



CITY OF MARSHALL
Legislative & Ordinance Committee
A g e n d a
Tuesday, March 26, 2024 at 12:45 PM
344 W. Main St., City Hall

APPROVAL OF AGENDA

APPROVAL OF MINUTES

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

NEW BUSINESS

- [2.](#) An Ordinance Establishing Licensing and Registration Requirements for Intoxicating Cannabinoid Products
- [3.](#) Ordinance Amendment to Section 86-162 Yard Modification

OTHER BUSINESS ITEMS

ADJOURN

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



CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Chair
Meeting Date:	Tuesday, March 26, 2024
Category:	APPROVAL OF MINUTES
Type:	ACTION
Subject:	Consider Approval of the Minutes
Background Information:	Enclosed are the minutes from the previous meeting.
Fiscal Impact:	
Alternative/ Variations:	Staff encourages Members to provide any suggested corrections to the minutes in writing to City Clerk, Steven Anderson, prior to the meeting.
Recommendations:	That the minutes from the previous meeting be approved as filed with each member and that the reading of the same be waived.

CITY OF MARSHALL
LEGISLATIVE AND ORDINANCE COMMITTEE
MINUTES
Tuesday, March 12, 2024

MEMBERS PRESENT: James Lozinski, See Moua-Leske and Steve Meister
MEMBERS ABSENT: None
STAFF PRESENT: Pamela Whitmore, City Attorney (via Zoom); Jason Anderson, Director of Public Works/ City Engineer; Ilya Gutman, Plans Examiner; Preston Stensrud, Parks and Rec Supervisor; and Steven Anderson, City Clerk.
OTHERS PRESENT: None.

At 4:03 Chair Lozinski called the meeting to order.

Consider Approval of the Minutes

No changes or amendments were requested of the minutes.

Motion made by Moua-Leske, seconded by Lozinski to approve the minutes as presented. All voted in favor.

Amendments to Ch. 22 Article IV Mobile Food Units and Carts

Clerk Anderson provided background information on the suggested amendments. Ilya Gutman and Libby Kantner from Kennedy and Graven assisted Anderson with revisions and suggestions. Under the current ordinance, any mobile food vendor operating within city limits were not required to have a license or register with the city if they did not operate for more than 21 days in a calendar year. Tracking and validation of operating days for mobile food vendors was difficult. So, staff are recommending that all food vendors register and the number of days for a temporary license be reduced from 21 days to 7 days before a full city license is needed. Last year just based on observation in the area at least 20-25 food trucks were in Marshall but only 2 vendors received annual licenses, Frankies Hot Dogs and Chik-Fil-A. Moua-Leske asked how enforcement and detection of non-licensed food trucks would happen. Administrator Hanson stated it would be difficult, but staff and citizen observation would be critical until the permit was more well known. Special exemptions would be made for special events or community festivals to still encourage food trucks that would only be in Marshall for that specific event. Lozinski asked about temporary licenses. Moua-Leske asked for clarification on ice cream trucks and Lozinski also inquired about the ice cream truck changes. Clerk Anderson explained under the current ordinance food trucks were only allowed in commercial and industrial zones, food trucks must be stationary and the use of music or ringing of bells to call attention to the food unit was prohibited. These restrictions in essence did not allow ice cream trucks to operate as intended in city neighborhoods. Director Anderson questioned the need to allow mobile food vendors in city parks if the city was also removing the use of public right of ways. Stensrud mentioned that there are non-city events such as baseball games or private events that have requested a food truck to be on site. Stensrud also brought up that local businesses had approached him about mobile food vendors taking business away from brick-and-mortar restaurant that contribute to the tax base of the city. Lozinski asked about the staff recommendation that food trucks not be allowed within the public right-of-way where parking is permitted and how that would affect the city band since there would not be enough room for a food truck to park inside the park. Director Anderson and Attorney Whitmore concluded that under Section 22-94 (a)(7) "or on city property with prior written approval of the city" would cover a right of way in the street if permission was granted.

Motion made by Moua-Leske, seconded by Meister to approve the amendments to Chapter 22 Article IV Mobile Food Units and Carts as written.

