



CITY OF MARSHALL
Legislative and Ordinance Committee
A g e n d a
Tuesday, April 12, 2022 at 12:15 PM
City Hall, 344 West Main Street

APPROVAL OF AGENDA

APPROVAL OF MINUTES

- [1.](#) Consider Approval of the Minutes for the March 1, 2022 Meeting.

NEW BUSINESS

- [2.](#) Consider Amendments to Article 2-VI.
- [3.](#) Consider an Amendment to Chapter 22, Article 22-IV Mobile Food Units and Food Carts
4. Consider Amendments to Section 86-162 Yard Modification and 86-248 Outside Storage
5. Consider Amendments to Section 70-21 Definitions, Section 86-50 Home occupations and businesses, and Section 86-51 Bed and breakfast.
6. Consider Amendments to Section 86-96 Agricultural district and Section 86-230 Required number of spaces

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
COUNCIL LEGISLATIVE & ORDINANCE COMMITTEE MEETING
March 1, 2022 at 12:00 PM
On Main, City Hall
344 West Main Street

MEMBERS PRESENT: John DeCramer, Jim Lozinski, and Steven Meister (12:37 P.M.)

MEMBERS ABSENT: None

STAFF PRESENT: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney, Jason Anderson, Director of Public Works/ City Engineer; Jessie Dehn Assistant City Engineer; and Kyle Box, City Clerk, Robert Byrnes, Mayor (Joined at 12:17 P.M., Excused at 12:37 P.M.)

At 12:00 PM Chairman DeCramer called the meeting to order.

Chairman DeCramer asked approval of the minutes from the December 7, 2021 meeting. Motion by Lozinski, Seconded by DeCramer to approve the minutes. All voted in favor.

Chairman DeCramer asked for discussion on an Ordinance Amending Chapter 62 of the City Code establishing Sec. 62.11 - Access Management (Driveway Ordinance).

Jason Anderson Director of Public Works/ City Engineer provided an overview of the proposed ordinance. City staff is proposing to establish a set of driveway regulations that more explicitly describes the requirements and limitations for driveways in various land uses. The proposed ordinance would apply to new properties or applications for modifying existing driveways. Applications to replace driveways, as they are currently, would be exempt from the requirements in the ordinance.

The proposed ordinance describes the requirements for materials and geometrics (size, slope, etc.) for residential, commercial, and industrial-zoned properties. The ordinance also identifies an exemption process, should a property owner wish to install a driveway that does not conform to the requirements in the proposed ordinance.

Staff believes that the proposed ordinance would provide clear direction to property owners regarding driveway installations. Limiting driveway width and spacing between driveways can improve safety by helping to reduce vehicle/pedestrian interaction area and by reducing and limiting street access/conflict points, help ensure good gutter drainage, reduce unnecessary storm water runoff, help ensure compliance with vegetative cover ordinance requirements, and help maintain character of a neighborhood. Establishment of driveway regulations are typical for many other communities in Minnesota. Staff can review requirements of other communities as needed.

This item was presented to the Public Improvement/Transportation Committee at their meeting on January 25, 2022, with a recommendation from the Committee for approval of the driveway ordinance to the City Council.

All Commercial and Industrial properties will be granted one (1) curb cut access per parcel for driveway. Staff will review that item before it is brought to the full council.

DeCramer asked a clarifying question on the appeal process. There was a consensus from the committee to have the Planning Commission review the appeals first and then to the City Council with a recommendation.

Member Lozinski asked a clarifying question on why the City requires driveways to be concrete. Director Anderson commented that concrete driveways are only required in the right of way.

Member Lozinski requested the concrete and asphalt be added to the options in the introduction ordinance brought before the council.

Motion by Lozinski, seconded by DeCramer to recommend that the Council introduce the Ordinance Amending Chapter 62 of the City Code establishing Sec. 62.11 - Access Management (Driveway Ordinance) at their March 8, 2022 meeting and call for public hearing to be held March 22, 2022. All voted in favor. 2-0

Chairman DeCramer asked for a review of the 2020 Census Redistricting Data for the purpose of redistricting City Precincts and Wards. City Clerk Kyle Box provided the background information.

Redistricting is the process of redrawing the boundaries of election districts to ensure that the people of each district are equally represented.

Redistricting is done in the United States after the completion of Congressional reapportionment, which decides how many seats each state has in the 435 member House of Representatives. Reapportionment happens following the Decennial Census.

In Minnesota, the state legislature has constitutional responsibility for redistricting Minnesota's Congressional districts, as well as Minnesota Senate and House districts, and Metropolitan Council districts. Local governments are responsible for redistricting other election districts:

- County boards are responsible for redistricting county commissioner districts
- City councils are responsible for redistricting city wards
- School boards are responsible for redistricting board member districts

In addition, during the redistricting time period, cities and townships will establish (or reestablish) their precinct boundaries as part of the redistricting process, as will counties that have unorganized territory.

After review of our 2020 Census redistricting data, we believe that the accuracy of the Census Tract 3605, which overlaps with our Ward 1 voting district, is wrong. This tract encompasses SMSU and a large amount of rental housing that was unoccupied due to the timing of COVID-19.

Under Section 2.10 of our City Charter, The Council shall, by ordinance, provide for the establishment of wards, define, or change their boundaries, and increase or eliminate the

number of wards in the City. No change, increase, or elimination shall be made within three (3) months prior to any election held in the City governmental offices. Within six (6) months following the official certification of the decennial census of the United States and the filing of the census list with the City, the Council shall, by ordinance, re-determine ward boundaries so as to make said wards as nearly equal in population as practical.

It is staff's opinion that with the current data provided by the Census Bureau, the City of Marshall will not need to redistrict its precincts or wards, even with the undercounted population count located in Ward 1.

However, the results received from the 2020 will affect voting districts for Lyon County if the City of Marshall chooses to reestablish its currently voting districts.

Staff have had meetings with Lyon County staff to discuss options to minimize the impact of redistricting by redrawing precinct and ward lines within Marshall.

Three options will be presented to the Committee:

Option 1: Reestablish the City of Marshall Precincts and Wards (No Changes)

Option 2: Move 89 people from Ward 3 to Ward 1. This change will allow Lyon County to keep its current voting districts with minimal impact the City of Marshall voting districts.

Option 3: Move 191 people from Ward 3 to Ward 1. This change will reestablish neighborhoods and make the Ward lines between Ward 3 and Ward 1 easier to identify. This change will allow Lyon County to keep its current voting districts with a slightly larger impact, compared to Option 2, to the City of Marshall voting districts.

There was continued discussion by the Committee and staff. It was agreed upon by the Legislative and Ordinance Committee that our 2020 Census count in Ward 1, which is located in Census tract 3605 is undercounted and that the population continues to be accurately represented.

Motion by Lozinski, Seconded by Meister to recommend that the City Council Reestablish the City of Marshall Precincts and Wards and Polling Locations. All voted in favor. 3-0

At 1:07 PM motion Lozinski by, Seconded by Meister to adjourn. All voted in favor.

Respectfully Submitted,

Kyle Box
City Clerk

CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Tuesday, April 12, 2022
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Consider Amendments to Article 2-VI.
Background Information:	<p>The City Council has asked the Legislative and Ordinance Committee to review the current ordinance pertaining to membership to the City's boards, commissions, bureaus, and authorities. Current membership requirements included living within the Marshall city limits with the exception of the MERIT Center Commission and Diversity, Equity, and Inclusion Commission.</p> <p>In your packet you will find the ordinance for each board, commission, bureau, and authority.</p>
Fiscal Impact:	None
Alternative/ Variations:	None
Recommendations:	<p>That the Legislative and Ordinance Committee recommend amending the membership requirement to various boards, commissions, bureaus, and authorities.</p> <p>That the Legislative and Ordinance Committee repeal Article 2-VI, Division 2-VI-5 Hospital Board.</p>

ARTICLE 2-VI BOARDS, COMMISSIONS AND AUTHORITIES

DIVISION 2-VI-1 GENERALLY

DIVISION 2-VI-2 AIRPORT COMMISSION

DIVISION 2-VI-3 CABLE TELEVISION COMMISSION **DIVISION 2-VI-4**

ECONOMIC DEVELOPMENT AUTHORITY **DIVISION 2-VI-5 HOSPITAL** **BOARD**

DIVISION 2-VI-6 HUMAN RIGHTS COMMISSION **DIVISION**

2-VI-7 LIBRARY BOARD

DIVISION 2-VI-8 PLANNING COMMISSION **DIVISION 2-VI-9**

POLICE ADVISORY BOARD **DIVISION 2-VI-10 PUBLIC**

HOUSING COMMISSION

DIVISION 2-VI-11 SENIOR CITIZENS CENTER COMMISSION

DIVISION 2-VI-12 MINNESOTA EMERGENCY RESPONSE AND INDUSTRIAL TRAINING (MERIT) CENTER BOARD

Charter reference(s)—Boards and commissions, § 2.02; municipal utilities commission, § 13.01.

DIVISION 2-VI-1 GENERALLY

Section 2-141 Application Of Article Provisions **Section 2-**

142 Purpose

Section 2-143 Appointments And Terms For Members **Section 2-**

144 Election Of Officers

Section 2-145 Qualifications And Compensation **Section 2-**

146 Meetings

Section 2-147 Powers And Duties **Section 2-**

148 Limitations Of Power **Section 2-149**

Funds

Section 2-141 Application Of Article Provisions

The provisions of this article shall apply to all boards, commissions, bureaus and authorities within the city except the city municipal utilities commission.

(Code 1976, § 2.20(10); Ord. No. 718 2nd Series, 4-11-2017)

Section 2-142 Purpose

- (a) Boards, commissions, bureaus and authorities shall serve as a vehicle for the participation of community citizens and as advisory bodies to the council.
- (b) *Appointment procedure.* All applicants for appointment shall complete an application form and have a chance to be interviewed by the mayor and council. The appointments shall not be made until there has been a publication in the paper opening up the appointment to applicants, and the applicants have been interviewed.
- (c) *Term of appointment.* No board or commission member shall be appointed to more than two full consecutive terms. Any person appointed to fill an unexpired term shall be deemed to be serving a complete term within the meaning of this section if there remains at the time of appointment more than 50 percent of the unexpired portion of such term remaining. New appointees shall assume office on June 1 and May 31 being the date of expiration of the term; provided, however, that all appoint boards and commissions shall hold office until their successors are

appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be for the unexpired term.

- (d) No appointed board or commission member shall be employed full-time, 3/4 time or part-time by the city (as defined in the personnel policy manual), except those who are members by virtue of their office. There cannot be a conflict of interest with the board, commission, bureau, or authority.

