

**CITY OF MARSHALL
ORDINANCE 23-022**

NOW THEREFORE, be it ordained by the Common Council of the City of Marshall, in the State of Minnesota, as follows:

SECTION 1: **AMENDMENT** “Section 86-1 Definitions” of the Marshall Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Section 86-1 Definitions

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

Accessory building means a subordinate building which is located on the same lot as the main use building and the use of which is clearly incidental to the use of the main building.

Accessory equipment means any permanent exterior structure which is located either on the same lot as the main use building or attached to any building on the lot and the use of which is clearly incidental to the use of the main building such as for building service or building occupants' entertainment including, but not limited to, TV antennas, AC units, solar panels, service tanks, children playgrounds, swimming pools, hot tubs, basketball courts, and other similar items. For the purposes of this section, amateur radio antennas, flag and light poles, and up to two electric vehicle charging stations, are not considered accessory equipment.

Adult use means an amusement or entertainment distinguished or characterized by an emphasis on material depicting, describing, or relating to sexual activities or anatomical areas; or which feature strippers, exotic or topless dancing, male or female impersonators.

Alley means a public way less than 30 feet in width which provides secondary access to abutting properties.

Apartment means a suite of rooms which is designed for, intended for, or used as a residence for one or more individuals and equipped with bathing and cooking facilities. Apartment is usually intended for rent or lease.

Apartment building means three or more apartments grouped in one building under single ownership and/or containing common public space.

Assisted living facility means a building or part thereof consisting of individual dwelling units and that includes common recreational spaces, a common dining room and food preparation areas where meals are served on a daily basis. Occupants are provided with personal care services because of age, disability or other reasons. Such facility is licensed by the state.

Automobile wrecking. See *junkyards*.

Awning means an architectural projection that is wholly supported by the building to which it is attached and which is comprised of a lightweight, rigid frame structure over which a covering is attached.

Balcony means an exterior floor or platform projecting from and supported by the building to which it is attached without additional independent support.

Basement means a portion of a building located fully or partly underground, but having less than half of its floor-to-ceiling height above the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

Bed and breakfast facility means any dwelling other than a hotel, motel, boardinghouse or lodginghouse where the breakfast meal and lodging for compensation are provided for persons pursuant to previous arrangements. Such persons (guests) customarily shall have use of facility common areas such as living room, dining room, library, etc.

Boarder means a person who lives in a dwelling with a special contract with the owner whereby the owner provides meals and lodging.

Boardinghouse or lodginghouse means any dwelling other than a hotel or motel where meals, lodging or lodging and meals for compensation are provided for three or more persons who do not function as a household unit and who are semi-permanent in nature.

Boulevard means a portion of the street right-of-way not occupied by pavement.

Brewpub means a small brewery that serves and sells its product on premises in addition to off-premises sales. For the purpose of this article, brewpub is the same as taproom.

Building means any structure for the shelter or enclosure of persons, animals, chattels or property of any kind, including, for the purposes of this chapter, supporting structures for antennas, excepting guy wires installed not closer than one foot from the side or rear lot lines. When any such structure is separated by party walls without openings, such portion of such buildings so separated shall be deemed a separate building.

Building code means the current state building code.

Building height means the vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building official means the municipal building code official certified under Minn. Stat. § 326B.133, subd. 2 and 3 and designated by the city council, who is authorized to enforce the state building code.

Canopy means an architectural projection that is supported by the building to which it is attached and at the outer end by not less than one vertical support.

Carport means a building serving as an automobile shelter and having one or more sides open.

Congregate living facility means a building or part thereof consisting of individual dwelling units with complete living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation, as well as a common dining room and food preparation areas where meals are served on a daily basis. Occupants are permanent residents of at least 55 years of age.

Court means an open unoccupied space bounded on three or more sides by the exterior walls of a building or buildings on the same lot.

Crematorium means a building where dead bodies are burned to ashes.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the city engineer shall establish such curb level or its equivalent for the purpose of this chapter.

Day care facility means any facility, licensed by the commissioner of public welfare, public or private, which for gain or otherwise regularly provides one or more individuals with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the individual's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, nursery schools, daytime activity centers (D.A.C.-mentally retarded adults) and day services (adult activity programs). Nothing in this definition shall be construed to include any facility excluded by Minn. Stat. § 462.357, subd. 7.