Discussion on Chapter 2-VII Administrative Citations

Gutman explained the Administration Citations ordinance was written to apply to a majority ordinance provisions with few exceptions. The procedure for applying the ordinance was explicit within the ordinance and had also been summarized in a brochure and internal handbook compiled by the City Clerk. The zoning code would be the most common violation applicable to the ordinance. The new Ordinance calls for potential applicable fines to be accumulated daily, as each day of violation is considered another violation. The fine amount has not been set yet, but staff plan to go to the Ways and

Means committee soon to review it. Gutman suggested the proposed amount would be \$100. Internal discussion on fine accumulation has led to the opinion that the city should not be adding this amount daily, but, instead, every time a new staff action is required, such as a new letter due to violation not being abated. The Ordinance was mute on situations where a violation was abated but fines were not paid. Staff would like the leeway to waive penalties, since the goal was compliance, not revenue, and insisting on paying penalties after a violation was quickly fixed may be seen as excessive. However, if staff need to keep issuing citations for the same violation the daily fee would apply. Lozinski provided an example of a violation that occurred in Fairmont, and they too have a daily fine for a violation. Once the violation was corrected Fairmont waived the fee. Members did express concern with piling fines on top of fines and the violator not having a means to pay the fines. Whitmore added the purpose of the ordinance was for the city to escalate issues so violations were taken care of and at the city's discretion could waive or reduce penalties as needed. There was also a process in place to dispute fees or violations through an administrative hearing if the violator so chooses. Lozinski asked how the administrative citation ordinance would tie into the rental ordinance. There would be some areas that the administrative citation would cover under the rental ordinance, but the rental ordinance was for registration and that portion should be treated separately. Meister commented that he was in favor of consistency for how citations would be handled but having some flexibility was also a good thing as well. Consensus from the group was to allow staff some flexibility with waiving fees when violations were corrected in a timely manner and to escalate daily fees for repeat offenders or when violators are non-responsive to corrective actions.

No motion was needed as staff were looking for discussion and support for interpretation of certain elements of the ordinance.

Ordinance Amending Section 86-97 One Family Residence District

Last year the city adopted a new comprehensive plan that redefined several zoning districts. As part of these changes and the new rental ordinance staff recommended changes to Section 86-97 R-1 One Family Residence District. Under section (a) Lozinski questioned the definition of low density and how that interacts with duplexes. Gutman stated the comprehensive plan defines the different types of districts and that under R-1 low density residential duplexes would be allowed through a conditional use permit (CUP). Members questioned churches being in R-1 and that the inclusion of "other places of worship" was appreciated to be more inclusive as not all religions used/have churches. Director Anderson said that churches had traditionally been in R-1 so there didn't seem to be a need to remove them from R-1. Staff could look at moving churches if the committee felt it necessary. Whitmore pointed out Belle Plaine Minnesota was sued by the Satanic Temple because Belle Plain allowed an area for free speech and then later rescinded the area. "Other places of worship" could be construed in ways unintended by the city or its citizens. Members then discussed other words or phrases that could be used that would be inclusive but not as general as a place of worship. Whitmore found that state law used the term "Religious Institution" or under Minnesota Statute Chapter 315 "Religious Societies". Lozinski brought up boarders and/or roomers under section (c) and how exchange students would fit into the definition. Staff would address definitions at a later date. Moua-Leske questioned what the city had in place for squatters or hoarders and what could be done. Whitmore said there are provisions to remove squatters or hoarders, but they can be costly and time-consuming, but it could be done.

Motion by Moua-Leske, seconded by Meister to approve revisions amending Section 86-97 One family residence district with changes to sections (b) and (c) involving churches and boarders/roomers.

Ordinance Repealing Section 86-51 Bed and Breakfast

Under the rental ordinance Bed and Breakfast facilities are defined and covered as a short-term rental. As such, staff didn't feel the need to have a separate section related to Bed and Breakfasts and the required interim use permit.

Motion made by Meister, seconded by Moua-Leske to repeal Section 86-51.

Ordinance Amending Section 86-107 General Industrial District

The city has several areas outside of the agricultural district that are used for agricultural activity. Such uses are not listed as permitted use in any zoning district other than agricultural. However, it is reasonable that owners want to use open areas for some business activity prior to eventually developing it; such business activity may include growing and harvesting row crops on vacant land. Considering such activity staff thought it made sense to add growing row crops as a conditional use to I-2 general industrial district, since there are large open areas within I-2 district. Lozinski asked what the cost of obtaining a CUP would be. Director Anderson sought clarification from Gutman if the change was supposed to be a CUP in B-2 and an allowed use within I-2. Gutman responded that he believed it should have been an interim use permit in B-2 not a CUP so it wouldn't be tied to the land and that it was to be allowed use in I-2 by a CUP. Members discussed various areas of town where cultivation was occurring in industrial districts. Mesiter questioned in the business/industrial zones would the crops be eventually taxed as agricultural.

Motion made by Meister, seconded by Moua-Leske to approve revisions amending Section 86-107.

Ordinance Amending Section 66-55 Procedures

Gutman communicated that minor changes were being sought in the off chance that the Planning Commission would not be able to have a quorum the public hearing would move to the City Council to be held. As the city council meets more often this would help alleviate any time delays if the Planning Commission was unable to meet. Members agreed that the process shouldn't be held up. Whitmore added that some language should be added that notice would meet statutory requirements.

Motion made by Moua-Leske, seconded by Meister to approve revisions amending Section 86-55 with changes as recommended by Attorney Whitmore.

At 5:08 PM a motion was made by Meister, Seconded by Moua-Leske to adjourn the meeting. All voted in favor.

Respectfully Submitted,

Steven Anderson
City Clerk

Presenter:	Joe Sathe/Pamela Whitmore
Meeting Date:	Tuesday, March 26, 2024
Category:	NEW BUSINESS
Type:	INFO/ACTION
Subject:	An Ordinance Establishing Licensing and Registration Requirements for Intoxicating Cannabinoid Products
Background Information:	<p>Because the city recognizes that persons under the age of 21 years may purchase or otherwise obtain, possess and use Intoxicating Hemp Products which contain the psychoactive cannabis compound THC; and the sale of these products to persons under 21 years of age are violations of state and federal laws; and because the use of Intoxicating Hemp Product products by those underage subsequently places a financial burden on all levels of government, this chapter is intended to regulate the sale of Intoxicating Hemp Products for the purpose of enforcing and furthering existing laws.</p> <p><u>What this regulates:</u> Intoxicating Hemp Edibles. This definition mirrors the current definition of “edible cannabinoid product” under Minn. Stat. 151.72 but excludes products with CBD and trace amounts of THC (both beverages and gummies).</p> <p><u>What this does not regulate:</u> Hemp edibles containing only CBD. External application nonintoxicating products.</p> <p><u>How does it regulate Intoxicating Hemp Edible Products?</u> Establishes a license that is required if a business wants to sell products for off-sale consumption (not including liquor stores). Establishes a registration for businesses that have a liquor license and want to sell for on-site consumption.</p>
Fiscal Impact:	
Alternative/ Variations:	
Recommendations:	To discuss licensing/registration and zoning of intoxicating cannabinoid products and provide staff direction on where the committee would like to see regulations.

ORDINANCE NO. _____

CITY OF MARSHALL
STATE OF MINNESOTA

AN ORDINANCE ESTABLISHING LICENSING AND 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:

SECTION 1. City Code of Ordinances, Chapter 22, Businesses, is hereby amended by adding Article 22-VIII in its entirety as follows:

Section 22-220 Definitions

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

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. 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 does not include any product intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product or through injection or application to a mucus membrane or nonintact skin.

Intoxicating Hemp Product Shop means a business that sells Intoxicating Hemp Products and derives more than 10% of its gross revenue from OR dedicates more than 10% of its retail space to the sale of Intoxicating Hemp Product.

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

Liquor Store means a business licensed pursuant to Minnesota Statutes, section 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.

Commented [SJL1]: These products are already prohibited in statute, but including them could eliminate confusion.

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On-Site Intoxicating Hemp Product Retailer 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 22-221 Purpose

Because the city recognizes that persons under the age of 21 years may purchase or otherwise obtain, possess and use Intoxicating Hemp Products which contain the psychoactive cannabis compound THC; and the sale of these products to persons under 21 years of age are violations of state and federal laws; and because the use of Intoxicating Hemp Product products by those underage subsequently places a financial burden on all levels of government, this chapter is intended to regulate the sale of Intoxicating Hemp Products for the purpose of enforcing and furthering existing laws.

Section 22-222 License or Registration Required

Before making retail sales of Intoxicating Hemp Products to customers, an On-Site Intoxicating Hemp Product Retailer must register with the city.

Before making retail sales of Intoxicating Hemp Products to customers, an Intoxicating Hemp Products Shop must obtain a license from the city.

No city-issued license or registration is required for a business selling medical cannabis as part of the Minnesota’s Medical Cannabis Program described in Minnesota Statutes, section 152.22 to 152.37 or for a Liquor Store.

Section 22-223 Registration Information

On-Site Intoxicating Hemp Product Retailers must submit the confirmation that the business is registered with the Minnesota Department of Health and must complete and submit the city’s registration form.

On-Site Intoxicating Hemp Product Retailers must submit a registration fee, which shall be established pursuant to City Council resolution or City Council Fee Schedule. 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.

Registrants are subject to the performance standards and penalties in §§ 22-241 - 22-248. Violation of any of the applicable provisions of this chapter may result in the City revoking a registration.

Section 22-224 Zoning Requirements

No license or 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.

Commented [SJL2]: Does the City wish to require registrations or licenses for all businesses selling Intoxicating Hemp Products for off-site consumption?

Does the City wish to limit sales for off-site consumption to Intoxicating Hemp Products Shops and municipal liquor? Or also allow other stores to sell them in small amounts without a license or registration?

Commented [SJL3]: The current draft does not establish a buffer for the On-Site Intoxicating Hemp Product Retailer.

Section 22-225 Limit on licenses; registrations

(a) **Intoxicating Hemp Product Shop.** No more than two (2) licenses shall be issued to businesses meeting or exceeding the definition of Intoxicating Hemp Products Shop at any one time. In the event that more than two applications are submitted at the same time, then a point system shall be used to determine which businesses are issued the two (2) licenses, with one point for each of the criteria below:

1. It is an existing business that has been established at the location for more than 6 months or it is a business applying for a renewal application.
2. The establishment location is a legal conforming use.
3. The applicant/owner is a Marshall resident
4. The applicant is a member of a historically disadvantaged community
5. A completed application was submitted that complies with all information required and fees paid.

The two applications with the highest number of points shall be issued a license. In case of a tie, the licenses shall be determined through a drawing by the Mayor.

(b) **On-Site Intoxication Hemp Product Retailers.** No more than ____ registrations will be issued to On-Site Intoxicating Hemp Products Retailers.

Section 22-226 Applications

An application for a license shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, a copy of the educational materials the applicant uses to educate employees as part of its instructional program, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk shall forward the application to the council for action at its next regularly scheduled council meeting. If the city clerk shall determine that an application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.

Section 22-227 Investigation

For all new or renewal applications a Criminal History License Background Check must be conducted pursuant to City Code, section 2-60. If more than one background investigation is required, the applicant shall pay a background investigation fee for each background investigation conducted. For applicants who have an existing license and wants to add an additional location at any time other than annual renewal, a background investigation will be required.

For applicants who are applying for a license for more than one location, only one background investigation and background investigation fee shall be required.

Section 22-228 Approval Or Denial

The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application, or the applicant, it deems necessary. If the council shall approve the license, the city clerk shall issue the license to

Commented [SJL4]: This limit is only included if there is a desire to limit the number of registrations. It is not clear whether the City will be able to do so once the state starts issuing licenses.

Commented [SJL5]: Sections 22-226 - 22-240 apply only to Intoxicating Hemp Edible Product Shops.

the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.

Section 22-229 Basis For Denial

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

- (a) The applicant is under the age of 21 years.
- (b) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to Intoxicating Hemp Products.
- (c) The applicant has had a license to sell Intoxicating Hemp Products revoked within the preceding 12 months of the date of application.
- (d) The applicant fails to provide any information required on the application, or provides false or misleading information.
- (e) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding such a license.

Section 22-230 Movable Place Of Business

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

Section 22-231 Eligible Locations

Licenses shall only be issued to municipal liquor stores or businesses meeting the definition of an Intoxicating Hemp Product Shop.

Section 22-232 Fees

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

Section 22-233 Term

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

Section 22-234 Renewals

The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 45 days before the expiration of the current license. The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant, and shall not entitle the holder to an automatic renewal of the license.

Commented [SJL6]: For reference, the renewal timeline may not every come into play because when the state take's over licensing, the city licenses will terminate. The timeline for state licensing is still the winter/spring of 2025.

Section 22-235 Transfers

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

Section 22-236 Revocation

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

Section 22-237 Instructional Program

No person shall be issued a license or renewal license to sell licensed products unless an applicant or licensee has a program for instructing all employees regarding the legal requirements pertaining to the sale of Intoxicating Hemp Products at the retail establishment for which the license was issued. The instructional program shall include, but is not limited to, reviewing the law on the sale of Intoxicating Hemp Products, requiring employees to request identification from every customer who is under 27 years of age, providing information that the sale of Intoxicating Hemp Products to anyone under 21 is illegal, explaining what kind of proof of age is legally acceptable, and that a sale to a person below the legal sales age can subject the applicant or licensee and its employees to criminal and/or civil liability.

Section 22-238 Display

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

Section 22-239 Signage.

Notice of the legal sales age and age verification requirements must be posted at each location where Intoxicating Hemp Products are offered for sale. The required signage, which shall be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Section 22-240 Age verification device and digital security video

All license holders shall be required to install or possess age verification devices and digital security video at the licensed location. The Police Department shall confirm that the devices have been installed prior to approval of the license.

Section 22-241 Responsibility

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

Commented [SJL7]: Sections (22-241-248 apply to both registrants and licensees)

Section 22-242 Compliance Checks And Inspections

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging individuals over the age of 17 years old but less than 21 years old, to enter the licensed 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 licensee, 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 22-243 Prohibited Sales

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 requirements 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. Secured 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 any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

Commented [SJL8]: This specific list can be included to provide additional direction, but these listed provisions are applicable regardless of whether they are explicitly listed.

Commented [SJL9]: This is not required by statute but is commonly adopted by cities.

Section 22-244 On-Site Intoxicating Hemp Retailer Manufacturing

- (a) An On-Site Intoxicating Hemp Product Retailer meeting the requirements of Minnesota Statutes, section 151.72, subd. 3 (f) may sell Intoxicating Hemp Products intended to be consumed as a beverage for on-site consumption.
- (b) On-Site Intoxicating Hemp Product Retailers 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.
- (c) Intoxicating Hemp Products manufactured as described in 22-244 (b) may not be sold at retail for off-sale consumption by an On-Site Intoxicating Hemp Product Retailer.

Commented [SJL10]: This is adapted from the language in the moratorium.

Commented [SJL11]: Since this currently only includes edibles and beverages at this point it likely can be excluded.

Section 22-245 Exceptions And Defenses

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 22-246 Offenses Involving Individuals Under the Age of 21

- (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 his 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 his true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Commented [PW12]: This will help with school district question

Section 22-247 Violations

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

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Section 22-248 Penalties For Violation Of Article

- (a) *Licensees, registrants and employees.* Any licensee or registrant, and any employee of a licensee or 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 license premises within a 24-month period; and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for a period to be determined by council resolution. In addition to these administrative fines, the license may be suspended 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 2. City Code of Ordinances, Chapter 86, Zoning, Article 86-50 Home Occupations and Businesses, is hereby amended by a new item to Section 86-50 (f) as follows:

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 license or registration is required by City Code, § 22-222.

SECTION 3. City Code of Ordinances, Chapter 86, Zoning, Article 86-102 B-1 Limited Business District is hereby amended by adding a new permitted use as follows:

Businesses requiring a license or registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Retailers, must be located at least:

- (1) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a school as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, and
- (2) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a building which houses an early childhood education program established pursuant to Minnesota Statutes, section 124D.13; and
- (3) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a child day care facility, excluding in-home day child day care providers; and
- (4) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a park or recreational facility.

SECTION 4. City Code of Ordinances, Chapter 86, Zoning, Article 86-103 B-2 Central Business District is hereby amended by adding a new permitted use as follows:

Businesses requiring a license or registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Retailers, must be located at least:

- (1) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a school as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, and
- (2) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a building which houses an early childhood education program established pursuant to Minnesota Statutes, section 124D.13; and
- (3) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a child day care facility, excluding in-home day child day care providers; and
- (4) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a park or recreational facility.

SECTION 5. City Code of Ordinances, Chapter 86, Zoning, Article 86-104 B-3 General Business District is hereby amended by adding a new permitted use as follows:

Businesses requiring a license or registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Retailers, must be located at least:

- (1) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a school as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, and

Commented [SJL13]: Ordinance Sections 3-6 amend the zoning code's business districts to allow hemp businesses.

There are businesses in the agricultural or residential districts that allow on-site liquor (e.g., gold courses) that are not addressed.

Additionally, there are conditional uses in the I district (brewpubs, etc) that would otherwise qualify for an On-Site Intoxicating Hemp Product Retailer that are not specifically included in this amendment.

Commented [SJL14]: This definition can be refined to exclude specific parks or could be amended to include criteria that would exclude certain parks that do not include features (e.g., playgrounds, maintained sports and athletic fields, etc).

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- (2) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a building which houses an early childhood education program established pursuant to Minnesota Statutes, section 124D.13; and
- (3) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a child day care facility, excluding in-home day child day care providers; and
- (4) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a park or recreational facility.

SECTION 6. City Code of Ordinances, Chapter 86, Zoning, Article 86-105 B-4 Shopping Center Business District is hereby amended by adding a new permitted use as follows:

Businesses requiring a license or registration under City Code, § 22-222. Businesses, except On-Site Intoxicating Hemp Product Retailers, must be located at least:

- (1) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a school as defined in Minnesota Statutes, section 120A.22, subd. 4, excluding a home school, and
- (2) 1,000 feet, when measured in a straight line from the building in which the establishment is located to the property line of a building which houses an early childhood education program established pursuant to Minnesota Statutes, section 124D.13; and
- (3) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a child day care facility, excluding in-home day child day care providers; and
- (4) 500 feet when measured in a straight line from the building in which the establishment is located to the property line of a park or recreational facility.

SECTION 7. SUMMARY PUBLICATION. Pursuant to Minn. Stat. § 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The ordinance requires a license or registration for the sale of all intoxicating hemp products and establishes certain performance standards surrounding the sale of such products. Only 2 intoxicating hemp product retailers (stores with more than 10% of retail floor space or 10% of its gross revenue from such products), will be allowed in the City.

SECTION 8. INTERIM ORDINANCE TERMINATION. Upon the Effective Date of this Ordinance, _____ Interim Ordinance shall automatically terminate.

SECTION 9. EFFECTIVE DATE. This ordinance shall take effect following its passage and publication in accordance with state law.

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**CITY OF MARSHALL
AGENDA ITEM REPORT
L&O 3/26/24**

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, March 26, 2024
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Ordinance amendment to Section 86-162 Yard Modification
Background Information:	<p>The last variance application staff had to process was a request for a reduced front yard for a garage addition. The house was located at the corner of a street and cul-de-sac, which effectively cut out a back corner out of the lot. This is not an uncommon situation for similarly located lots throughout the city, so staff recommended denial, since the lot was not sufficiently unique, which is one of the conditions for “practical difficulty” test for granting a variance.</p> <p>However, during the Planning Commission meeting, one of the members questioned the applicability of the front yard requirement to similar situations. During the following internal discussion, staff reviewed other circles and came to the conclusion that reducing front yard for curved portions to 15 feet instead of otherwise required 25 feet is not going to be detrimental to the neighborhoods. In fact, most likely, for all practical purposes, this reduction will only be pertinent to some corner lots at the cul-de-sac entries, since other, pie-shaped lots will not have long enough frontage to utilize reduced yard.</p> <p>An aerial photo to illustrate this common condition is attached.</p>
Fiscal Impact:	None.
Alternative/ Variations:	None recommended.
Recommendations:	Staff recommend the recommendation to the City Council approving the revisions amending Section 86-162 Yard Modification.

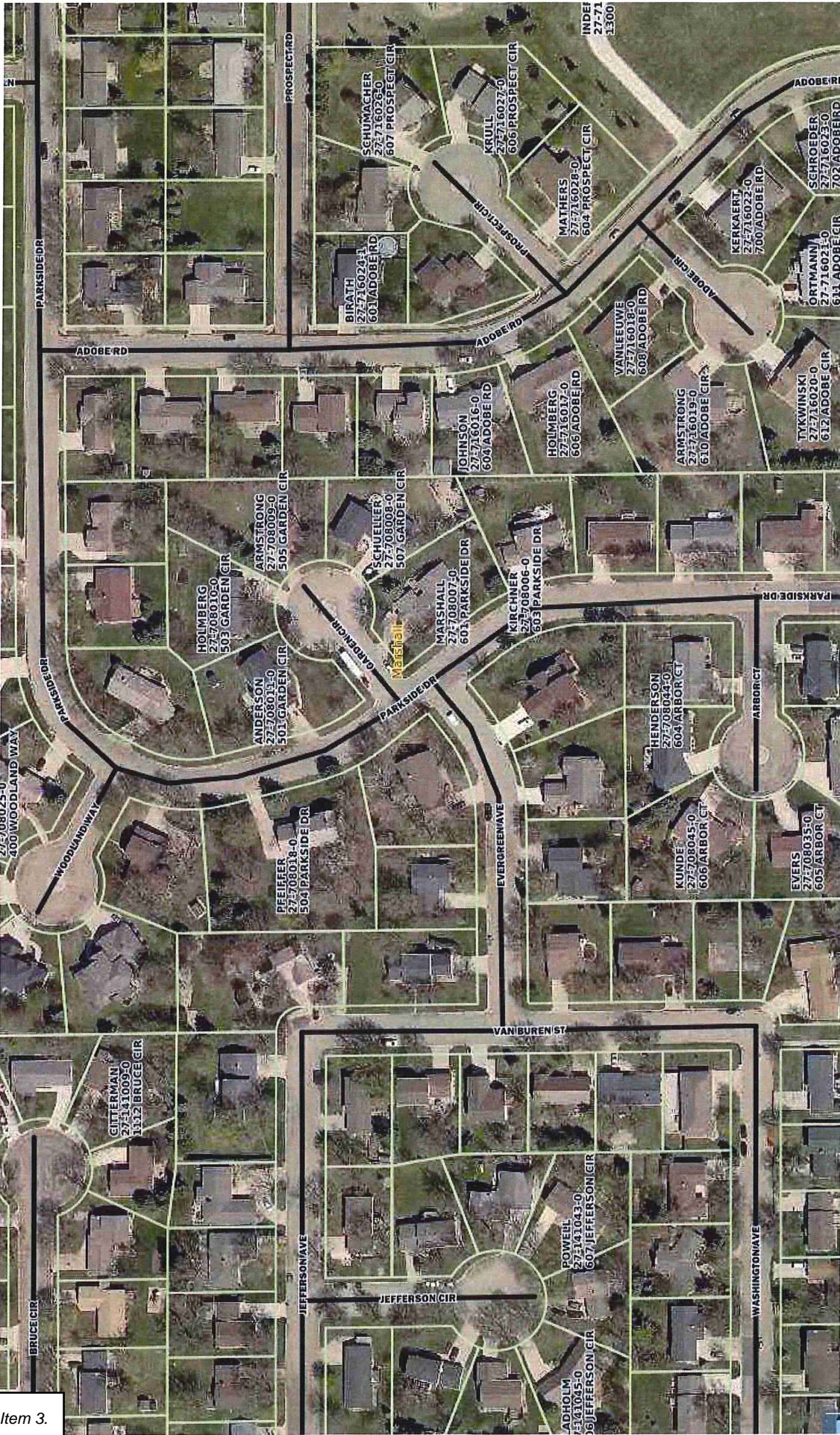
Section 86-162 Yard Modifications

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

- (a) Cornices, awnings, marquees, eaves, pergolas, and balconies may extend into the required front yard a distance not exceeding four feet, and the required side yard distance not exceeding two feet.
- (b) Fire escapes may extend into the required front yard a distance not exceeding five feet. Basement egress window wells may extend into required front and side yards a distance not to exceed three feet.
- (c) A landing or deck may extend into the required front yard to a distance not exceeding eight feet, if they have the floor no higher than the main floor of the building, except a landing installed at the main entrance of existing residential structure and projecting no more than four feet from the structure may extend 15 feet into required front yard. A four-foot square landing, not including stair, or a five-foot square landing serving a ramp, shall always be permitted at the main entrance of existing residential structures if replacing an existing landing. An open railing no higher than three feet may be placed around such structures.
- (d) A bay window having a bow, or angled sides, with windows on all faces projecting no more than two feet from the building wall may extend 20 feet into required front yard.
- (e) The architectural features listed in paragraphs (1) through (4) may also extend into the required rear yard to the same extent as permitted for extension into the required front yard. If an easement coincides with, or is wider than, a required yard, architectural features listed in paragraphs (1) and (2) may extend into such easement not more than two feet with written approval of the city engineer.
- (f) Retaining walls, fences, and other similar structures located in any yard shall not exceed seven feet in height in any of the classes of residential and business districts, unless required by a condition for a variance adjustment or conditional use permit granted for unrelated issue. Barbed wire or electrical fencing materials are prohibited in these locations.
- (g) Retaining walls, fences or any other structures, both permanent and temporary, located in the front yard of a corner lot at the intersection of streets, except pilon signs, shall not exceed three feet in height as measured above the curb within a 25-foot visibility triangle of the property corner at such intersection and within a ten-foot visibility triangle adjacent to alleys and driveways.
- (h) On double frontage lots, the required front yard shall be provided on both streets. On corner lots, the required front yard shall be provided on all streets. **On curved portions of cul-de-sac lot frontages, the required front yard may be reduced to 15 feet.**
- (i) In determining the depth of rear yard for any building where the rear yard opens into an alley, one-half the width of the alley, but not exceeding ten feet, may be considered as a portion of the rear yard.
- (j) Any structure, including fences, built in the rear or side yard that opens into an alley, must not be placed less than three feet from the property line defining this alley. Any garage with overhead door facing, and having a direct vehicle access from, an alley must not be placed less than 18 feet from the alley.
- (k) No front, side or rear yard shall be required in the downtown district, except single family houses and duplexes.
- (l) On a corner lot fronting two intersecting streets, either yard opposite the street may be designated the rear yard; in case of a triangular corner lot, the yard not adjacent to streets shall be designated the rear yard but shall meet the setback requirements of a side yard. On a corner lot fronting three streets, the yard opposite the front yard located between two other front yards shall be designated the rear yard but shall meet the setback requirements of a side yard.
- (m) On a flag lot, the lot side, which faces the street that this lot has an access from, shall be designated the front yard. For such lots, the lot depth calculations shall not include the length of the narrow access portion of the lot.
- (n) On a lot that faces, and is exclusively accessed from, a public roadway easement or recorded access easement providing access to at least one other property beyond said lot, the lot side facing the easement shall be designated the front yard.

(o) On an interior triangular lot, no rear yard shall be required.

(Code 1976, § 11.19(4)(B); Ord. No. 374 2nd series, § 1, 8-4-1997; Ord. No. 699 2nd series, § 1, 9-9-2015; Ord. No. 725 2nd series, § 1, 1-23-2018; Ord. No. 750 2nd series, § 1, 6-23-2020; Ord. No. 21-002, § 1, 4-27-2021)



Item 3.