All members to any board that are appointed after January 1, 2000, shall be at the date of appointment and at all times during the term of appointment a resident of the city. Any appointments made pursuant to the Joint Powers Agreement for the Lyon County Library, and the Joint Powers Agreement for the Marshall Community Service Department, shall be appointed and controlled by that agreement. The Joint Powers Agreements ~~supercedes~~supersede this section.

- (e) *Remuneration.* All appointed board and commission members shall serve without remuneration but may be reimbursed for ~~out of pocket~~out-of-pocket expenses occurred in the performance of the duties when such expenses have been authorized by the council before they have been incurred.
- (f) *Removal.* If a commission or board member misses three meetings within a year without being excused prior to the meeting, such member shall be removed therefrom at the end of the appointive year. Any board or commission member may be removed by the council for misfeasance, malfeasance, nonfeasance, or without cause by a majority vote by the city council. The removed persons position may be filled like any other vacancy. The removal process shall be without a hearing, and it shall not be necessary that the council establish cause for removal.

(Code 1976, § 2.20(1)—(3), (6)—(8); Ord. No. 431, § 1, 3-6-2000; Ord. No. 716 2nd Series, § 1, 1-10-2017; Ord. No. 718 2nd Series, 4-11-2017)

Editor's note(s)—Ord. No. 718 2nd Series, adopted April 11, 2017, amended § 2-412 to read as set out herein. Previously § 2-412 was titled "Appointments and terms."

Section 2-143 Appointments And Terms For Members

- (a) Appointments to all boards, commissions, bureaus and authorities shall be by the mayor and shall be confirmed by the council with the exception of the housing and redevelopment authority.
- (b) No board, commission, bureau or authority member shall be appointed to more than two full consecutive terms on any board, commission, bureau and authority, with the exception of the housing and redevelopment authority which shall have no term limits. Any person appointed to fill an unexpired term shall be deemed to be serving a complete term within the meaning of this section if there remains at the time of appointment more than 50 percent of the unexpired portion of such term remaining. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be for the unexpired term.
- (c) No board, commission, bureau or authority member shall serve on more than one board, commissions [commission], bureaus [bureau] or authorities [authority] at one time, with the exception of the charter commission.
- (d) A member cannot be reappointed to the same board, commission, bureau or authority for at least one year after the completion of two full consecutive terms on a board, commission, bureau or authority.
- (e) New ~~full term~~full-term appointees shall assume office on June 1 with May 31 being the date of expiration of the term; provided however, that all appointees to boards, commissions, bureaus or authorities shall hold office until their successors are appointed and qualified. The exception would be the following: community services advisory board term runs from March 1 through the last day of February board term runs from January 1 through December 31.

- (f) All appointments shall be made for a term of three years with the following exceptions:
- (1) Economic development authority terms shall last six years.
 - (2) Public housing commission terms shall last five years.
- (g) Appointments shall be staggered so that the terms of a minority of members on each board, commission, bureau or authority shall expire each year on May 31, the last day of February or December 31 as applicable.
- (h) The city administrator shall assign city staff in an administrative capacity to lead and assist with board, commission, bureau or authority meetings as deemed appropriate.
- (i) Any board, commission, bureau or authority member shall serve at the pleasure of the city council and may be removed by a majority vote of the council.
- (j) If a board, commission, bureau or authority member misses three meetings within a year without being excused prior to the meeting, such member may be removed.
- (k) No appointed board, commission, bureau or authority member shall be employed full-time, 3/4 time or part-time by the city (as defined in the personnel policy manual), except those who are members by their office. An appointed member cannot have a conflict of interest with the board, commission, bureau or authority, to which he or she is appointed.

(Ord. No. 718 2nd Series, 4-11-2017)

Editor's note(s)—Ord. No. 718 2nd Series, adopted April 11, 2017, amended § 2-143 to read as set out herein. Former § 2-143 pertained "Officers", and was derived from Code 1976, § 2.30(9)).

Section 2-144 Election Of Officers

- (a) All boards, commissions, bureaus and authorities shall have a chair, vice-chair and secretary.
- (b) The chair, vice-chair and secretary and any other necessary officers shall be elected from and by the board, commission, bureau or authority members at the first regular meeting of each term of service.

(Ord. No. 718 2nd Series, 4-11-2017)

Editor's note(s)—Ord. No. 718 2nd Series, adopted April 11, 2017, amended § 2-144 to read as set out herein. Former § 2-144 pertained "Meetings", and was derived from Code 1976, § 2.20(5).

Section 2-145 Qualifications And Compensation

- (a) All members to any board, commission, bureau, or authority must be a resident of the city with the exception of the MERIT Center Commission and Diversity, Equity, and Inclusion commission.
- (b) All appointed board, commission, bureau or authority members shall serve without compensation with the exception of the Economic Development Authority; ~~but~~ All board, commission, bureau or authority members may be reimbursed for out-of-pocket expenses incurred in the performance of their duties.

(Ord. No. 718 2nd series, 4-11-2017; Ord. No. 21-001, 1-26-2021)

Section 2-146 Meetings

Item 1.

Each board, commission, bureau or authority shall hold its regular meeting at a time established

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approved by the board, commission, bureau or authority. Special meetings may be called by

the chair as needed, following appropriate notice.

- (b) All boards, commissions, bureaus or authorities generally shall meet once a month, with the exception of the housing and redevelopment authority and policy advisory board which meet only on an as needed basis.
- (c) All boards, commissions, bureaus or authorities shall keep a public record of its findings, determinations, recommendations, minutes and plans. A copy of said minutes shall be provided to the council as soon as reasonable after the date of the meeting.

(Ord. No. 718 2nd Series, 4-11-2017)

Section 2-147 Powers And Duties

- (a) All boards, commissions, bureaus or authorities shall have the power and obligation to execute only those duties established by city charter or ordinance which regulates each specific board, commission bureau or authority; and shall include the following:
 - (1) Adopt and amend procedures and bylaws which specify and define the duties and responsibilities of all members, officers and committee.
 - (2) Adopt and amend procedures and bylaws not inconsistent with the provisions of this division, applicable administrative code or as provided by charter, ordinance, or statute; and as may be necessary for the proper execution and conduct of their business.
 - (3) Develop and recommend to the council or review and/or disapprove of proposed changes pertaining to their area of expertise and namesake.
 - (4) Request information from other departments in the city which relates to or is necessary for the completion of duties of any board, commission, bureau or authority.
 - (5) Solicit the cooperation and expertise of agencies, organizations and individuals to gain knowledge, promote public interest and understanding, encourage safety, and enhance the overall quality of life in our region.
- (b) Each board, commission, bureau and authority shall execute the powers and duties granted to it by bylaws, resolution, ordinance, charter or statute, and those lawfully assigned to it by the council.

(Ord. No. 718 2nd Series, 4-11-2017)

Section 2-148 Limitations Of Power

- (a) Each board, commission, bureau and authority shall follow the budget process for city departments as provided by the city and as implemented by the mayor and council.
- (b) All official actions of each board, commission, bureau and authority must be consistent with the adopted comprehensive plan of the city and any official controls implementing the comprehensive plan.

(Ord. No. 718 2nd Series, 4-11-2017)

Section 2-149 Funds

- (a) The council shall, in its annual budget, make provisions for an appropriate sum of money as deemed proper and necessary to defray the expenses incurred as a result of conducting business, official and work on behalf of any board, commission, bureau and authority.

DIVISION 2-VI-2 AIRPORT COMMISSION

Section 2-161 Established

Section 2-162 Composition

Section 2-163 Terms And Qualifications

Section 2-164 Powers

Section 2-161 Established

An airport commission is hereby established.

(Code 1976, § 2.25; Ord. No. 371 2nd series, § 1, 4-7-1997)

Section 2-162 Composition

The airport commission shall be composed of seven members. (Code

1976, § 2.25; Ord. No. 371 2nd series, § 1, 4-7-1997) **Section 2-163**

Terms And Qualifications

All appointments thereto shall be made for a term of three years from and after the June 1 of the year of their respective appointments and shall be staggered so that the terms of two members shall expire each year on May 31. No commissioner shall, during the term of his membership, hold any other office or position in the city government. The commission shall elect its chairman, vice-chairman and secretary from among the appointed members.

(Code 1976, § 2.25(2))

Section 2-164 Powers

The airport commission shall have power and shall be required to:

- (a) Develop and submit to the council for adoption a master plan for the physical development of the municipal airport and from time to time offer amendments, extensions and additions to such master plan which shall show the commission's recommendations for development of the municipal airport.
- (b) Make and recommend to the council an airport zoning plan for the protection of the airport and the airport users.
- (c) Submit annually to the council, not less than 90 days prior to the beginning of the budget year, a recommended budget including a list of capital improvements, which in the opinion of the airport commission are necessary or desirable to be constructed during the forthcoming year.
- (d) Promote public interest and understanding of the master plan and of the airport zoning and physical development of the municipal airport.
- (e) Meet no less than once each month and keep a public record of its resolutions, findings and determinations.
- (f) Cooperate and consult with the state department of aeronautics and with the Federal Aviation Administration in the development, maintenance and operation of the municipal airport.

airport and the use of airport facilities and to recommend rental fees and service rates for the use of the airport facilities.

(Code 1976, § 2.25(2))

DIVISION 2-VI-3 CABLE TELEVISION COMMISSION

Section 2-181 Established

Section 2-182 Number Of Members; Terms; Qualifications

Section 2-183 Purpose

Section 2-184 Meetings

Section 2-185 Powers And Duties

Editor's note(s)—Ord. No. 616 2nd series, § 1, adopted November 10, 2009, amended division 3 in its entirety to read as herein set out. Formerly, division 3, §§ 2-181—2-184 pertained to similar subject matter, and derived from the Code of 1976, §§ 2.28(1), (2), (4)—(6).

Section 2-181 Established

A cable television commission is hereby established. (Ord.

No. 616 2nd series, § 1, 11-10-2009)

Section 2-182 Number Of Members; Terms; Qualifications

The cable television commission shall be composed of five members. The term of any member shall be for three years. Members of the cable television commission shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the cable television commission. The cable television commission shall annually elect a chairman, vice- chairman and secretary from among the appointed members.

(Ord. No. 616 2nd series, § 1, 11-10-2009)

Section 2-183 Purpose

The purpose of the cable television commission is to monitor the performance of the cable television franchisee(s) in executing the provisions of the respective franchise agreement(s). The cable television commission shall also perform such duties as may be delegated by future resolutions of the city council. The cable television commission may conduct periodic and on-going studies to determine the community's public access television needs as funds are authorized through the annual city budget. The results of these studies and recommendations on the development of revised or new policies shall be reported to the city council for consideration. The cable television commission shall enlist the cooperation of agencies, organizations and individuals in securing and originating programming on the local access channel.

(Ord. No. 616 2nd series, § 1, 11-10-2009)

Section 2-184 Meetings

The cable television commission shall meet on a regular basis as they deem appropriate and necessary. Additional meetings may be called by the chairman or any two members of the cable television commission.