Deck means an exterior floor or platform supported on at least two opposing sides by an adjacent structure and/or posts or piers and elevated above grade more than six inches.

Depth of rear yard means the mean horizontal distance between the rear line of the building and the centerline of an alley, where an alley exists, or a rear lot line.

Developer means the owner of the property, or a person or entity authorized in writing by the owner of the property to file the applications or the PUD and who will become the owner of the property prior to any development of the property.

District means a section of the city for which the regulations governing the height, area and use of buildings and premises or building appearance are the same.

Downtown district means an area in the city shown on the city zoning map and generally described as limited by Sixth Street, Lyon Street, First Street and Saratoga Street.

Dwelling means any building or portion of a building which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

Dwelling, multiple family, means a building or a portion of a building designed use by more than two families.

Dwelling, one-family, means a building designed for use exclusively by one family.

Dwelling, two-family, means a building designed for use by two families.

Dwelling unit means a self-contained portion of a building providing complete, independent living facilities for one or more individuals, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Earth sheltered building means a building constructed so that 50 percent or more of the completed structure is covered with earth. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for aboveground construction. A partially completed building shall not be considered earth sheltered.

Easement means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage courses, and gas lines.

Façade means that portion of any exterior elevation of a building exposed to public view extending from grade to the top of the parapet wall or bottom of the eaves and the entire width of the building elevation.

Family means any number of individuals related by blood, marriage or adoption living together on the premises as a single housekeeping unit.

Farming means the cultivation of the soil and all activities incident thereto.

Final development plan means a final development plan based upon the preliminary development plan and presented by a PUD applicant as provided in section 86-140 and including the requirements set forth in that section.

Floor area means the sum of the gross horizontal areas of the all floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Footprint means the area of the land covered by a building's foundation.

Frontage means that boundary of a lot that abuts a public street or a private road.

Free standing furnace means a furnace or burner designed and intended and/or used for the burning of wood or other fuel sources, that is located outside of a structure for which it is intended to provide heat.

Garage, private, means a garage for storage of non-commercial power-driven vehicles belonging to property owners or tenants only and which is erected as an accessory building.

Garage, public, means any premises except those described as a private garage, used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

Garage sale (rummage sale, yard sale) means any display and sale of used personal property conducted on residential premises by the occupant(s) of such property or on a parking lot of a community center, church, school, etc. by members of those institutions.

Home occupation means any occupation or business of a service or shop character, except family day care, conducted from the person's residence but which is clearly secondary to the main use of the premises as a dwelling.

Hotel or motel means any building or portion of a building where lodging is offered to transient (less than 30 days) guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room.

Housekeeping unit means all persons residing within a dwelling unit whose relationship includes a substantial amount of social interaction including the sharing of housekeeping responsibilities and expenses.

Impervious surface means that portion of a parcel or lot which has a covering which does not permit water to percolate into the natural soil.

Interim use means a temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations.

Junk or refuse means any scrap, waste, reclaimable material, or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storing, baling, disposal, or other use or disposition. "Junk" includes tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

Junkyard means land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, cleaned, packed, disassembled or handled which includes, but is not limited to: scrap metal, rags, paper, rubber products, glass products, lumber products and products for wrecking, disassembling and/or crushing of automobiles and other vehicles.

Lot or plot means one unit of a recorded plat or subdivision occupied or to be occupied by buildings, including as a minimum such open spaces as are required under this chapter and having frontage on a public right-of-way or a traveled or used recorded access.

Lot area means the land area within the lot lines.

Lot, corner means a lot situated at the junction of and fronting on two or more adjoining streets.

Lot depth means the mean distance between the front and rear lot lines; in most cases, it may be approximated as a distance between center points of the front and rear lot lines. For the purposes of this definition, the front lot line of the corner lot is the line opposite to the chosen rear yard.

Lot, double frontage, means an interior lot having frontage on two streets.

Lot, flag, means a lot with narrow or no frontage on the public right-of-way where vehicular access is provided to the lot by means of a narrow portion of a lot or an access easement.

Lot, interior, means a lot other than a corner lot.

Lot lines means the lines bounding a lot and separating it from other lots or public right-of-ways.

Lot line, front, means a lot line abutting a dedicated public right-of-way except alleys or any other access way that provides the only site access.

Lot line, side, means any lot line other than a front or rear lot line.

Lot line, rear, means a lot line which is usually directly opposite the front lot line. A lot may have only one rear lot line.

