

**CITY OF MARSHALL
ORDINANCE 26-005**

**AN ORDINANCE AMENDING CHAPTER 86, ARTICLE II, DIVISION 2, SECTION
27 NONCONFORMING USE, SECTION 30 AMENDMENTS, SECTION 46
ISSUANCE; PURPOSES**

The Common Council of the City of Marshall do ordain:

SECTION 1: **AMENDMENT** “Section 86-27 Nonconforming Uses” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-27 Nonconforming Uses

- (a) *Continuation*. The use of buildings, structures or land legally existing on or before April 6, 1964, or on the effective date of relevant amendments to this chapter which do not conform to the provisions of this chapter may be continued except as otherwise provided in this section.
- (b) *Discontinuance*. If a nonconforming use is discontinued for a period of more than one-year, or any nonconforming use or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, as determined by the city assessor, and no building permit has been applied for within 180 days of when the properties is damaged, any subsequent use of the land or premises shall be a conforming use and the structure may not be rebuilt except in compliance with this chapter. In order to continue a destroyed nonconforming use or structure, a re-built structure must not extend, enlarge or intensify the nonconforming use existing prior to destruction.
- (c) *Alterations and normal maintenance*. Structural changes may be made only to bring the building or structure into compliance with building code or other governmental regulation. Normal maintenance may be permitted when it includes necessary nonstructural repairs and incidental alterations. Alterations or maintenance must not extend, enlarge or intensify the nonconforming use. Nonconforming structures must not be enlarged unless the enlargement is in compliance with this chapter and the entire structure's nonconformance is not increased. Nothing in this chapter shall prevent the improvement of a structure for safety purposes.

(Ord. No. 513 2nd series, 3-1-2004; Ord. No. 680 2nd series, § 1, 9-24-2013; Ord. No. 722 2nd series, § 1, 8-8-2017)

Editor's note(s)—Ord. No. 513, 2nd series, adopted March 1, 2004, repealed and reenacted § 86-27 in its entirety to read as herein set out. Formerly, § 86-27 pertained to similar subject matter and derived from the Code of 1976, § 11.20.

SECTION 2: AMENDMENT “Section 86-30 Amendments” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-30 Amendments

- (a) *Intent.* This chapter and the boundary maps adopted pursuant to this chapter may be amended whenever the public necessity and convenience and the general welfare require.
- (b) *Who may apply.* Amendments to this chapter, including rezoning, may be initiated by:
 - (1) The city council;
 - (2) The planning commission;
 - (3) The city staff acting on behalf of the city council; or
 - (4) The affected property owner.

For the purpose of this section, the words "affected property owner" shall mean the actual owner of the property which is proposed to be rezoned or is directly controlled by the chapter regulation proposed to be changed.

- (c) *Application forms.* All amendment requests, including rezoning requests, may be applied for only on the forms prepared by the city zoning administrator. All rezoning applications shall be accompanied by a list of names and addresses of the owners of lands within 350 feet of the property described on the application as the same appear on the records of the county.
- (d) *Application fee.* The council may, by resolution, establish a fee for the filing of applications for amendments, including rezoning, by the affected property owners. The fee shall be paid before the application shall be considered, and shall not be refundable. In case of public property being rezoned, the fee may be waived by the zoning administrator.
- (e) *Application requirements.* All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed, proposed buildings and uses, and all lands within 350 feet of the boundaries of the property proposed to be rezoned. ~~Application for rezoning shall be made to the planning commission.~~
- (f) *Procedure.* Application shall be made to the planning commission. The planning commission may hold such hearings on the amendment or rezoning as it may consider necessary, but at least one. ~~Before any amendment or rezoning is adopted, the planning commission shall hold a~~ public hearing shall be held pursuant to Minn. Stat. § 462.357, subd. 3. Following the hearing, the planning commission shall make a report upon the proposal to the council and shall recommend to the council whatever action it deems advisable.
- (g) *City council proceedings.* Upon the receipt of the report of the planning commission, the council may hold whatever hearings it deems advisable and shall make a decision

on the request for amendment or rezoning. When the council is making this decision, it is acting as a board of zoning adjustments and appeals. If planning commission meetings are cancelled due to lack of quorum and recommendations are not presented to the council within 360 days of the day of submitting application to the planning commission, the council may proceed without receiving a planning commission report. Unless a public hearing is held at the planning commission meeting, at least one public hearing shall be held by City Council pursuant to Minn. Stat. § 462.357, subd. 3. Unless state law otherwise requires a two-thirds vote, the amendment or rezoning shall be effective only if a majority of all the members of the council concur in its passage.

- (h) *Appeal*. Any person aggrieved by a decision of the council shall have a right to appeal such decision to the state district court located in the county. Such appeal shall be filed within 30 days of the date of the council's decision.

(Code 1976, § 11.24; Ord. No. 656 2nd series, § 1, 5-22-2012; Ord. No. 680 2nd series, § 1, 9-24-2013)

State law reference(s)—Amendments, Minn. Stat. § 462.357, subds. 2, 3.

SECTION 3: AMENDMENT “Section 86-46 Issuance; Purposes” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 86-46 Issuance; Purposes

- (a) Conditional use permits may be issued for any of the following:
- (1) Any of the uses or purposes for which such permits are required by the provisions of this chapter.
 - (2) To classify as a conforming use any nonconforming use existing in any district at the time of the establishment of such district or before April 6, 1964, or on the effective date of amendments to this chapter.
 - (3) Any permitted principal use that occupies more than 75 percent but less than 90 percent of the building, unless the remaining use is listed as a permitted or permitted accessory use.
- (b) Interim use permits may be issued for any of the following:
- (1) Any of the uses or purposes for which such permits are required by the provisions of this chapter.
 - (2) Any use for a limited period of time not to exceed 180 days until a permanent location is obtained or while the permanent location is under construction.
 - (3) Any use that is seasonal or temporary in nature.
 - ~~(4) Any use for a limited period of time not to exceed 180 days that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in the zoning ordinance or comprehensive plan.~~

(5) Any use for a limited period of time not to exceed 180 days that reasonably uses the property in the manner not provided in the zoning ordinance or comprehensive plan but which the council deems appropriate for future consideration as a permitted or conditional use.

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

SECTION 4: EFFECTIVE DATE This Ordinance shall take effect from and after its approval and publication.

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