(Ord. No. 616 2nd series, § 1, 11-10-2009)

Section 2-185 Powers And Duties

The cable commission shall have power and shall be required to:

- (a) Develop and submit to the council an annual business plan for the ongoing management of the cable television commission and the city's public access television station, Studio One, and recording studio. The annual business plan will be submitted for approval to the city council not less than 90 days prior to the beginning of the upcoming budget year. The plan will include:
 - (1) An updated master plan for the physical development of the public access television production facilities, Studio One, and recording studio.
 - (2) An annual capital expenditure plan in support of the cable television commission's master plan.
 - (3) An annual operating budget for the upcoming fiscal year.
 - (4) A marketing plan for the upcoming year.
 - (5) Staffing recommendations for the Studio One and recording studio operations in support of the business plan.
 - (6) An annual review of the franchise fee agreements compliance and any recommended changes to the existing agreements.
- (b) The cable television commission shall be responsible for monitoring both the operating and capital budgets of the cable television commission and the city's public access television station(s).
- (c) The cable television commission shall be responsible for monitoring the requirements within the existing cable franchise agreements and recommending action to the city council on any items that are in violations of said terms or conditions.

(Ord. No. 616 2nd series, § 1, 11-10-2009)

DIVISION 2-VI-4 ECONOMIC DEVELOPMENT AUTHORITY

Section 2-201 Established

Section 2-202 Composition; Compensation

Section 2-203 Officers And Meetings

Section 2-204 Staff

Section 2-205 Functions

Section 2-206 Limitations Of Power

State law reference(s)—Economic development authorities, Minn. Stat. § 469.090 et seq.

Section 2-201 Established

An economic development authority to be known as the city economic development authority is hereby established.

(Code 1976, § 2.27)

State law reference(s)—Establishment of economic development authority authorized, Minn. Stat. § 469.091, subd. 1.

Section 2-202 Composition; Compensation

The economic development authority shall be composed of seven members. Authority members shall serve with compensation in the amount of \$1.00 per year.

(Code 1976, § 2.27(1)(A), (1)(E))

State law reference(s)—Economic development authority membership, compensation, etc., Minn. Stat. § 469.095.

Section 2-203 Officers And Meetings

- (a) The economic development authority shall elect a president, vice-president, treasurer, assistant treasurer and secretary annually. A member must not serve as president and vice-president at the same time. The other offices may be held by the same member. The offices of the secretary and assistant treasurer need not be held by a member.

State law reference(s)—Similar provisions, Minn. Stat. § 469.096, subd. 2.

- (b) The economic development authority shall adopt rules and procedures not inconsistent with the provisions of this division or as provided in Minn. Stat. § 469.096, and as may be necessary for the proper execution and conduct of the business.
- (c) The economic development authority shall meet at least once a month. Special meetings may be called by the chairperson as needed.

(Code 1976, § 2.27(2))

Section 2-204 Staff

- (a) The city administrator shall be designated as executive director of the economic development authority.

Item 1.

- (b) Subject to the approval of the city council and within limits set by the appropriations or other funds made

available, the economic development authority may employ such staff, technicians and experts as may be deemed proper, and may incur such other expenses as may be necessary and proper for the conduct of its affairs.

(Code 1976, § 2.27(3))

Section 2-205 Functions

- (a) Except as specifically limited by the provisions of this division, the economic development authority shall have the authority granted it pursuant to Minn. Stat. §§ 469.01—469.1081, or other law.
- (b) The economic development authority shall manage the Marshall Community Reinvestment Fund (the fund) which shall be used for purposes of economic development including, but not limited to, the acquisition of property, equity investments, working capital loans, equipment/tooling loans, inventory loans, and the like.
- (c) The economic development authority shall accept from the housing and redevelopment authority in and for the city such portions of the project area of Housing and Redevelopment Project No. 1 as deemed appropriate by the city council for purposes of assisting the fund and using authority powers to assist existing redevelopment project activities.
- (d) All administrative procedures including contract for services, purchases of supplies and financial transactions and duties shall be outlined in the bylaws of the economic development authority.
- (e) The authority may create and define the boundaries of economic development districts as authorized by Minn. Stat. §§ 469.090—469.1081.
- (f) The economic development authority may be a limited partner in a partnership whose purpose is consistent with the authority's purpose.
- (g) The economic development authority may issue general obligation bonds and revenue bonds when authorized by the city council and pledge as security for the bonds the full faith, credit and resources of the city or such revenues as may be generated by projects undertaken by the authority.
- (h) The economic development authority may cooperate with or act as agent for the federal or state government or a state public body, or an agency or instrumentality of a government or other public body to carry out the powers granted it by Minn. Stat. §§ 469.01—469.1081, or any other related federal, state or local law in the area of economic development district improvement.
- (i) The economic development authority may annually develop and present an economic development strategy to the city council for consideration and approval.
- (j) The economic development authority may serve in an advisory role to the city council for city policies and procedures for economic development and redevelopment activities of the city.
- (k) The economic development authority may study and analyze economic development and redevelopment needs in the city and ways to meet those needs.
- (l) The economic development authority may join an official, industrial, commercial or trade association, or other organization concerned with such purposes, hold receptions of officials who may contribute to advancing the city and its economic development, and carry out other appropriate public relations activities to promote the city and its economic development.
- (m) The economic development authority may carry out the law on economic development districts to develop and improve the lands in an economic development district to make it suitable and available for economic development and redevelopment uses and purposes. In general, with respect to an economic development district, the authority may use all of the powers given an economic development district by law.

- (n) The economic development authority shall have such powers and duties which may be lawfully assigned to it by the city council.

(Code 1976, § 2.27(4))

State law reference(s)—Powers of economic development authority generally, Minn. Stat. § 469.101 et seq.

Section 2-206 Limitations Of Power

- (a) Except when previously pledged by the economic development authority, the city council may, by resolution, require the authority to transfer any portion of the reserves generated by activities of the authority that the city council determines are not necessary for the successful operation of the authority, to the debt service funds of the city, to be used solely to reduce tax levies for bonded indebtedness of the city.
- (b) The sale of all bonds or obligations issued by the economic development authority shall be approved by the city council before issuance.
- (c) The economic development authority shall follow the budget process for city departments as provided by the city and as implemented by the city council and mayor.
- (d) All official actions of the economic development authority must be consistent with the adopted comprehensive plan of the city and any official controls implementing the comprehensive plan.
- (e) The economic development authority shall submit its administrative structure and management practices to the city council for approval.

(Code 1976, § 2.27(5))

State law reference(s)—Authority to so provide, Minn. Stat. § 469.092.

DIVISION 2 VI-5 HOSPITAL BOARD

Section 2-221 Established

Section 2-222 Composition; Appointments

Section 2-223 Powers

Section 2-224 Control And Management

Section 2-225 Hospital Fund

Section 2-226 Rules And Regulations Section

2-227 Annual Report

State law reference(s)—Municipal hospitals, Minn. Stat. § 447.05 et seq.

Section 2-221 Established

A hospital board is hereby established. (Code

1976, § 2.21)

Section 2-222 Composition; Appointments

~~The hospital board shall be comprised of seven members, each of whom shall be a resident of the city, and none of whom shall be an employee of the hospital. Members shall be appointed for terms of five years each. One member may be the mayor or a member of the council. It is permissible for the council to appoint up to one person at a time to serve on the board that is on the medical staff of the hospital. If such specific appointment is made, it shall not increase the seven person board.~~

~~(Code 1976, § 2.21)~~

Section 2-223 Powers

~~The hospital board shall have the power and authority to appoint and employ a secretary of such board, who shall qualify as stated in this section, and upon such qualification shall be the secretary of the board. Such secretary shall keep an accurate record in books kept by him for that purpose, of all the proceedings and business transactions of the board, and he is empowered and it is hereby made his duty, to collect all dues and charges becoming due from patients for hospitalization and care received in such hospital and charges for the use of the equipment and facilities of such hospital, and pay the same into the city treasury. He shall make a detailed statement of the same at the regular meeting of the board, which shall be held on the third Monday of each month. The board shall be required to furnish a corporate bond running to the city, in an amount to be fixed by the board, that he shall faithfully perform all the duties of his office as required of him by law. Such bond shall be approved by the board and filed with the city clerk/finance director. The compensation of the secretary shall be in such sum as may be determined by the board, but the compensation shall first be approved by the council. The board shall have the power to revoke such appointment and discharge such secretary at any time in its discretion, and thereupon to appoint another secretary.~~

~~(Code 1976, § 2.21(1))~~

Section 2-224 Control And Management

~~The hospital board shall have the full and exclusive control and management of the Weiner Memorial Medical Center d/b/a Avera Marshall Regional Medical Center, and all hospital grounds and appurtenances thereto, and all apparatus, equipment and material of every nature used in the operation of such hospital. Whenever the word "hospital" is used in this division, it shall include such hospital, and all other hospitals, or branches of hospitals, including nursing homes, or branches of nursing homes, operated by the city.~~

~~(a) The hospital board has the authority and legal capacity to do the following:~~

- ~~(1) Enter shared service and other cooperative ventures;~~
- ~~(2) Enter partnerships;~~
- ~~(3) Incorporate other corporations; and~~
- ~~(4) Own shares of stock in business corporations.~~

~~Entering into any of the business arrangements as set forth above, except for the investment in stocks through normal course of business by said hospital board, shall first require consent of the council thereto and that any such contracts or business agreements entered shall be subject to and conform with applicable state law.~~

~~(b) The hospital board has the authority and legal capacity to do the following:~~

- ~~(1) Join or sponsor membership in organizations intended to benefit the hospital or hospitals in general;~~
- ~~(2) Have members of its governing authority or its officers or administrators serve as directors, officers or employees of the ventures, associations or corporations;~~
- ~~(3) Offer, directly or indirectly, products and services of the hospital, organization, association, partnership or corporation to the general public; and~~
- ~~(4) Expend funds, including public funds in any form or devote the resources of the hospital or hospital district to recruit or retain physicians whose services are necessary or desirable for meeting the healthcare needs of the population, and for successful performance of the hospital or hospital district's public purpose of the promotion of health. Allowable uses of funds and resources include the retirement of medical education debt, payment of one time amounts in consideration services rendered or to be rendered, payment of recruitment expenses, payment of moving expenses and the provision of other financial assistance necessary for the recruitment and retention of physicians, provided that the expenditures in whatever form are reasonable under the facts and circumstances of the situation.~~

~~Prior council consent is not required for authority and capacity concerning activities set forth in Sec. 2-224(b).~~

~~(Code 1976, § 2-21(3); Ord. No. 551, § 1—3, 6-5-06)~~

Section 2-225 Hospital Fund

~~All monies received and collected from the operation of said hospital, except those funds collected from a business venture defined in section 2-224(a), shall be deposited and credited to a special fund to be known as the hospital fund. The board shall have the exclusive control of said hospital fund and it shall be their duty to see that all fees and charges becoming due to said hospital for its services are properly collected and credited to said fund; and said monies shall be paid out of said fund only upon properly approved bills presented to the board and duly audited and allowed by them, and shall be paid out of said hospital fund by a check signed by the secretary of the board and countersigned by the city clerk. The board shall out of said hospital fund purchase all supplies and material and employ a~~

~~suitable director of nursing and such other employees as shall be necessary for the proper management, operation and conduct of said hospital, including all improvements and additions; provided, however, that the board shall not make any contracts involving any expenditures of more than \$150,000.00 for any single item of purchase, addition or improvement without first obtaining the consent of the council thereto and that any such contracts shall be subject to and conform with the applicable state law.~~

~~{Code 1976, § 2.21(2); Ord. No. 432, § 1, 3-6-2000; Ord. No. 537 2nd series, § 1, 10-17-2005; Ord. No. 551, § 4, 6-5-06}~~

Section 2-226 Rules And Regulations

~~The hospital board shall adopt all necessary rules and regulations for their own guidance and for the proper management and operation of such hospital, for the admission of patients thereto, and shall formulate a schedule of charges to be made for all hospital services to be rendered by such hospital, all of which shall be certified to the council as soon as adopted.~~

~~{Code 1976, § 2.21(4)}~~

Section 2-227 Annual Report

~~The hospital board shall make, within five months of the end of the preceding fiscal year, an annual report to the council regarding the condition of their trust, showing the various sums of money received, and how the money has been expended and for what purposes, together with such other information which they may deem of general interest or which the council may request, and shall likewise, make monthly reports of their trust.~~

~~{Code 1976, § 2.21(5); Ord. No. 551, § 5, 6-5-06}~~

DIVISION 2-VI-6 DIVERSITY, EQUITY, AND INCLUSION COMMISSION

Section 2-246 Established; Composition; Appointments; Qualifications **Section 2-247 Duties**

Section 2-246 Established; Composition; Appointments; Qualifications

- (a) The diversity, equity, and inclusion commission is hereby established for the purpose of securing for all residents equitable opportunity in employment, housing, public accommodations, public services and education and full participation in the affairs of this community, and advising the council on long range programs to improve community relations. Appointments shall be made, effective June 1, for three-year staggered terms.
- (b) The following members will be appointed by the city council.
 - (1) One member of the Marshall City Council.
 - (2) Eight at-large members.
- (c) The city council shall authorize the diversity, equity, and inclusion commission to designate representatives from organizations to a standing position on the commission as written in its bylaws.
- (d) Members of the diversity, equity, and inclusion commission shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the commission.

(Code 1976, § 2.26(1); Ord. No. 21-001, 1-26-2021)

Section 2-247 Duties

In fulfillment of its purpose, the diversity, equity, and inclusion commission's duties and responsibilities shall be to:

- (a) Adopt bylaws and rules for the conduct of its affairs including the election, assumption of duties and definition of responsibilities of officers and committees.
- (b) Enlist the cooperation of agencies, organizations and individuals in the community in an active program directed to create equal opportunity and eliminate discrimination and inequities.
- (c) Formulate a program for the city to give increased effectiveness and direction to the work of all individuals and agencies addressing themselves to planning, policy making and educational programming in the area of, diversity, equity, and inclusion.
- (d) Guide the mayor, the council and other agencies of the government of diversity, equity, and inclusion issues. Act in an authoritative capacity with respect to planning or operation of any city department on issues of diversity, equity, and inclusion and recommend the adoption of such specific policies or actions as are needed to provide for full equitable opportunities in the community.
- (e) Provide for the commission's assumption of leadership in recognizing and resolving potential problem areas in the community.

(Code 1976, § 2.26(2); Ord. No. 21-001, 1-26-2021)

DIVISION 2-VI-7 LIBRARY BOARD

[Section 2-266 Established](#)

[Section 2-267 Composition; Appointments](#)

[Section 2-268 Compensation](#)

[Section 2-269 Duties](#)

[Section 2-270 Title To Property; Free Use](#)

[Section 2-271 Annual Report](#)

[Section 2-272 Membership](#) _

Editor's note(s)—Ord. No. 690, adopted September 9, 2014, replaced div. 7, §§ 2-266—2-271, with a new div. 7, to read as set out herein. Former div. 7 pertained to similar subject matter and was derived from Code 1976, § 2.22.

Section 2-266 Established

A library board is hereby established. (Ord.

No. 690, 9-9-2014)

Section 2-267 Composition; Appointments

- (a) The library board shall be composed of nine members.
- (b) Members shall be appointed for three-year staggered terms except that any person appointed to fill a vacancy created by a member's failure to complete his/her term shall be appointed for the remainder of such term. Upon the expiration of the term of office a member shall be considered to be serving until a successor is appointed.
- (c) So long as the library continues to be a member of a regional public library system and the county continues to participate in a regional library system, the composition of the library board shall be as follows:

One member shall be a county commissioner.

Two members shall be residents of the county residing outside of the city and shall be appointed by the board of county commissioners.

One member shall be a city councilmember.

Five members shall be residents of the city and shall be appointed by the mayor with city council approval.

- (d) If the library ceases to be a member of a regional library system or if the county ceases to participate in a regional library system; the composition of the library board shall be as follows:

One member shall be a city councilmember.

Six members shall be residents of the city and shall be appointed by the mayor with city council approval.

(Ord. No. 690, 9-9-2014)

Section 2-268 Compensation

Item 1.

Members shall serve without compensation.

(Ord. No. 690, 9-9-2014)

Section 2-269 Duties

The library board shall adopt bylaws and regulations for the government of the library and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditure of all money collected for or placed to the credit of the library fund, of interest earned on all money collected for or placed to the credit of the library fund, of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes. All money received for the library shall be paid into the city treasury, credited to the library fund, kept separate from other money of the city, and paid out only upon approval by the board. The library board may lease rooms for library use. The library board shall appoint a qualified library director and other staff as necessary, establish the compensation of employees, and remove any of them for cause. With the approval of the council, the library board may purchase grounds and erect a library building thereon.

(Ord. No. 690, 9-9-2014)

Section 2-270 Title To Property; Free Use

All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by the city for a public library shall vest in, and be held in the name of the city and any conveyance, grant, donation, devise, bequest, or gift made to, or in the name of the library or library board shall be deemed to have been made directly to the city to be used as provided in section 2-269. Every public library established under Minn. Stat. §§ 134.07 to 134.15 shall be forever free to the use of the inhabitants of the city or county subject to reasonable regulations the library board may adopt.

(Ord. No. 690, 9-9-2014)

Section 2-271 Annual Report

As soon as practicable following the end of the fiscal year the library board shall report to the governing body of the city all amounts received during the preceding year and the sources thereof, the amounts expended and for what purposes, the number of library materials on hand, the number purchased and loaned, and such other information as it deems advisable. No later than April 1 of each year the library board shall file this information with the department of education on forms supplied by the department.

(Ord. No. 690, 9-9-2014)

Section 2-272 Membership

Any decision on the library's membership in a regional library system shall be made by the city council. (Ord. No. 690, 9-9-2014)

DIVISION 2-VI-8 PLANNING COMMISSION

Section 2-286 Established

Section 2-287 Composition; Appointments; Election Of Officers

Section 2-288 Powers And Duties

Section 2-289 Veto Power Of Council

Section 2-290 Debt

Section 2-291 Compensation

Cross reference(s)—Subdivisions, ch. 66; zoning, ch. 86.

Section 2-286 Established

A planning commission is hereby established.

(Code 1976, § 2.24; Ord. No. 418 2nd series, § 1(2.24), 8-16-1999)

State law reference(s)—Planning commissions, Minn. Stat. § 462.354, subd. 1(1).

Section 2-287 Composition; Appointments; Election Of Officers

The planning commission shall be composed of seven members. Planning commission members shall be appointed for three-year staggered terms. None of such members shall hold any other office or position in the city government. The commission shall elect its chairperson and vice-chairperson from among the appointed members.

(Code 1976, § 2.24; Ord. No. 418 2nd series, § 1(2.24), 8-16-1999)

Section 2-288 Powers And Duties

(a) The planning commission shall have power and shall be required to:

- (1) Develop and submit to the council for adoption a master plan for the physical development of the city, and from time to time offer amendments, extensions and additions to such master plan which shall show the commission's recommendations for the development of city territory. Such plan may include, among other things:
 - a. The general location, character and extent of streets, bridges, parks, waterways, and other public ways, grounds and spaces;
 - b. The general location of public buildings and other public property;
 - c. The general location and extent of public utilities, whether publicly or privately owned;
 - d. Contemplated changes in the removal, relocation, widening, vacation or abandonment of existing or future public ways, grounds, spaces, buildings, property or utilities; and
 - e. Maps, plats, charts, and descriptive and explanatory matter detailing an overall plan for future development.

The adoption of such proposed plan or part, amendment or extension thereof shall be by resolution of such planning commission carried by the affirmative votes of not less than a majority of all members, but before the adoption of such plan, or any part or modification or extension thereof, the commission shall hold at least one public hearing on the proposed plan. Upon the adoption an attested copy of such plan or amendment or extension thereof

certified to the council.

- (2) Draft for the council an official map and zoning plans of the city and recommend or disapprove proposed changes in such map or plans.
- (3) Promote public interest in and understanding of the master plan, and of planning, zoning and physical development of the city.
- (4) Meet not less than once each month and keep a public record of its resolutions, findings and determinations.

(b) The planning commission shall have power to:

- (1) Require information which shall be furnished within a reasonable time from the other departments of the city government in relation to its work.
- (2) In the performance of its functions enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.
- (3) Make recommendations as to the constructions, extension or authorization in the city of any street, park or other public way, ground or space, or as to the acquisition by the city of any real property, or as to the construction, extension or authorization by the city of any public building, with full information as to the type, specifications, location and extent thereof. The widening, narrowing, relocation, vacation, or change in the use of any street, public way or ground, may also be subject to recommendations by the planning commission to the council.

(Code 1976, § 2.24(1), (2))

Section 2-289 Veto Power Of Council

Any action of the planning commission may be overruled on any issue by a majority vote of the council. (Code 1976, § 2.24(6))

Section 2-290 Debt

The council shall, in its budget, make provision for and appropriate such sum of money as may be necessary to defray the expense of the official activities and work of the planning commission.

(Code 1976, § 2.25(5))

Section 2-291 Compensation

Planning commission members shall serve without compensation. (Code

1976, § 2.25(5))

DIVISION 2-VI-9 POLICE ADVISORY BOARD

Section 2-306 Establishment And Composition **Section 2-307 Function And Duties** **Section 2-308 Organization, Meetings**

Editor's note(s)—Ord. No. 630 2nd series, § 1, adopted January 25, 2011, amended division 9 in its entirety to read as herein set out. Formerly, division 9, § 2-306, pertained to the police civil service commission and derived from the Code of 1976, § 2.23(1).

Section 2-306 Establishment And Composition

A police advisory board is hereby established composed of three voting members who are qualified electors of the city and who shall serve staggered three-year terms. A member of the city council shall be an advisory member of the police advisory board as appointed by the mayor, but shall not be entitled to vote. On the last business day in May in each year, a board member or members shall be appointed for a term or terms of three years to succeed the board member or members whose term or terms then expire. Vacancies on the police advisory board shall be filled by appointment by the mayor with the approval of the council, as provided in the Charter.

(Ord. No. 630 2nd series, § 1, 1-25-2011)

Section 2-307 Function And Duties

The board shall be an advisory body to the council on matters relating to the operation and organization of the police department. The board shall serve as a citizen liaison to the council and department. The board shall assist and advise the director of public safety and the city administrator with the selection and promotion of licensed peace officers. The procedure and policies related to the selection and promotion process shall be established in the administrative code as prescribed in the City Charter. The board may participate with the director of public safety in the review and recommendation of capital expense items and may study policy issues for recommendations as requested by the council, the city administrator and the director of public safety.

(Ord. No. 630 2nd series, § 1, 1-25-2011)

Section 2-308 Organization, Meetings

The board shall, at its first meeting in each calendar year, elect from among its members a chairperson, a vice-chairperson, a secretary and such other officers as it may determine. The board shall hold at least one regular meeting annually and shall keep minutes of its meetings, a copy of which minutes shall be furnished to the council as soon as reasonably possible after the date of the meeting.

(Ord. No. 630 2nd series, § 1, 1-25-2011)

DIVISION 2-VI-10 PUBLIC HOUSING COMMISSION

Section 2-321 Established

Section 2-322 Composition; Terms; Appointments And Qualifications

Section 2-323 Powers And Duties

Section 2-324 Powers And Duties Of Executive Director

Section 2-321 Established

The public housing commission is hereby established. (Code 1976, § 2.31)

Section 2-322 Composition; Terms; Appointments And Qualifications

The public housing commission shall be composed of five members. The term of any member shall be five years. Members of the public housing commission shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the commission. One of the five members shall be an eligible resident. An eligible resident is a person: (1) who is directly assisted by a public housing agency; (2) whose name appears on the lease; and (3) is 18 years of age or older. The appointing authority shall actively seek for a period of 30 days, an eligible resident for appointment to the commission. If at the end of 30 days, an eligible resident is not available, the appointing authority shall be able to appoint a person who is not an eligible resident.

(Code 1976, § 2.31(1), (2), (4); Ord. No. 436, § 1, 7-17-2000)

Section 2-323 Powers And Duties

The powers and duties of the public housing commission shall be as follows:

- (a) To appoint and employ an executive director.
- (b) Adopt bylaws and rules for the conduct of its officers, including the election, assumption of duties, and definition of responsibilities of officers and committees.
- (c) Enlist the cooperation of agencies, organizations and individuals in the community in an active program directed to create equal opportunity and eliminate discrimination and inequalities in public housing.
- (d) Manage and develop appropriate public housing within the city.
- (e) Prepare and deliver to the city council annually a report on activities of the housing commission.

(Code 1976, § 2.31(5); Ord. No. 436, § 1, 7-17-2000)

Section 2-324 Powers And Duties Of Executive Director

- (a) The executive director shall have general supervision over the administration of the housing commission's officers and all employees of the commission.
- (b) The executive director shall establish and maintain representation between the housing commission and city staff, and other governmental agencies.

(Code 1976, § 2.31(6); Ord. No. 436, § 1, 7-17-2000)

DIVISION 2-VI-11 SENIOR CITIZENS CENTER COMMISSION

Section 2-341 Established

Section 2-342 Composition; Terms; Qualifications

Section 2-343 Function

Section 2-344 Powers And Duties

Section 2-341 Established

The senior citizens center commission is hereby established. (Code

1976, § 2.29)

Section 2-342 Composition; Terms; Qualifications

The senior citizens center commission shall be composed of seven members. The term of any member shall be three years. Members of the commission shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the commission. The council shall appoint all members to such commission. Two members shall be appointed from the Marshall Area Senior Citizens, Inc., one member shall be appointed from the city council, and four members shall be appointed from the citizens of the city.

(Code 1976, § 2.29(1), (2), (4); Ord. No. 496 2nd series, § 1, 7-7-2003)

Section 2-343 Function

The function of the senior citizens center commission shall be to manage, operate and maintain the city's senior citizens center.

(Code 1976, § 2.29(5))

Section 2-344 Powers And Duties

The powers and duties of the senior citizens center commission shall be as follows:

- (a) Develop and present to the city council their report with recommendation on the city's senior citizens center budget.
- (b) Appoint members of their commission to serve on other commissions of the city.
- (c) Adopt all necessary rules and regulations for their own guidance and for the proper management and operation of such senior citizens center.
- (d) Make on or before December 31, of each year, annual report to the council regarding the operation of the senior citizens center, and how the funds of the city were spent during such year.
- (e) The senior citizens center commission shall have the authority to enter into contracts only after they have been approved by the city council.
- (f) The commission shall have the authority to employ such persons as are necessary to carry out their function, within their budgetary limitations.

(Code 1976, § 2.29(6))

DIVISION 2-VI-12 MINNESOTA EMERGENCY RESPONSE AND INDUSTRIAL TRAINING (MERIT) CENTER BOARD

Section 2-361 Established

Section 2-362 Composition; Terms; Qualifications. Section

2-363 Purpose

Section 2-364 Powers And Duties

Section 2-361 Established

The Minnesota Emergency Response and Industrial Training (MERIT) Center board is hereby established. (Ord. No. 521 2nd series, § 1, 11-15-2004; Ord. No. 743 2nd series, § 1, 10-22-2019)

Section 2-362 Composition; Terms; Qualifications.

(a) The MERIT center shall consist of no more than 18 members or less.

The following shall be permanent members of the Board of Directors:

- (1) Director of Public Safety, City of Marshall, Minnesota.
- (2) One City Council member, City of Marshall, Minnesota as appointed by the mayor and confirmed by the city council.

(b) The following organizations/groups may each appoint one member to the board:

- (1) Minnesota West Community and Technical College.
- (2) Minnesota State Fire Department Association—Region 13 (Southwest).
- (3) Minnesota State Fire Department Association—Region 9 (West Central).
- (4) Minnesota Municipal Utilities Association (MMUA).
- (5) Homeland Security and Emergency Management (HSEM) Region V.
- (6) Southwest Minnesota Emergency Medical Services Corporation.
- (7) Southwest Minnesota Chiefs of Police Association—Law Enforcement representative.

The above-mentioned members will be appointed by their representative organization or association, for a period of time of that organization's or association's choosing.

(c) The following members shall be appointed by the members of the MERIT board for a term of three years:

- (1) Two industrial representatives, one within the corporate municipal boundaries of the City of Marshall and one within the primary service area of the MERIT Center as described in article I, section 5.
- (2) One member from a gas or electric utility company or authority within the primary service area of the MERIT Center as described in article I, section 5.
- (3) One local National Guard Unit or other military representative within the primary service area of the MERIT Center as described in article I, section 5.
- (4) One Fire, emergency medical services or other related safety representative within the primary service area of the MERIT Center as described in article I, section 5.

If any organization listed in section 2 above does not choose to appoint a member to the board, the remaining members may choose to leave the position vacant or may attempt to fill the position with at-large member until such time that the organization may choose to appoint a member. Any member of the board mentioned in section 2, above may designate an alternate who will be eligible to vote during the absence of the official member.

The following members will be appointed by the city council.

- (1) Four at-large members. The term of any member shall be three years from and after the January 1 of the year of their respective appointments and shall expire each year on December 31.
- (2) No board member shall during the term of their membership, hold any other office or position in the city government.

(Ord. No. 521 2nd series, § 1, 11-15-2004; Ord. No. 743 2nd series, § 1, 10-22-2019)

Section 2-363 Purpose

The purpose of the MERIT Center board shall be to advise the council regarding the management, operation and maintenance of the MERIT Center facility located at 1001 West Erie Road, Marshall, Minnesota, and to promote such facility to be the premiere emergency preparedness, response and industrial training center located in southwest Minnesota.

(Ord. No. 521 2nd series, § 1, 11-15-2004; Ord. No. 743 2nd series, § 1, 10-22-2019)

Section 2-364 Powers And Duties

The powers and duties of the MERIT Center board shall be as follows:

- (a) To adopt bylaws and rules for the conduct of its officers, including election, assumption of duties and definition of responsibilities of all officers and committees.
- (b) To provide relevant, quality training and educational opportunities to public safety, governmental, industrial personnel and the general public.
- (c) To provide life-safety opportunities which encourage and inspire participation by professionals and the public in meeting the every changing cultural, social, educational and professional needs of the citizens of southwestern Minnesota and beyond and to promote safety and to enhance the quality of life.
- (d) To encourage volunteerism, individual initiative, team work and corrective management to achieve and maintain the highest level of community preparedness and safety.
- (e) To provide an educational environment with a minimum of barriers to all persons using the facility at the lowest cost of user and public while adequately funding facility operations.
- (f) To provide the opportunity for everyone with lifelong learning and development through providing credit, certificate and non-credit educational programs in community emergency preparedness, response and safety.
- (g) To promote public and private interaction, cooperation and partnerships in community emergency preparedness, response and safety.
- (h) The board shall make appropriate recommendations and appropriate reports to the city council, on at least an annual basis. The city council is the official governing body of the MERIT Center facility and shall have the authority to approve or disapprove recommendations from said board.

ARTICLE IV. MOBILE FOOD UNITS AND FOOD CARTS

Sec. 22-91. Purpose.

This article is designed to permit the reasonable use of mobile food units while preventing any adverse consequences to residents, businesses and public property.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

Sec. 22-92. Definitions.

The following words and terms when used for this license shall have the following meanings unless the context clearly indicates otherwise.

Food cart. A food and beverage service establishment that is a non-motorized vehicle that is self-propelled by the operator.

Mobile food unit.

- (1) A self-contained food service operation, located in a motorized, wheeled or towed vehicle, that is readily movable without disassembling and that is used to store, prepare, display, or serve food intended for individual portion service; or
- (2) A mobile food unit as defined in Minn. Stat. § 157.15, subd. 9.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

Sec. 22-93. License requirement.

- (a) *Type of license.* An annual license allows mobile food unit or food cart operations in the city for any number of days over 21 days during any calendar year. A mobile food unit or food cart operating 21 days or less shall follow state regulations. No city license is necessary to operate for 21 days or less in any calendar year. No city license is necessary to operate if in conjunction with a permanent business within the City of Marshall as defined under Minn. Stat. ch. 157 or Minn. Stat. ch. 28A.
- (b) *License fees.* Fees for annual licenses are set forth in the city's fee schedule.
- (c) *Application information requirements.* An applicant must complete the application and provide all information to the city clerk whether a license is required or is not required. An application shall be filed, along with the required fee, with the city clerk. The applicant must be the owner of the mobile food unit or food cart. The application shall be made on a form supplied by the city and shall contain information requested by the city, including the following:
 - (1) Name of the owner and operator, if different than the owner, of the mobile food unit or food cart and permanent and temporary home and business addresses;
 - (2) A description of the nature of the business, the goods to be sold and the license plate number and description for any motorized or unmotorized vehicle to be used in conjunction with the activity;

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- (3) A phone number and email address of the applicant, with a designation of a preferred mailing address for notices related to the license;
 - (4) The name, address and contact information for the commissary with which the mobile food unit or food cart is affiliated, if applicable;
 - (5) A certificate of insurance by an insurance company authorized to do business in the State of Minnesota shall meet the following requirements:
 - a. Commercial general liability insurance, with a limit of not less than \$1,000,000.00 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than \$2,000,000.00;
 - b. Workers compensation insurance (statutory limits) or evidence of exemption from state law; and,
 - c. The city shall be endorsed as an additional insured on the certificate of insurance and the umbrella/excess insurance if the applicant intends to operate its mobile food unit or food cart on public property.
 - (6) The certificate of insurance must contain a provision requiring notification be sent to the city should the policy be cancelled before its stated expiration date;
 - (7) Written consent of each private property owner from which mobile food unit or food cart sales will be conducted;
 - (8) If the mobile food unit or food cart will be located on city property or public right-of-way, a signed statement that the licensee shall hold harmless the city and its officers and employees, and shall indemnify the city and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license;
 - (9) A copy of each related license or permit if applicable issued by the State of Minnesota required to operate a mobile food unit or food cart; and,
 - (10) A copy of the applicant's state sales tax ID number.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

State law reference(s)—Mobile food unit, Minn. Stat. 157.15, subd. 9.

Sec. 22-94. Conditions of licensing.

A mobile food unit or food cart may only operate if compliant with the following:

- (1) *Locations.* A mobile food unit or food cart may only operate in the locations set forth in this subpart. A mobile food unit or food cart may only operate in commercial and industrial zoning districts and must be placed on either concrete or bituminous surfaces unless otherwise approved by the city.
 - a. In the public right away where parking is permitted.
 1. Written approval from the adjacent property owner must be obtained before approval of a license.
 - b. On private property.
 1. With written consent of the private property owner.
 - c. When operations occur on private residential property, mobile food unit or food cart sales may only be for catering purposes (such as a private graduation party or wedding) and may not be open for sales to the general public.

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(Supp. No. 38)

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- d. A mobile food unit or food cart may only operate in a city park or on city property with the prior written approval of the city; additional permits may be required for such operations.
- (2) *Performance standards.* A mobile food unit or food cart licensee is subject to the following performance standards.
- a. Applicable license fee shall be paid.
- b. A mobile food unit or food cart shall be operated in strict compliance with the laws, rules and regulations of the United States, State of Minnesota and the City of Marshall.
- c. Wastewater may not be drained into city storm water drains.
- d. A mobile food unit or food cart shall provide and maintain at least one clearly designated waste container for customer use per each food cart or mobile food unit. The operator of a mobile food unit or food cart is responsible for daily removal of trash, litter, recycling and refuse. Public trash cans shall not be used to dispose of waste generated by the operation. The operator shall provide a garbage receptacle with a tight-fitting lid. The receptacle shall be easily accessible for customer use and located within five feet of the unit.
- e. If a mobile food unit must provide a power supply it shall be screened from public view and that complies with pertinent city noise regulations.
- f. A mobile food unit or food cart may operate between 7:00 a.m. and 10:30 p.m. and 10:30 p.m. to 1:30 a.m. in designated downtown areas, and must not create any unnecessary noise, disturbances or disrupt public traffic or safety in any way. An exemption to hours may be authorized by city council on a per event basis.
- g. A mobile food unit or food cart shall be allowed to set up one hour prior to conducting food vending and shall exit from the site within one hour of the close of conducting business.
- ~~g-1.~~ A mobile food unit or food cart may remain on private property in commercial and industrial zoned districts after conducting business with permission from the property owner.
- h. A mobile food unit or food cart may have a maximum footprint of 300 square feet unless otherwise approved by the city.
1. A mobile food unit or food cart may be restricted to operate only on private property if it exceeds a maximum footprint of 300 square feet.
- i. If a mobile food unit or food cart are operating in the public right-of-way, interactions between a mobile food unit or food cart and a consumer must take place between the mobile food unit or food cart and the curb away from traffic.
- j. Mobile food units cannot obstruct the movement of pedestrians or vehicles or pose a hazard to public safety.
- k. A mobile food unit or food cart must not occupy more than two parallel parking spots or no more than four diagonal/horizontal parking spots if operating within the public right-of-way.
- l. Operators must clean around their mobile food unit or food cart at the end of each day and the mobile food unit or food cart must be kept in good repair and have a neat appearance.
- m. A mobile food unit or food cart operator must be licensed by the Minnesota Department of Health and Proof of the Minnesota Department of Health licensing must be provided and posted on the mobile food unit or food cart.
- n. A mobile food unit or food cart must comply with any applicable fire department food truck requirements.

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- o. An out of service mobile food unit or food cart stored within the city must comply with all applicable zoning ordinance requirements.

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- p. A mobile food unit or food cart may operate on private property in any residential zoned districts for a "one-time" event for catering purposes only.
 - q. A mobile food unit or food cart may not operate within 100 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains written permission from the restaurant owner/manager.
 - r. A mobile food unit or food cart may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park with the prior written approval of the city.
- (3) *Non-transferable license.* A mobile food unit or food cart license is non-transferable. Proof of all required licenses shall be displayed at all times in the mobile food unit or food cart.
- (4) *Practices prohibited.* It is unlawful for any person engaged in the business of a mobile food unit or food cart operation to do any of the following:
- a. Call attention to that licensee's business by crying out, blowing a horn, ringing a bell, loud music or by any loud or unusual noise;
 - b. Fail to display proof of license and produce valid identification when requested;
 - c. Leave a mobile food unit or food cart unattended or at an authorized location outside allowed hours of operation;
 - d. Operate the mobile food unit or food cart in or on public sidewalks or trails;
 - e. Allow a mobile food unit or food cart to remain on the property of another when asked to leave;
 - f. Obstruct the ingress or egress from commercial buildings during the building hours of operation;
 - g. Claim endorsements by the city; or
 - h. Conduct business in any manner as to create a threat to the health, safety, and welfare of a specific individual or the general public.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

Sec. 22-95. Suspension or revocation of a license.

A license issued pursuant to this article may be suspended by the city if the licensee has violated the terms of this article, or is otherwise conducting business in such a manner as to constitute a breach of the peace, fraudulent conduct, or any other conduct that is prohibited by local, state or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this section. When taking action on any license issued under this section, the city shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the city council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the city. Verbal notice shall be confirmed within five days by a mailed written notice to the licensee. The city council shall not conduct a hearing on a suspension or revocation unless a request is made by the applicant for an appeal prior to the next city council meeting. No city council resolution or other notice calling for a hearing shall be required.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

Secs. 22-96—22-110. Reserved.

CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Tuesday, April 12, 2022
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Consider Amendments to Chapter 22, Article 22-IV Mobile Food Units and Food Carts
Background Information:	The Legislative and Ordinance Committee asked staff to for an amendment to the current Mobile Food Units and Food Carts Ordinance. This proposed amendment will allow license holders to remain on private property after business has concluded.
Fiscal Impact:	None
Alternative/ Variations:	
Recommendations:	That the Legislative and Ordinance Committee approve the amendment to Chapter 22, Article 22-IV Mobile Food Units and Food Carts.

MEMORANDUM

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

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

DATE: April 8, 2022

SUBJECT: Ordinance amendment to Section 86-162 Yard Modification and 86-248 Outside Storage

Action Recommendation

Staff recommend the recommendation to the City Council approving the revisions amending Section 86-162 Yard Modification and 86-248 Outside Storage.

Background

These changes are minor and intended to provide flexibility in approving conditions for variances and conditional use permits and allow owners and contractors additional storage during major construction projects.

At the March 9, 2022, regular Planning Commission meeting, Schroeder made a motion, second by Muchlinski to recommend to city council an approval as recommend by staff. All voted in favor of the motion.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

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.
- (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.

Sec. 86-248. Outside storage.

- (a) In all classes of residential districts, open storage and accumulation of materials and equipment shall be prohibited. In all other zoning districts, open storage of materials and equipment shall be prohibited in the required front, side, and rear yards, except storage shall be allowed in the required rear yard in industrial districts. Unless prohibited elsewhere in the ordinance, any other outside storage, including outdoor storage tanks, shall be located or screened so as not to be visible from public right-of-way, public parks or any lot within 500 feet in any of the classes of business or residence districts, except in industrial and agricultural zoning districts screening from public right-of-way is not required. The screening may be achieved by fencing or landscaping means compliant with section 86-247. In all classes of business districts, the storage area shall be paved or graveled to control ~~dust and~~ erosion and shall be properly maintained. Temporary storage of building materials intended for construction use on premises shall be allowed during ongoing construction and up to two weeks prior to construction and is exempt from the above requirements provided a valid building permit is obtained.
- (b) Outdoor display of retail merchandise intended for sale or rent and open to public shall be allowed in all classes of business and industrial districts. In all classes of business districts, the display area, except live plants sales area, shall be ~~so designated and~~ paved to control dust and erosion and facilitate access to, and moving of, displayed products. Except licensed automobile, motorcycle, off-road vehicle, and boat sales lots, and small motorized farm and lawn care equipment sales, the display area shall not be located in the required front and side yards. Outdoor display areas adjacent to any of the classes of residence districts shall be screened by fencing or landscaping means compliant with section 86-247. Outdoor display area shall be adequately lighted.
- (c) In all classes of residential districts and residential properties within other zoning districts, oOutdoor display and sale shall be allowed ~~in all classes of residential districts and residential properties within other zoning districts~~ during garage and yard sales only. The display and sales area shall be located entirely within the pertinent residential property.
- (1) Any related signage shall be limited to premises and to other private properties provided permission from the property owners is obtained; all signage shall be erected not earlier than one-day before sale and shall be removed at the termination of the sale. Such signs shall be limited to three square feet each.
- (2) There shall be no more than four garage sales conducted during any period of 12 calendar months; there shall be no more than two garage sales conducted during any period of 30 calendar days; there shall be no garage sales conducted for more than four consecutive days; and there shall be no garage sales conducted before 7:00 a.m. or after 8:00 p.m.
- (d) Building enlargement and expansions over 50 percent of existing building footprint area, construction of additional buildings on site, or changes of use resulting in new exterior storage or display area shall cause an exterior storage/display area review by city staff for ordinance compliance.
- (e) Trash, garbage, refuse, recycling materials or any other items intended for disposal shall be stored in designated containers or dumpsters which, with the exception of R-1 and R-2 residence districts, shall be located within areas set for collection of garbage as prescribed by section 50-23. In R-1 and R-2 residence districts trash cans shall not be stored in the required front yard except on the day of garbage collection. In R-1 and R-2 residence districts furniture and other bulky items may be left at the curb for pick up by the licensed garbage hauler or anywhere in the front yard for anyone to take for no more than 48 hours. In all classes of business and industrial districts, similar items intended for disposal may be piled together for temporary storage no longer than six months within garbage collection areas in a single stack not higher than five feet and with area no more than 100 square feet.

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- (1) In all classes of multiple-family and business districts, garbage collection areas shall be paved and fully enclosed with secured access and shall not be located in the required front yard. The enclosure shall be between five and six feet high and fully opaque. If it is located next to the building, it shall be finished with materials matching the exterior of the building. Enclosure requirement does not apply in the Downtown district.
- (2) Temporary construction dumpsters intended for demolition and other construction debris may be located outside of such enclosures during ongoing construction and up to one week before and after construction provided a valid building permit is obtained~~displayed on-site~~. No temporary construction dumpster shall be set on public right-of-way or public parking lot unless a city permit is secured.
- (f) Storage containers, including, but not limited to, trailers, semi-trailers, cargo and shipping containers, and PODS, ~~and dumpsters,~~ are not allowed as permanent storage units in all classes of residential or business districts. Utilization of a single unit is allowed for temporary storage for no more than 30 days in a calendar year; the 30 days limit may be extended up to 180 days by an interim use permit. ~~The above limitations do not apply to~~ The above listed units used for temporary construction related storage shall be allowed during an ongoing construction project and up to a month prior to construction, provided a valid building permit is obtained~~dumpsters as regulated in subsection (e).~~ As an exception, shipping containers totaling less than 340 square feet may be permitted by an interim use permit in a B-3 General business district, with the following conditions:
- (1) The containers shall not be placed in any front or required side ~~yard~~ or required rear yard.
- (2) The containers shall be located so as not to be visible from adjacent public right-of-way, public parks, or any lot within 500 feet in any of the classes of residence districts. It may be screened by fencing or landscaping means compliant with section 86-247.
- (3) The containers shall be new or freshly painted with neutral colors with no painted signage, lettering, or advertising and shall be properly maintained.
- (4) The interim use permit shall expire when the property changes ownership).
- (g) In all classes of residential districts, a licensed boat, open or closed trailer, camper, motor-home, recreational vehicle or other ~~motorized~~ vehicle, but no more than three units, may be stored outside on the property as regulated in section 74-131. One snowmobile, ATV, golf cart, riding mower, trailer, boat, or camper can be displayed for sale in the front yard, provided it has not been purchased or consigned for resale and is not displayed for longer than seven consecutive days or longer than 30 days in a calendar year. No storage or accumulation of any materials in trailers is permitted.

(Code 1976, § 11.19(3)(A)(2); Ord. No. 687, § 1, 6-10-2014; Ord. No. 749 2nd series, § 1, 6-23-2020)

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

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

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

DATE: April 8, 2022

SUBJECT: Ordinance amending Sections 70-21 Definitions, Section 86-50 Home occupations and businesses, and Section 86-51 Bed and breakfast.

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Sections 70-21 Definitions, Section 86-50 Home occupations and businesses, and Section 86-51 Bed and breakfast.

Background

These changes were presented to the Planning Commission in conjunction with a new proposed short-term rental section within zoning ordinance last October; all changes, including new short-term rental ordinance, were then discussed at the L&O Committee, where the L&O suggested that short-term rentals should be handled through a rental licensing system, thus making the new proposed short-term rental ordinance irrelevant. However, proposed changes to the three ordinances listed above remain valid on their own.

Changes to Section 70-21 will allow taxing B&B facilities and future short term rental facilities similar to other transitory forms of lodging, such as hotels and motels. Changes to Home Occupation section are mostly minor: making a few activities possible (for example, pet grooming) and a few impossible (for example, alcohol and tobacco production and sales), and defining renewal terms. Bed and Breakfast section is amended to put it in line with the home occupation section, section by changing it to an interim use permit rather than conditional use permit.

At the October 13, 2021, regular Planning Commission meeting, Muchlinski made a motion, second by Schroeder to recommend to City Council an approval with a few changes to the new Section 86-52 Short-term Rentals. Motion passed 3 to 1 with Fox voting against. Since short-term rental section was abandoned, these changes are now irrelevant.

Fiscal Impact

Tax will be collected from short-term rentals and Bed and Breakfast.

Alternatives/Variations

None.

IG/cld / Attachments

Sec. 70-21. 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:

Director means the director of finance of the city.

Lodger means the person obtaining lodging from an operator.

Lodging means the furnishing for a consideration of lodging by a hotel, motel, dormitory, ~~or~~ roominghouse, ~~bed and breakfast or any other short term rental facility~~ ~~except~~ where such lodging ~~is provided~~ ~~shall be~~ for a continuous period of ~~fewer than~~ 30 days ~~or more~~ to the same lodger. The furnishing of rooms by religious organizations shall not constitute lodging for purposes of this article.

Motel means a roadside hotel for motorists.

Operator means a person who provides lodging to others or any officer, agent or employee of such person.

Rent means the total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

(Ord. No. 668 2nd series, § 1, 12-18-2012)

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

Sec. 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), ~~except item (16)~~. As an exception, for businesses compliant with conditions (1) or (3), 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 There shall not be~~ 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 sales.
- (13) If at any time more than two customers may be present, off-street parking shall be provided in addition to parking required ~~by the article~~ 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 ~~conditional~~ 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 ~~parties, such as weddings and graduations.~~
 - (6) Any activity involving multiple garage sales.
 - (7) Any illegal activity ~~that may be considered objectionable.~~
 - (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.
- ~~(g) Home occupations shall be an interim use in agricultural and all residential districts.~~

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

Editor's note— 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.

Sec. 86-51. Bed and breakfast.

- (a) ~~Bed and breakfast shall be an interim use in agricultural and all residential districts. A conditional use permit shall be required for all bed and breakfast facilities.~~
- (b) Bed and breakfast facilities shall at a minimum meet the following conditions:
- (1) The facility shall comply with all health, fire, safety rules and other regulations of the state and the city, including current Building Code and City Ordinance, and all required licenses shall be made available to the City staff upon request. This condition shall be confirmed by City inspection prior to a public hearing.
 - (2) The maximum number of bedrooms shall be established for each facility and no more than four bedrooms shall be available to guests. No more than two persons shall be staying in each bedroom.
 - (3) Off-street parking shall be provided as required in section 86-230 and ~~shall be~~ screened from adjacent properties as required by the parking Ordinance section 86-204. No more than two guest parking on the street shall be permitted.
 - (4) Exterior appearance and lighting shall be compatible with the neighborhood.
 - (5) Identification signs shall be limited to one six-square-foot nameplate sign mounted on the building near the main entrance door.
 - (6) The owners ~~of such facility~~ shall operate and permanently occupy such facilities.
 - (7) No food or beverage service shall be provided to anyone other than transient guests.
 - (8) All bedrooms ~~s units~~ shall be established within, and have primary entrances from, the principal structure.
 - (9) Cooking facilities shall not be permitted in the guest rooms.
 - (10) Appropriate insurance including liability insurance shall be filed with the city clerk/~~financial director~~ for a minimum amount of \$1,000,000.00.
 - (11) Other commercial enterprises shall not be operated in conjunction with this facility without a home occupation interim permit.
- (c) All bed and breakfast interim use permits shall be 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 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.
- (ed) The applicant, upon making application, grants to the City upon issuing ~~any~~ bed and breakfast interim use permit the right to inspect the premises in which bed and breakfast is located at any time to ensure compliance with the provisions of this section and any conditions additionally imposed.

~~(d) — Bed and breakfast shall be a conditional use in all residential districts.~~

(Code 1976, § 11.21(7); Ord. No. 680 2nd series, § 1, 9-24-2013; Ord. No. 747 2nd series, § 1, 12-10-2019)

MEMORANDUM

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

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

DATE: April 8, 2022

SUBJECT: Ordinance amending Sections 86-96 Agricultural district and Section 86-230
Required number of spaces

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Sections 86-96 Agricultural district and Section 86-230 Required number of spaces.

Background

The proposed amendments to Section 86-96 Agricultural district are based on requested changes, past and current. A few other changes are made to better align the section with other sections.

Section 86-230 is amended to better reflect certain businesses' nature and parking needs. In most cases parking requirements were reduced. These changes are presented to the L&O prior to being presented to the Planning Commission tomorrow – to speed up the process, since one of the changes is time sensitive.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Sec. 86-96. - A agricultural district.

- (a) *Intent; scope.* This section applies to the A agricultural district. This A district preserves land for agricultural or undeveloped uses until development pressures require that such land be released and rezoned for purposes of controlled and orderly growth according to the comprehensive plan, pending proper timing and allowance for the economical provision of urban services.

- (b) *Permitted uses.* The following uses shall be permitted in the A agricultural district:

Cultivation, maintenance, or harvest of plants for the sale or other commercial use.

~~Agricultural, F~~arming and truck gardening, ~~shrimp growing in enclosed facilities~~, nurseries and greenhouses, ~~except kennels, terrestrial (land) animal or poultry farms operated for commercial purposes.~~

Golf courses and country clubs, ~~except clubhouses.~~

Hobby farms including keeping up to six horses, mules, sheep, goats, llamas, or ponies.

Parks and recreational areas owned or operated by governmental agencies, ~~except auto racetracks.~~

- (c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the A agricultural district:

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

Fallout shelters.

Keeping of not more than two boarders and/or roomers by a resident family; ~~provided, however, that the council may grant a special permit to keep more than two boarders and/or roomers for one year at a time upon proof of compliance by the applicant for such special permit with the provisions of this chapter prescribing the required number of off-street parking spaces.~~

Private garages and storage sheds.

Private amateur radio towers and antennas complying with division 6.

Private swimming pool when completely enclosed within a ~~non-climbable chainlink or similar~~ fence five feet high with openings no greater than four inches in any dimension and self-closing and self-locking gate. Swimming pools exempt from the building permit requirements as defined in the state building code and hot tubs with latchable covers do not need to be enclosed.

Single-family farm residences if used by the farm owner or operator, member of the immediate family, or an employee working on the premises.

Private accessory equipment complying with Section 86-164, including, but not limited to, sSolar energy collectors and systems, playgrounds, and sports courts.

- (d) *Conditional uses.* All conditional use permits for the A 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 A agricultural district by conditional use permit:

Archery rangess.

Automobile, motorcycle, go-cart or snowmobile race and driving -tracks.

Cemeteries, memorial gardens, and crematoriums.

Commercial solar energy collectors and systems.

~~Crematorium.~~

~~Driving track.~~

~~Golf clubhouse, country club, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within 25 feet of any lot line of an abutting lot in any of the classes of residence districts.~~

Keeping of three or more roomers or boarders.

Kennels.

~~Offices of persons and home occupations in existing structures when they meet the specific conditions of section 86-50.~~

Other residential uses of the same general character as listed in subsection (b).

Outdoor and indoor gun ranges.

Recreational vehicle parks and camp sites.

Riding stables with up to six horses.

Shrimp and fish growing operations.

Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility structures.

- (e) *Height, yard, area and lot width and depth regulations.* Height, yard, area and lot width and depth regulations for the A district are as follows:
- (1) *Height regulations.* No building hereafter erected or altered shall exceed 2½ stories or 30 feet in height.
 - (2) *Front yard regulations.*
 - a. There shall be a front yard having a depth of not less than 25 feet except as otherwise provided in this section.
 - b. There shall be a front yard of not less than 35 feet on a lot or plot that abuts a thoroughfare as shown on the adopted city thoroughfares plan.
 - ~~c. Where a lot is located at the intersection of two or more streets, there shall be a front yard on each street side of each corner lot. No accessory buildings shall project into the front yard of either street.~~
 - (3) *Side yard regulations.* There shall be a side yard, on each side of a building, each having a width of not less than five feet.
 - (4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 25 percent of the lot depth.
 - (5) *Lot area regulations.* Every lot ~~on which a single-family dwelling is erected~~ shall contain an area of not less than 22,000 square feet.
 - (6) *Lot width and depth regulations.* Every lot or plot of land on which a single-family dwelling is erected shall have a minimum width of not less than 110 feet at the building setback line, and a minimum depth of not less than 200 feet.
- (f) *General regulations.* Additional regulations in the A agricultural district are set forth in article VI of this chapter.
- (g) *Future annexation.* Any land annexed to the city in the future shall be placed in the A agricultural district until placed in another district by action of the council after recommendation of the planning commission, unless the land being annexed is located within orderly annexation area and is not zoned A agricultural at the time of annexation.

Sec. 86-230. Required number of spaces.

Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided for each use. For mixed use buildings, the required number of parking spaces shall be calculated separately for each area use and then added up. Unless otherwise noted, required off-street parking noted as a S.F. (square foot) ratio is to be applied to the gross building area for each use. The minimum number of off-street parking spaces for each use is listed in table 86-230. The number of provided parking spaces shall not exceed the minimum number by more than ten percent.

Apartment (more than 4 units)	1/efficiency or one bedroom unit plus 2/two or more bedroom unit plus 1/4 units for visitors
Assisted and congregate living facility	0.5/unit plus 1/employee plus 1/8 units
Art gallery, museum	1/500 S.F.
Assembly or auditorium with fixed seats, theatre	1/ 4 seats
Assembly without fixed seats not listed anywhere else , arcade	1/100 S.F.
Auction house	1/100 S.F. or 1/4 fixed seats, whichever is greater
Bank	1/ 300 250 S.F.
Baseball, soccer, football and sports field, arena or stadium	1/ 4 seats plus 20/field (court/rink, etc.) plus 1 oversize space/field (court/rink, etc.)
Beauty salon, barber shop, massage or tattoo parlor, tanning salons	2/service station or bed plus 2
Bed and breakfast	1/guest bedroom plus 2
Boarding or lodging house	1/rented bed plus 2
Boat, ATV, RV sales and service	1/ 1,000 800 S.F. plus 4 as required for outside sales lot
Bowling alley	45 /alley plus 2
Car wash	2 plus 1/employee
Church	1/ 5 seats in largest auditorium
Clinic, medical, dental, etc., doctor or chiropractic office	1/ 250 S.F.
Convenience store	1/ 200 S.F. plus 1 2 plus 1 oversize space plus as required for fuel station if applicable
Corrections facility, jail	1/ 108 beds plus 1/employee
Court, tennis or racquetball, without fixed seating	2/court plus 1
Dance hall	1/ 50 S.F.
Day care	1/ classroom employee plus 1/10 participants
Dwellings, one to four units	2 /dwelling plus one for each roomer or boarder
Drinking or dining establishment; sit down or buffet restaurant, bar	1/ 50 S.F. of seating area or 1/4 seats, whichever is greater , plus 1/100 S.F. of kitchen and storage area
Dining establishment: fast food restaurant	1/ 75 S.F. of seating area plus 1/ 100 S.F. of kitchen and storage area

Farm implement, industrial equipment, and trucks sales and service repair	1/ 1,000 800 S.F. plus 4 plus 50% of required for 50%-of outside sales lot requirements
Fraternity or sorority house, dorm	1 / bedroom plus 1/4 bedrooms for visitors
Funeral home	1/100 S.F. or 1/4 fixed seats in largest parlor, whichever is greater
Furniture, large appliances, spas, building materials, garden supplies sales store, retail greenhouse	1/500 S.F. for area less than 20,000 S.F. plus 1/ 1,000 800 S.F. for area over 20,000 S.F.
Golf course	4/green plus 1/200 S.F. of clubhouse
Grocery, food, and beverage sales	1/200 S.F. plus 1 oversize space/30,000 S.F.
Golf, miniature course	2/hole plus 1
Golf, driving range	2/tee plus 1
Hospital	1/2 beds plus 1/employee
Kennel	1/10 kennels plus 1/employee
Library	1/500 S.F. plus 1/employee
Manufactured home park	2/home plus 1/4 homes for visitors plus as required for office building
Manufacturing, fabricating, processing, or printing plants	1/ 800 1,000 S.F. or 1/employee plus 2, whichever is greater
Motor vehicle fuel station	12 plus 2/ pump plus as required for convenience store if applicable
Motor vehicle sales	1/ 500 S.F. plus 4 as required for outside sales lot
Motor vehicle repair	13 /service stall or 1/200 S.F., whichever is greater plus 2
Motor vehicle garage (commercial)	1/stall plus 1
Motel or hotel	2 plus 1/room plus 1 oversize space/30 rooms
Nursing or rest home, memory care	1/ 6 beds plus 1/employee
Office, business (data processing center, call center, radio, and TV station, etc.)	1/ 200 S.F.
Office, professional (insurance, accountant, travel agent, etc.), or public (city, county) or industrial/contractor	1/300 S.F.
Outside sales lot	1/ 5 4,000 S.F. for area less than 20,000 S.F. plus 1/ 10 6,000 S.F. for area over 20,000 S.F.
Park	4/acre plus 2/playground plus 5/shelter plus 20/ sports field
Recreation: fitness club, gymnasium, dance, and martial arts studio, without fixed seating	1/ 200 S.F. plus 1/employee
Residential facility, group home	0.5/bedroom plus 2 1/employee plus 1/8 bedrooms
Retail stores, general, department , hardware, discount, drug, shopping center, pawn shop, wireless store	1/200 S.F. for area less than 2,000 S.F. plus 1/300 SF for area over 2,000 S.F. but less than 100,000 S.F. plus 1/1,000 S.F. for area over 100,000 S.F.
Retail store, specialized, boutique	1 plus 1/ 500 300 S.F.

Service establishment: laundry, repair, dry-cleaning, glazing shop, rental, take-out only restaurant, wireless store photo studio, etc.	1/ 500 300 S.F. plus 1/ employee
<u>Service establishment: glazing shop, take out only restaurant, bridal shop, etc. (labor intensive)</u>	<u>1/500 S.F. plus 3</u>
School: Elementary or junior high, private, or public	1.5/classroom or 1/20 students or 1/4 seats in the largest auditorium, whichever is greater
School: Senior high, public, or private	10/classroom or 1/3 students or 1/4 seats in the largest auditorium or gymnasium, whichever is greater
<u>Short-term rental</u>	<u>1/bedroom minus 1, but not fewer than 2</u>
School: post-secondary, professional or business <u>(educational buildings)</u>	<u>15/classroom</u> 1/student plus 1/employee for entire campus or 1/100 S.F. per educational building
Skating rink	<u>1/200 S.F. of rink plus 1</u> 25
Swimming pool	1/ 200 100 S.F. of lap pool <u>area plus 1/500 S.F. of kids pool area</u> plus 1/employee
Terminal, passenger: bus, train, airline	1/200 S.F.
Veterinary clinic	1/500 S.F.
Warehouse, R rental storage units	1/4 units plus 1 plus as required for office if applicable
Wholesale sales, and warehouse	1/2,000 S.F. or 1/employee plus 1, whichever is greater

Table footnotes:

- Continuous benches and pews shall be assumed to allow one person per 22 inches of length.
- Rental storage units parking spaces located in front of storage units do not require painted line identification and independent access.
- When parking requirements are determined by employee counts, such calculation shall be based on the maximum number of employees on the premises at any one time; when parking requirements are determined by student or participant count, such calculations shall be based on the maximum design or licensed capacity.
- Parking spaces for all outside sales lots and other outside uses shall be calculated separately based on this table in addition to building parking requirements.
- The number of required parking spaces for parks, ~~sports~~baseball fields, churches, and stadiums may be reduced by 20 percent if gravel or grassy overflow space, adequate to compensate for reduced parking, is provided and all landscaping section requirements are met without considering overflow space.
- In all industrial zoning districts, the city may allow a reduction in the number of required parking spaces for industrial uses when the owner can demonstrate, in documented form, a required need less than prescribed by the ordinance ~~[this chapter]~~. The city may require the additional land that is necessary to meet the required parking standard to be placed in reserve for parking development should the use change or parking provided be determined inadequate. If at any time the city determines parking to be inadequate, the city may require construction of any or all of the additional parking held in reserve.

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- g. Buildings or building areas where an accessory storage constitutes more than 30 percent of the use area shall be considered mixed uses and parking calculations shall be based on mixed use requirements.
 - h. Buildings where an auxiliary use serving the main use constitutes more than 20 percent of building human occupancy or building area and people not using the rest of the facility are allowed to be present shall be considered mixed use buildings and parking calculations shall be based on mixed use requirements except only 90 percent of parking spaces required for auxiliary uses shall be provided.
 - i. If calculated number of parking spaces is less than five, an accessible space shall be provided in addition to those spaces.

(Ord. No. 686, § 1, 6-10-2014)