Lot, substandard, means any lot which does not meet the minimum lot area, length, depth, width or other dimensional standards of the section.

Lot width means the distance between side lot lines measured along the front lot line.

Lot width, average, means the distance between side lot lines measured at a point halfway between front and rear lot lines.

Manufactured home means a structure, not affixed to or part of real estate, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in it. A recreational vehicle or trailer is not a manufactured home.

Manufactured home park means any site, lot, field or tract of land upon which two or more occupied, manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such manufactured home park.

Marquee means a flat roofed structure that is wholly supported by the building to which it is attached.

Nonconforming means a use or a structure lawfully in existence on April 6, 1964, or on the effective date of amendments to this chapter, and not conforming to the current regulations for the district in which it is situated.

Outlot means a tract of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes.

Patio means a structure made of concrete, brick, wood, or other building materials, with a height of six inches or less from ground level from any point of the structure, and not attached to a building.

Pollinator gardens, or natural landscapes, means intentionally designed and managed gardens that contain non-native plants or native species that are listed as pollinator-friendly plants by the State of Minnesota Board of Water and Soil Resources (MNBWSR) or one of MNBWSR's partner organizations with the maximum height of vegetation not to exceed fifteen inches; pollinator gardens may not include any noxious weeds or turf-grass lawns left unattended for the purpose of returning to a natural state, and shall be maintained to remove all unintended vegetation and cut at least once annually between April 15 and July 15 to a height no greater than fifteen(15) inches.

Prefabricated building means any building intended for use, and regulated by the zoning ordinance and building code, as a one- or two-family dwelling or an accessory building, which is constructed off the building site, for installation, or assembly and installation, on the building site on the permanent foundation.

Preliminary development plan means a formal development plan in preliminary form presented by a PUD applicant as provided in section 86-140 and including the requirements set forth in that section.

Property means all land included within the PUD.

PUD (planned unit development) means a zoning district which may include single or mixed uses, one or more lots or parcels, intended to create a more flexible, creative and efficient approach to the use of land and subject to the procedures, standards and regulations contained in this article.

PUD agreement means the agreement to be entered into between the developer and the city to incorporate all term, requirements and conditions of the PUD approval.

Residential facility means any facility, licensed by the commissioner of public welfare, public or private, which for gain or otherwise regularly provides one or more individuals with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the individual's own home. Residential facilities include, but are not limited to: state institutions under the control of the commissioner of public welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs or schools for handicapped children. Nothing in this definition shall be construed to include any facility excluded by Minn. Stat. § 462.357, subd. 7.

Right-of-way means the land covered by a public roadway and adjacent land designated or reserved for public use.

Roomer means a person who rents a single room in a dwelling with no right to cooking privileges or facilities except occasional meals and no special contract for food.

Self-storage warehouse (ministorage) means a building constructed into compartments of 500 square feet or less rented to individuals on a monthly basis for storage of personal property.

Shopping center means a group of businesses occupying a common building or immediately adjacent buildings and having common private mall areas, parking areas, access, signage and other facilities.

Sign means a name, identification, description, display, illustration, device or lettered figure or pictorial symbol which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business and is displayed for the purpose of communicating a specific message.

Sign, abandoned, means any sign remaining without a message or whose display surface remains blank for a period of six months or more, or any sign pertaining to a time, event or purpose which no longer applies, or any sign remaining after demolition of a principal structure, or any sign applicable to a discontinued business unless evidence is provided that a business is temporarily suspended due to a change in ownership or management.

Sign, advertising, means a sign which directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where such sign is located. An advertising sign is the same as a billboard.

Sign alteration means any change, reconstruction, relocation or enlargement of a sign, or of any of its component parts. Routine maintenance, the changing of movable parts of signs which are designed for such changes, the repainting of sign copy and display matter, and replacement of a sign facing with the same size facing shall not be deemed to be an alteration within the context of this chapter.

Sign, banner, means a temporary sign made of fabric, cloth, canvas, plastic sheathing or any other flexible non-rigid material with no enclosing framework temporarily mounted to a building, structure, or the ground at two or more edges.

Sign, balloon, means a temporary sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

Sign, business, means a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

Sign, construction, means a temporary sign identifying an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located.

Sign, directional, means a sign erected on private property for the purpose of directing pedestrian or vehicular traffic onto or about the property upon which such sign is located, including signs marking entrances and exits, circulation direction, parking areas, and pickup and delivery areas, which does not display advertising copy.

Sign, double-face, means a sign which has a message on opposite sides of a single structural component or is a spherical sign. The single structural component is counted as one sign.

Sign, dynamic display, means any sign in which display portion of a sign appears to have movement or that appears to change and which is caused by any method other than physically removing and replacing the sign or its components. This includes, among other types, electronic graphic display sign having a programmable display that has the capability to present text and/or symbolic imagery in motion and in a variety of colors, or any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink", incandescent bulbs, or any other method or technology that allows a sign face to present a series of images or displays.

Sign, electronic graphic display, means any sign or portion thereof that displays electronic, static or moving images, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. These signs include computer programmable, microprocessor controlled electronic or digital displays and projected images or messages with these characteristics onto buildings or other objects.

Sign, flag, means any fabric or similar lightweight piece of material attached at one end of the material, usually to a staff or pole but possibly to the underside of a roof structure, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Sign, flashing, means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

Sign, flat, means a sign mounted parallel to the building surface and projecting no more than 18 inches.

Sign, freestanding, means a permanent non-movable sign supported upon the ground by poles, pylons, braces, foundation, solid base or any other structure and not attached to any building.

Sign, ground, means a freestanding sign with the sign face mounted on the ground or solid base or on the poles or pylon if the bottom edge of the sign display area is eight feet or less above the ground elevation at the base of the sign.

Sign, holiday decoration, means temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

Sign, illuminated, means any sign which has characters, letters, figures, designs or outlines illuminated by external electric lights or by electric lights or luminous tubes as a part of the sign.

Sign, incidental, means a small sign, emblem, or decal less than two square feet in area placed on the exterior of a building, or attached to a freestanding structure on the premises, and informing the public.

Sign, integral, means a sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

Sign, multiple-face, means a sign containing three or more faces. Each face shall be counted separately toward the maximum allowable sign area.

Sign, nameplate, means any sign which states the name or address, or both, but nothing else, of the business or occupant of the lot where the sign is placed.

Sign, political, means a temporary sign used in connection with a local, state or national election or referendum.

Sign, portable advertising, means all signs that are not permanently affixed to a building or foundation structure, intended for temporary placement on sidewalk or anywhere on the lot and designed to be moved easily, and used for business promotion.

Sign, private sales or event, means a temporary sign advertising private sales of personal property such as house sales, garage sales, and the like or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, and craft shows or any charity fundraising.

Sign, projecting, means a sign mounted perpendicular to the building surface.

Sign, public, means a sign of a public, non-commercial nature, to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.

Sign, pylon, means a freestanding sign erected upon a pole, post or other similar support so that the bottom edge of the sign display area is more than eight feet above the ground elevation at the base of the sign.

Sign, real estate, means a temporary sign advertising the real estate upon which the sign is located being for rent, lease or sale.

Sign, roof, means a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the roof line of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

Sign, rotating or moving, means a sign which revolves or rotates on its axis by mechanical means or has otherwise moving parts.

Sign, surface area of, means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, or in the case of letters, symbols, etc., not mounted on a common background, the area shall consist of the area within the continuous outside perimeter of each individual letter, symbol etc. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

Sign, temporary transportable advertising, means all signs that are not permanently affixed to a building or foundation structure, mounted on wheels or supporting structure for the purpose of mobility.

Sign, window, means a sign attached to, placed upon, or painted on the interior of a window or mounted on the inside within the exterior wall thickness in the window opening and that is visible from the exterior of the building.

Sketch plan means an informal development plan presented by a PUD applicant as provided in section 86-140.

Solar collector means any device relying upon direct solar energy that is employed in the collection of solar energy for heating and/or cooling of a structure, building or water.

Solar energy system means any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert or store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation, and other energy using processes.

Staff development review committee shall be appointed by the city administrator and will conduct a review of all development plans for any PUD. The committee shall include the city engineer and any other members of the city staff or city consultants.

Story, half, means that portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.

Street means a public way set aside for vehicular traffic regardless of size or designation but excluding alleys as defined therein and driveways serving only one parcel of land.

Structural alterations means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Thoroughfare means a major public roadway set aside for heavy continuous vehicular traffic through the city and designated as such on the city zoning map.

Townhouse means three or more one-family dwellings under separate ownership constructed as a group of attached units in which each unit extends from the foundation to roof.

Use means the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Use, accessory, means a use occurring along with, and related to, the principal use in the same lot and occupying more than ten percent but less than 25 percent of the principal building area or a separate accessory building.

Use, incidental, means a use occurring along with, and related to, the principal use in the same lot and occupying ten percent or less of the principal building area. Incidental use shall not be considered in determination of the zoning district placement.

Use, mixed, means a single building containing more than one type of land use or a single development of more than one building and use, where different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

Use, principal, means the main use of the property occupying at least 75 percent of the building area and determining the zoning district placement.

Variance means a modification or variation of the provisions of this chapter as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

Wind energy conversion systems (WECS) means a device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy. This definition includes any device used to convert wind power to other forms of energy such as mechanical or heat.

Yard means an open space lying between any line of the lot and the nearest line of the building.

Yard, front, means a yard extending across the front of the lot between the lot side lines and lying between the front line of the lot and the nearest line of the building.

Yard, rear, means an open space unoccupied except for accessory buildings on the same lot with a building, extending across the rear of the lot between the lot side lines and lying between the rear lines of the building and the rear line of the lot.

Yard, side, means an open unoccupied space between the building and the side line of the lot, and extending from the front lot line to the rear lot line.

(Code 1976, § 11.04; Ord. No. 404 2nd series, § 1, 11-16-1998; Ord. No. 410 2nd series, § 1, 2-16-1999; Ord. No. 443, § 2, 11-6-2000; Ord. No. 472, § 1, 1-7-2002; Ord. No. 512 2nd series, 3-1-2004; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 609 2nd series, § 1, 4-28-2009; Ord. No. 615 2nd series, § 3, 10-27-2009; Ord. No. 619 2nd series, § 1, 6-8-2010; Ord. No. 655 2nd series, § 1, 5-22-2012; Ord. No. 656 2nd series, § 1, 5-22-2012; Ord. No. 681 2nd series, § 1, 9-24-2013; Ord. No. 746 2nd series, § 1, 11-26-2019)

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

SECTION 2: AMENDMENT “Section 86-247 Landscaping” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-247 Landscaping

- (a) In all classes of residential and business districts, all exposed ground areas surrounding a principal and accessory use, including street boulevards and easements, and which are not devoted to parking, drives, walks, patios, designated retail display areas or other such uses shall be landscaped except vegetation areas left in a natural state during initial construction may remain if properly maintained. Downtown district is exempted from the landscaping requirements.

- (1) Fences, bushes, shrubs, and any other landscape elements placed upon

easements are subject to removal at owner's expense if required for maintenance or improvement of the utility. The city shall not be required to pay compensation for the items to be removed from a utility easement. Retaining walls shall not be placed upon easements.

- (2) Trees planted within, or adjacent to, public right-of-way shall comply with the city tree policy.
 - (3) All landscaped areas, including vegetable, flower, and pollinator gardens, shall be kept neat, clean, uncluttered and be properly maintained. Landscaped area shall not be used for the recurring parking of vehicles, except as provided for in section 86-230 for overflow parking, or the storage or display of materials, supplies, and merchandise.
 - (4) Vegetation within a 25-foot visibility triangle of the property corner at street intersections and within a 10-foot visibility triangle adjacent to alleys and driveways shall not be taller than three feet measured from the top of the street curb. All vegetation upon, and adjacent to, boulevards shall comply with the city tree policy.
 - (5) ~~Private V~~vegetable, flower and pollinator gardens are allowed in ~~all R-1 and R-2~~ residence and, except vegetable gardens, in all business districts, ~~but shall not be located in the front yard or side yards and shall not occupy more than 25 percent of the area of a rear yard; larger gardens may be allowed by an interim use permit. Vegetable gardens must not be placed on a lot where there is no permitted use main building except when such lot is adjacent to the lot where a permitted use main building is located and both lots have the same owner(s), in which case the vegetable garden can occupy 20 percent of the area of a rear yard calculated for these two lots combined. Community gardens may be allowed in all other zoning districts by an interim use permit; except interim use permit is not required in agricultural district. All such~~ gardens shall not be placed on the right-of-way or closer than five (5) feet to all property lines or buildings and shall not occupy more than 25 percent of the front yard.
 - a. As an exception, for lots where there is no permitted use principal building, flower and pollinator gardens are permitted but shall not be placed closer than fifteen (15) feet to all property lines.
 - (6) Community vegetable gardens may be allowed in all business zoning districts by an interim use permit. Such gardens shall not be located in the required yards or closer than ten feet to any building.
- (b) Landscape area shall occupy not less than 25 percent of the exposed ground area of the lot. Landscape area shall include not less than 50 percent live materials (vegetation, including flower and pollinator gardens) with the balance being permeable landscaping decorative materials such as landscape rock or mulch.
- (1) Grade slope over one-foot in three feet is prohibited unless existing site grading is unique and special measures are taken to prevent erosion.
 - (2) The trees shall be planted at a rate of at least one tree per 5,000 square feet of landscaped area or one tree per 50 feet of lot street frontage, whichever is greater; existing trees protected during construction may be counted toward

the total number of trees required. If more than five trees are required, at least two species shall be used.

- (3) Overgrown vegetation and sizable broken limbs shall be trimmed; dead or severely damaged trees shall be replaced. Infected trees shall be treated in accordance with chapter 82, Vegetation.
 - (4) Elms, ash, and box elder trees shall not be used unless disease resistant species are utilized.
- (c) In all classes of business and industrial districts yards adjoining any of the classes of residence districts or public parks shall be landscaped with buffer planting screens unless an adjacent residence district property contains a non-residential use. In R-3 and R-4 multiple family residence districts, yards adjoining lower classes of residence districts shall be landscaped with buffer planting screens unless a multiple family residence district property contains exclusively one- to four-family residences.
- (1) Buffer planting screens shall be at least 80 percent opaque year-round and six feet high. Planting screens shall be planted in such manner that, when fully grown, they remain entirely within the property boundaries. A maintenance-free opaque fence or other means deemed comparable to planting screens by the city staff may be used to substitute for the required buffer planting screens provided requirements of subsection (b) are met.
- (d) Building enlargement and expansions over 50 percent of existing building footprint area or construction of additional main use buildings on site shall cause an entire site landscaping review by city staff for ordinance compliance.
- (e) All requirements of this section shall be satisfied within one year of receiving a temporary certificate of occupancy. All new site work performed on existing occupied sites shall comply with the landscaping requirements.

(Code 1976, § 11.19(3)(A)(1); Ord. No. 687, § 1, 6-10-2014; Ord. No. 727 2nd series, § 1, 4-24-2018; Ord. No. 749 2nd series, § 1, 6-23-2020)

SECTION 3: AMENDMENT “Section 82-1 Grass And Weeds On Private Property” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 82-1 Grass And Weeds On Private Property

- (a) It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city, to allow any weeds or grass growing upon any such lot or parcel of land to grow to a greater height than eight inches , unless such grass brome grass or alfalfa, which is cut, baled and removed from the premises according to normal farming practices.
 - (1) The provision of subparagraph (a) does not apply to any area within Industrial and Agricultural zoning district, as defined in Chapter 86 Zoning, provided that the area with grass exceeding 8 inches in height is located at least 200 feet

from the nearest occupiable building and 100 feet from such building on the same lot; and at least 50 feet from the public right of way, a sidewalk, bike path, parking lot, or any other site feature reasonably expected to be visited by the general public on a regular basis.

- (2) The provision of subparagraph (a) does not apply, with the approval of the City Engineer, in all zoning districts within 15 feet of the top of the slope of any permanent body of water such as a pond or a river.
- (3) The provision of subparagraph (a) does not apply to City owned agriculturally zoned land and other areas maintained as pollinator gardens as defined and regulated in Chapter 86 Zoning Ordinance of this Code ~~maintained as weeded prairie, pollinators, meadow or natural landscape vegetation that does not contain noxious weed growth and that includes the cultivation of native grasses indigenous to Minnesota; and native vegetation shall be cut at least once annually between April 15 and July 15 to a height no greater than ten inches.~~

(b) If any such owner, occupant or agent fails to comply with this height limitation and, after notice given by the city clerk, has not within seven days of such notice complied, the city shall cause such weeds or grass to be cut and the expenses thus incurred shall be a lien upon such real estate. The finance director shall certify to the county auditor a statement of the amount of the cost incurred by the city. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

(Code 1976, § 10.25; Ord. No. 723 2nd Series, § 1, 8-8-2017)

State law reference(s)—Minnesota Noxious Weed Law, Minn. Stat. § 18.75 et seq.; special assessment authorized, Minn. Stat. § 429.101.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall