum height of two stories.
 - i. Not more than 50 percent of the lot area shall be occupied by buildings.

- j. No unit shall be eligible under this use unless the division of the dwelling occurs along the lot lines.
- (21) Water supply buildings, reservoirs, wells, elevated tanks, and other similar essential public utility structures, municipal or other government service buildings.
- (e) *Height, yard and lot coverage regulations.* Height, yard and lot coverage regulations for the B-2 district are as follows:
 - (1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed three stories or 35 feet in height.
 - (2) *Front yard regulations.*
 - a. There shall be a front yard having a depth of not less than 25 feet on a lot or plot that abuts a minor street or a marginal access service street.
 - b. There shall be a front yard having a depth of 35 feet on a lot or plot that abuts a thoroughfare as shown on the adopted city thoroughfares plan, except that an 80-foot setback shall be required when the council determines that a service road is necessary.
 - c. There shall be a front yard on each street side of each corner lot. No accessory buildings shall project into the front yard line on either street.
 - d. No front yard shall be required in the downtown district.
 - (3) *Side yard regulations.*
 - a. There shall be a side yard on each side of a building, having a width of not less than ten feet.
 - b. No building shall be located within 20 feet of any side lot line abutting a lot in any of the classes of residence districts.
 - c. No side yard shall be required in the downtown district.
 - (4) *Rear yard regulations.*
 - a. There shall be a rear yard having a depth of not less than 25 percent of the lot depth or a maximum required rear yard of 25 feet.
 - b. No building shall be located within 20 feet of any rear lot line abutting a lot in any of the classes of residence districts.
 - c. No rear yard shall be required in the downtown district.
- (f) *Lot coverage regulations.* Not more than 50 percent of a lot shall be occupied by buildings. No lot coverage restrictions apply in the downtown district.
- (g) *General regulations.* Additional regulations in the B-1 business district are set forth in article VI of this chapter, except that no outside storage or displays of property for sale shall be permitted on any premises in such district.

(Code 1976, § 11.12; Ord. No. 443, § 3, 11-6-2000; Ord. No. 463, § 1, 7-2-2001; Ord. No. 590 2nd series, § 1, 2-19-2008)

Cross reference(s)—Businesses, ch. 22.

SECTION 19: AMENDMENT “Section 86-103 B-2 Central Business District” of the Marshall Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Section 86-103 B-2 Central Business District

- (a) *Intent; scope.* This section applies to the B-2 central business district. This B-2 district is intended to preserve and enhance the city's central business district as the prime center for office and government employment, shopping and cultural activities. This B-2 district shall be restricted to the downtown district.
- (b) *Permitted uses.* The following uses shall be permitted in the B-2 business district:

- (1) Animal pet shops.
- (2) Antique, gift or florist shop.
- (3) Appliance sales and service stores.
- (4) Armories, convention or exhibition halls.
- (5) Art, office, school, camera and photography supply stores.
- (6) Audio recording sales or rental.
- (7) Auto parts stores.
- (8) Automobile parking lots and the parking of trucks and buses.
- (9) Banks and savings institutions.
- (10) Barbershops or beauty shops.
- (11) Bars, taverns, cocktail lounges, nightclubs, dancehalls and theaters.
- (12) Bicycle sales or repair shops.
- (13) Billiard or pool halls.
- (14) Book or stationery stores.
- (15) Bowling alleys.

- (16) Bus stations or taxistands.
- (17) Business, commercial or dance schools.
- (18) Business or professional offices.
- (19) Businesses requiring a registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Businesses, must be located at least:
 - a. 500 feet, when measured in a straight line from the center of the primary building of a school, as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, to the property line of the property in which the registered establishment is located. The primary building of each school is established in a map that will be published by the City.
- (20) Cabinet or carpenter shops.
- (21) Cabinet stores.
- (22) Candy, ice cream, soft drinks or confectionery stores.
- (23) Carpet, rug and flooring stores.
- (24) Churches.
- (25) Clothing stores.
- (26) Commercial radio or television broadcasting station.
- (27) Communication center (within building).
- (28) Department stores.
- (29) Fallout shelter.
- (30) Furniture stores.
- (31) Grocery stores, fruit and vegetable markets.
- (32) Hardware, hobby, sporting goods or toy stores.
- (33) Jewelry stores.
- (34) Job printing, newspaper, lithographing or publishing plants.

- (35) Laundromats and dry cleaning laundry pickup store.
- (36) Leather goods and luggage shops.
- (37) Liquor stores (for consumption off the premises).
- (38) Loan and finance company offices.
- (39) Lodge rooms or clubhouses for fraternal organizations.
- (40) Meat shops and cold storage lockers (excluding slaughtering).
- (41) Medical clinics.
- (42) Medical, dental and optical laboratories.
- (43) Mortuaries or funeral homes.
- (44) Motels or motor hotels.
- (45) Motion picture theatre.
- (46) Municipal or other government administration buildings, police or fire stations, community center buildings, museums or art galleries, and post office stations.
- (47) Music studios or musical instrument stores.
- (48) Newsstands.
- (49) Paint or wallpaper stores and interior decorating studios.
- (50) Pet supply store.
- (51) Pharmacies or drugstores; including gifts, stationery and similar items.
- (52) Photography studios.
- (53) Physical culture or health clubs and gymnasiums.
- (54) Pipe or tobacco shops.
- (55) Plumbing shops, television or radio repair shops; when operated as accessory uses to retail sales establishments.

(56) Public libraries.

(57) Restaurants, cafes, delicatessens or tearooms.

(58) Retail bakeries or pastry shops.

(59) Retail ice delivery stations (excluding manufacturing).

(60) Retail medical supply stores.

(61) Sewing machine sales and service stores.

(62) Shoe stores and shoe repair shops.

(63) Tailor shops.

(64) Variety stores.

(65) Veterinary clinic and hospital for small animals with associated indoor kennels where there are no animals allowed outside of a building at any time, where the entire business is conducted wholly within an enclosed sound proofed, heated and air conditioned building such that no noise or odors are perceptible beyond the property line.

(66) Video recording and equipment sales and repair stores.

(67) Watch or clock repair, locksmith or pawn shops.

(68) Water conditioning sales and services.

(c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the B-2 central business district:

(1) Accessory uses customarily incident to the uses permitted in subsections (a) and (b) of this section.

(2) Living quarters of persons employed on the premises.

(3) Solar energy collectors and systems.

(4) Storage garages where the lot is occupied by a multiple-family dwelling, hospital or an institutional dwelling.

(d) *Conditional uses.* All conditional use permits for the B-2 district may only be issued if the proposed use meets the specific requirements of this section and also meets the

general regulations as outlined in article VI and meets the eligibility for conditional use permits as specified in article II, division 2. The following uses may be allowed in the B-2 central business district by conditional use permit:

- (1) Automobile garages and repair shops, with no outside storage or sales of vehicles, equipment or accessories.
- (2) Automobile laundry or car wash.
- (3) Automobile service stations, for sale of gasoline, oil and accessories.
- (4) Boardinghouses and lodgings; convalescent, nursing and rest home.
- (5) Drive-in retail or service stores.
- (6) Garden supply stores.
- (7) Hospitals (excluding nonhuman).
- (8) Multiple-family dwellings, apartment buildings or townhouses.
- (9) Other business uses of the same general character as listed in subsection (b).
- (10) Parks and recreational areas owned or operated by governmental agencies.
- (11) Public, parochial or other private elementary, middle, junior high or senior high schools offering a curriculum equivalent to the public school system, and not operated for profit.
- (12) Repair and rental shops of domestic type equipment and items.
- (13) Residential facility or day care facility.
- (14) Self-storage warehouse on floors other than main level.
- (15) Sports arenas or stadiums, indoor skating rinks.
- (16) Tire, battery and automobile accessories shops.
- (17) Trade schools.
- (18) Upholstery and furniture repair shops.
- (19) Utility stations and structures.

(20) Water supply buildings, reservoirs, wells, elevated tanks, and other similar essential public utility structures, municipal or other government service buildings.

(e) *Height, yard and lot coverage regulations.* Height, yard and lot coverage regulations for the B-2 district are as follows:

(1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed 45 feet in height.

(2) *Front yard regulations.* No front yard shall be required.

(3) *Side yard regulations.* No side yard shall be required.

(4) *Rear yard regulations.* No rear yard shall be required.

(f) *Lot coverage regulations.* There are no lot coverage regulations.

(g) *General regulations.* Additional regulations in the B-2 central business district are set forth in article VI of this chapter.

(Code 1976, § 11.13; Ord. No. 443, § 3, 11-6-2000; Ord. No. 463, § 1, 7-2-2001; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 613 2nd series, § 1, 8-25-2009; Ord. No. 703 2nd series, § 1, 12-8-2015)

Cross reference(s)—Businesses, ch. 22.

SECTION 20: **AMENDMENT** “Section 86-104 B-3 General Business District” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-104 B-3 General Business District

(a) *Intent; scope.* This section applies to the B-3 general business district. This B-3 district provides a location for uses that are appropriate to thoroughfare locations, are largely dependent upon thoroughfare traffic, and are not suitable within other business districts.

(b) *Permitted uses.* The following uses shall be permitted in the B-3 business district:

(1) Ambulance, taxi, bus, and rail stations or terminals.

(2) , gift or florist shop.

(3) Apparel shops.

(4) Appliance sales and service stores.

(5) Art, office, school, camera and photography supply stores.

(6) Audio recording sales or rental.

- (7) Auto parts and accessories.
- (8) Automobile and truck sales or used car lots.
- (9) Automobile garages and repair shops, with no outside storage of vehicles or equipment.
- (10) Automobile laundries and car washes.
- (11) Automobile parking lots and garages.
- (12) Automobile service stations, for sale of gasoline, oil and accessories.
- (13) Banks and savings institutions.
- (14) Barbershops or beauty shops.
- (15) Bars, taverns, cocktail lounges, nightclubs, dancehalls and theatres.
- (16) Bicycle or motorcycle sales or repair shops.
- (17) Billiard or pool halls.
- (18) Book or stationery stores.
- (19) Bowling alleys.
- (20) Business, commercial or dance schools.
- (21) Business or professional offices.
- (22) Businesses requiring a registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Businesses, must be located at least:
 - a. 500 feet, when measured in a straight line from the center of the primary building of a school, as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, to the property line of the property in which the registered establishment is located. The primary building of each school is established in a map that will be published by the City.
- (23) Cabinet stores.
- (24) Candy, ice cream, soft drinks, or confectionery stores.
- (25) Carpenter, plumbing and heating, paint and wallpaper, and janitorial service shops.

- (26) Carpet and flooring stores.
- (27) Churches.
- (28) Day care facility serving any number of individuals.
- (29) Department stores.
- (30) Drive-in restaurants and other establishments that provide goods and services to patrons in automobiles.
- (31) Drive-in retail or service stores.
- (32) Drive-in theatres.
- (33) Drive-up bank and other offices.
- (34) Electric motors service shops.
- (35) Fallout shelter.
- (36) Furniture stores.
- (37) Garden and lawn supply stores.
- (38) Gas stations.
- (39) Glass sales and service stores.
- (40) Grocery stores or supermarkets.
- (41) Hardware, hobby, sporting goods or toy stores.
- (42) Health clubs.
- (43) Ice sales.
- (44) Jewelry stores and leather goods or luggage.
- (45) Laundromats and dry cleaning or laundry pickup stores.
- (46) Leather goods stores.
- (47) Liquor stores.
- (48) Loan and finance company offices.
- (49) Lodge rooms or clubhouses for fraternal organizations.

- (50) Marine or boat sales and repair shops.
- (51) Meat shops and cold storage lockers, excluding slaughtering.
- (52) Medical clinics.
- (53) Medical, dental and optical laboratories.
- (54) Miniature golf courses, archery and golf driving ranges; swimming pools serving more than one-family, skating rinks, tennis clubs, but excluding auto, motorcycle or go-cart race tracks.
- (55) Monument sales centers.
- (56) Mortuaries or funeral homes.
- (57) Motels or hotels.
- (58) Motion picture theatre.
- (59) Municipal or other government administration buildings, police or fire stations, community center buildings, museums or art galleries, and post office stations.
- (60) Music studios or musical instrument stores.
- (61) Newspaper printing.
- (62) Outdoor nurseries and greenhouses.
- (63) Paint or wallpaper stores.
- (64) Pet shops.
- (65) Pet supply store.
- (66) Pharmacies or drugstores.
- (67) Photography studios.
- (68) Pipe or tobacco shops.
- (69) Post office stations.
- (70) Printing.
- (71) Public libraries.
- (72) Radio or television broadcasting stations.

- (73) Repair and rental of domestic type equipment and items.
 - (74) Restaurants, cafes, delicatessens or tea rooms.
 - (75) Retail bakeries or pastry shops.
 - (76) Retail ice delivery stations.
 - (77) Retail medical supply stores.
 - (78) Sales and service centers for farm implements.
 - (79) Sales and service centers of travel and camping trailers, and motor homes which do not require a special permit to be transported on a public highway.
 - (80) Self-storage warehouse with inside access to individual units.
 - (81) Sewing machine sales and service.
 - (82) Shoe stores and repair.
 - (83) Tailor shops.
 - (84) Television or radio repair shops.
 - (85) Tire, battery and automobile accessories shops.
 - (86) Upholstery and furniture repair shops.
 - (87) Veterinary clinic and hospital for small animals with associated indoor kennels where there are no animals allowed outside of a building at any time, where the entire business is conducted wholly within an enclosed sound proofed, heated and air conditioned building such that no noise or odors are perceptible beyond the property line.
 - (88) Video sales or rental.
 - (89) Water conditioning sales and service.
 - (90) Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility structures.
 - (91) Wholesale business and office with no outside storage.
- (c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the B-3 business district:

- (1) Accessory uses generally associated with the uses permitted in subsections (a) and (b) of this section.
 - (2) Off-street parking and loading as regulated by article VI of this chapter.
 - (3) Signs as regulated by article VI of this chapter.
 - (4) Solar energy collectors and systems.
 - (5) Storage garages where the lot is occupied by an institutional building.
- (d) *Conditional uses.* All conditional use permits for the B-3 district may only be issued if the proposed use meets the specific requirements of this section and also meets the general regulations as outlined in article VI and meets the eligibility for conditional use permits as specified in article II, division 2. The following use may be permitted in the B-3 business district by conditional use permit:
- (1) Amusement parks.
 - (2) Armories, convention or exhibition halls.
 - (3) Billboards.
 - (4) Brewpubs.
 - (5) College, university, post high school education or training institution, or seminary; public or private; with the nearest building line to property line distance of 150 feet to any single family dwelling property.
 - (6) Convalescent, nursing and rest homes.
 - (7) Farm feed and seed, or lawn and gardening supply store.
 - (8) Golf courses, including clubhouses.
 - (9) Heliport.
 - (10) Hospitals and medical centers.
 - (11) Kennels.
 - (12) Lumberyards.
 - (13) Meat and butcher shops and cold storage lockers, with limited slaughtering.
 - (14) Multiple-family dwellings, apartment buildings or townhouses.

- (15) Municipal or other governmental service buildings.
 - (16) Other business uses of the same general character as listed in subsection (b).
 - (17) Parks and recreational areas owned or operated by governmental agencies.
 - (18) Public, parochial or other private elementary, middle, junior high or senior high schools offering a curriculum equivalent to the public school system, and not operated for profit.
 - (19) Residential facilities serving six or fewer individuals.
 - (20) Self-storage warehouse with outside access to individual units.
 - (21) Sports arenas or stadiums, indoor skating rinks and physical culture or health clubs and gymnasiums.
 - (22) Trophy and award assembly.
 - (23) Utility stations and structures.
- (e) *Height and yard regulations.* Height and yard regulations for the B-3 district are as follows:
- (1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed 45 feet in height.
 - (2) *Front yard regulations.*
 - a. There shall be a front yard having a depth of not less than 25 feet on a lot or plot that abuts a minor street or a marginal access service street.
 - b. There shall be a front yard having a depth of 35 feet on a thoroughfare as shown on the adopted city thoroughfares plan, except that an 80-foot setback shall be required when the council determines that a service road is necessary.
 - c. There shall be a front yard on each street side of a corner lot. No accessory buildings shall project beyond the front yard line on either street.
 - d. No front yard shall be required in the downtown district.
 - (3) *Side yard regulations.*
 - a. There shall be a side yard on each side of a building, having a width of not less than ten feet.
 - b. No building shall be located within 20 feet of any side lot line abutting a lot in any of the classes of residence districts.
 - c. No side yard shall be required in the downtown district.
 - (4) *Rear yard regulations.*
 - a. There shall be a rear yard having a depth of not less than 25 percent of the lot depth or a maximum required rear yard of 25 feet.
 - b. No building shall be located within 20 feet of any rear lot line abutting

- a lot in any of the classes of residence districts.
- c. No rear yard shall be required in the downtown district.
- (f) *Lot coverage regulations.* Not more than 50 percent of a lot shall be occupied by buildings in the B-3 district. No lot coverage restrictions apply in the downtown district.
- (g) *General regulations.* Additional regulations in the B-3 general business district are set forth in article VI of this chapter.

(Code 1976, § 11.14; Ord. No. 410 2nd series, § 2, 2-16-1999; Ord. No. 443, § 3, 11-6-2000; Ord. No. 463, § 1, 7-2-2001; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 613 2nd series, § 1, 8-25-2009; Ord. No. 655 2nd series, § 1, 5-22-2012; Ord. No. 719 2nd series, § 1, 5-9-2017; Ord. No. 753 2nd series, § 1, 7-28-2020)

Cross reference(s)—Businesses, ch. 22.

SECTION 21: **AMENDMENT** “Section 86-105 B-4 Shopping Center Business District” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-105 B-4 Shopping Center Business District

- (a) *Intent; scope.* This section applies to the B-4 shopping center business district. This B-4 district is intended to provide for existing and/or proposed shopping centers.
- (b) *Permitted uses.* The following uses shall be permitted in the B-4 business district:
- (1) Animal pet shops.
 - (2) Antique, gift or florist shop.
 - (3) Apparel shops.
 - (4) Appliance stores.
 - (5) Art, office, school, or camera and photography supply stores.
 - (6) Audio recording sales and rental.
 - (7) Auto parts and accessories.
 - (8) Automobile and truck parking lots.
 - (9) Banks and savings institutions.

- (10) Barbershops or beauty shops.
- (11) Bars, cocktail lounges, nightclubs and theatres.
- (12) Bicycle sales shops.
- (13) Bookstores.
- (14) Bowling alleys.
- (15) Bus stations or taxistands.
- (16) Business, commercial and dance schools.
- (17) Business or professional offices.
- (18) Businesses requiring a registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Businesses, must be located at least:
 - a. 500 feet, when measured in a straight line from the center of the primary building of a school, as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, to the property line of the property in which the registered establishment is located. The primary building of each school is established in a map that will be published by the City.
- (19) Butcher shops, excluding slaughtering.
- (20) Cabinet stores.
- (21) Candy, ice cream, soft drinks or confectionery stores.
- (22) Carpet and flooring stores.
- (23) Clock repair.
- (24) Communications broadcasting station.
- (25) Department store.
- (26) Drive-up bank.
- (27) Dry cleaning stores or laundry pickup stores.
- (28) Fallout shelter.

- (29) Finance company offices.
- (30) Funeral homes.
- (31) Furniture stores.
- (32) Garden and lawn supply stores.
- (33) Gas stations.
- (34) Glass sales.
- (35) Governmental buildings.
- (36) Grocery stores.
- (37) Hardware, hobby, sporting goods or toy stores.
- (38) Jewelry stores.
- (39) Leather goods and luggage shops.
- (40) Libraries.
- (41) Liquor stores (for consumption off the premises).
- (42) Loan and finance.
- (43) Lodge rooms or clubhouses for fraternal organizations.
- (44) Medical clinics.
- (45) Motels.
- (46) Motion picture theatre.
- (47) Music studios or musical instrument stores.
- (48) Newsstands.
- (49) Office and photo supply (retail).
- (50) Paint, wallpaper or interior decorating stores.

(51) Pet supply store.

(52) Pipe or tobacco shops.

(53) Pharmacies or drugstores.

(54) Photography studios.

(55) Physical culture or health clubs and gymnasiums.

(56) Plumbing and heating sales.

(57) Pool halls and video arcades.

(58) Post office stations.

(59) Printing.

(60) Restaurants, cafes, delicatessens or tea rooms.

(61) Retail bakeries or pastry shops.

(62) Retail medical supply stores.

(63) Sewing machine sales and service.

(64) Shoe stores.

(65) Supermarkets.

(66) Tailor shops.

(67) Veterinary clinic and hospital for small animals with associated indoor kennels where there are no animals allowed outside of a building at any time, where the entire business is conducted wholly within an enclosed sound proofed, heated and air conditioned building such that no noise or odors are perceptible beyond the property line.

(68) Video recording sales and rental.

(69) Water conditioning sales.

(c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the B-4 business district:

(1) Accessory uses generally associated with the uses permitted in subsections (a)

and (b) of this section.

(2) Off-street parking and loading as regulated by article VI of this chapter.

(3) Signs as regulated by article VI of this chapter.

(4) Solar energy collectors and systems.

(5) Storage garages where the lot is occupied by an institutional building.

(d) *Conditional uses.* All conditional use permits for the B-4 district may only be issued if the proposed use meets the specific requirements of this section and also meets the general regulations as outlined in article VI and meets the eligibility for conditional use permits as specified in article II, division 2. The following uses may be permitted in a B-4 district by conditional use permits:

(1) Automobile car washes.

(2) Automobile service stations for sale of gasoline, oil and accessories.

(3) Brewpubs.

(4) Cabinet sales.

(5) Day care facility serving any number of individuals.

(6) Drive-in restaurants and other establishments that provide goods and service to patrons in automobiles.

(7) Drive-in retail stores.

(8) Garden and lawn supply stores.

(9) Lodge rooms or clubhouses for fraternal organizations.

(10) Medical, dental and optical lab.

(11) Multiple-family dwelling, apartments, townhouses.

(12) Municipal or other government administration building, police or fire stations and museums.

(13) Municipal or other governmental service buildings.

(14) Parks and recreational areas.

- (15) Plumbing, television or radio repair shops when operated as accessory uses to retail shops.
 - (16) Public libraries.
 - (17) Public, parochial or other private elementary, middle, junior high or senior high schools offering a curriculum equivalent to the public school system, and not operated for profit.
 - (18) Public utility structures.
 - (19) Repair and rental shops of domestic type equipment and items.
 - (20) Sports arenas.
 - (21) Trade schools.
 - (22) Utility stations and structures.
- (e) *Height and yard regulations.* Height and yard regulations in the B-4 district are as follows:
- (1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed 45 feet in height.
 - (2) *Front yard regulations.*
 - a. There shall be a front yard having a depth of 50 feet on a thoroughfare as shown on the adopted city thoroughfares plan, except that an 80-foot setback shall be required when the council determines that a service road is necessary.
 - b. There shall be a front yard on each street side of a corner lot. No accessory buildings shall project beyond the front yard line on either street.
 - (3) *Side yard regulations.*
 - a. There shall be a side yard on each side of a lot, having a width of not less than 30 feet.
 - b. No building shall be located within 20 feet of any side lot line abutting a lot in any of the classes of residence districts.
 - (4) *Rear yard regulations.*
 - a. There shall be a rear yard having a depth of not less than 25 percent of the lot depth or a maximum required rear yard of 25 feet.
 - b. No building shall be located within 20 feet of any rear lot line abutting a lot in any of the classes of residence districts.
- (f) *Lot coverage regulations.* Not more than 30 percent of the lot may be occupied by buildings in the B-4 district.
- (g) *General regulations.* Additional regulations in the B-4 shopping center business district are set forth in article VI of this chapter.

(Code 1976, § 11.15; Ord. No. 463, § 1, 7-2-2001; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 613 2nd series, § 1, 8-25-2009; Ord. No. 655 2nd series, § 1, 5-22-2012)

Cross reference(s)—Businesses, ch. 22.

SECTION 22: **EFFECTIVE DATE** This Ordinance shall be in full force and effect following its passage and publication in accordance with state law.

SECTION 23: **INTERIM ORDINANCE TERMINATION** Upon the Effective Date of this Ordinance, Ordinance 23-015 Interim Cannabis Prohibition shall automatically terminate.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

_____.

Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall