

**CITY OF MARSHALL
ORDINANCE 26-010**

**AN ORDINANCE AMENDING CHAPTER 86, ARTICLE I, SECTION 1
DEFINITIONS**

The Common Council of the City of Marshall do ordain:

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:

- (a) *Abutting* or *abuts* means areas or lots whose boundaries at least touch one another at a single point, including areas or lots whose boundaries would touch but for an intervening alley.
- (b) *Accessory building* means a subordinate building which is located on the same lot as the principal use building and the use of which is listed as an accessory use and clearly incidental or supplementary to the use of the principal building.
- (c) *Accessory equipment* means any permanent exterior structure, except buildings, which is located either on the same lot as the principal use building or attached to any building on the lot and the use of which is clearly incidental or supplementary to the use of the principal building including, but not limited to, TV antennas, AC units, solar panels, service tanks, children playgrounds, swimming pools, hot tubs, sports 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.
- (d) *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.
- (e) *Alley* means a public way which provides secondary access to properties.
- (f) *Apartment* means a dwelling unit located in an apartment building.
- (g) *Apartment building* means a multiple family dwelling under single ownership.
- (h) *Assisted living facility* means a state licensed multiple family dwelling 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.

- (i) *Attic* means unfinished or partially finished space between the roof deck and the ceiling of the topmost story, and which can be accessed from below by attic access panel or pull-down ladder.
- (j) *Automobile wrecking*. See *junkyards*.
- (k) *Awning* means a roof-type 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 fabric or other pliable covering is attached.
- (l) *Balcony* means an exterior platform projecting from and supported by the building to which it is attached without additional independent support.
- (m) *Basement* means a habitable portion of a building located fully or partly underground immediately below the main floor.
- (n) *Bed and breakfast facility* means any owner-occupied one-family dwelling where the breakfast meal and lodging for compensation are provided for transient guests pursuant to previous arrangements and where the owners serve as hosts.
- (o) *Boarder* means a person, not a part of a housekeeping unit, who resides with that housekeeping unit on a permanent basis with a special contract with the owner whereby the owner provides meals and lodging.
- (p) *Boulevard* means a portion of the street right-of-way located between the street and private property, unless a public sidewalk is present, in which case it is a portion located between the street and public sidewalk.
- (q) *Brewpub* means a small brewery that serves and sells its product on premises in addition to off-premises sales. For the purpose of this Chapter, a brewpub is the same as taproom.
- (r) *Buildable area* means the portion of a lot remaining after required yards have been provided.
- (s) *Building* means any structure used for the shelter or enclosure of persons, animals, chattels or property of any kind, and fully enclosed with full height walls on all sides and roof on top.
- (t) *Building addition* means an extension or increase in floor area, number of stories or height of an existing building.
- (u) *Building alteration (remodel)* means any construction or renovation of an existing building other than addition or repair.
- (v) *Building area* means gross area of the main floor of a building contained between exterior surfaces of exterior walls, including all porches.
- (w) *Building area, total*, means the sum of the gross horizontal areas of all stories of a building measured within exterior surfaces of the exterior walls, and including basements.
- (x) *Building Code* means the current State Building Code.
- (y) *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 edge or parapet for flat roofs; to the deck line of mansard roofs and to the mean height point between the top eave line and the ridge or other highest roof point for gable, hip and gambrel roofs.
- (z) *Building official* means the municipal building code official certified under Minnesota Statutes and designated by the city council, and who is authorized to enforce the State

Building Code.

- (aa) *Building repair* means any maintenance work, including replacement of deteriorated finishes and broken equipment, and work to correct damage, including that caused by natural disasters or malfunctioning equipment, performed on an existing building to restore it to previous condition.
- (ab) *Canopy* means a roof-type 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 or a permanent independent roofed structure supported by two or more individual vertical supports.
- (ac) *Carport* means a canopy structure serving as an automobile shelter and having one or more sides fully open.
- (ad) *Comprehensive plan* means a declaration of purposes, policies and programs for the development of the City for the future and adopted by the City Council as one document.
- (ae) *Condominium* means an individually owned dwelling unit located in a multiple family dwelling; it may include an undivided interest in the common areas and facilities on the premises.
- (af) *Congregate living facility* means a building or part thereof containing multiple sleeping units designed or used by permanent residents who share common sanitation or cooking facilities, or both, located in the building. Such facilities include convents, shelters, dormitories, and fraternity or sorority houses among others, but not nursing homes or jails.
- (ag) *Construction documents* means written or graphic documents prepared or assembled for describing the design of, and providing other necessary information for, a project and required to obtain a permit for relevant work.
- (ah) *Court* means an open and uncovered unoccupied space bounded on three or more sides by the exterior walls of a building or buildings on the same lot.
- (ai) *Crematorium* means a building where dead bodies are burned to ashes.
- (aj) *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.
- (ak) *Day care facility* means any facility, licensed by the State of Minnesota, public or private, which for gain or otherwise regularly provides two 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 mental health care centers, substance abuse treatment facilities, and any facility excluded by Minn. Stat. § 462.357, subd. 7.
- (al) *Deck* means an open exterior platform supported on at least two opposing sides by a structure, or building and/or posts or piers and elevated above grade more than six inches at any point.
- (am) *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 for the PUD or other land development and who will become the owner of the property prior to any development of the property.

- (an) *District zoning* means a section of the city for which the regulations governing the height, area and use of buildings and premises, along with other supplemental requirements are the same.
- (ao) *District, downtown* means an area in the city characterized by lack of parking and reduced yards and shown on the city zoning map as an overlay district.
- (ap) *District, Heritage*, means an area in the city characterized by older, mostly original, buildings comprising the core of the downtown district and shown on the city zoning map as an overlay district.
- (aq) *Drive-thru, drive-in, or drive-up* means a business where customers drive through or into a specified place to complete a transaction from one's car, including obtaining and consuming food.
- (ar) *Dwelling* means a building or portion of a building which is designed, intended or used exclusively for permanent residential occupancy by one or more persons.
- (as) *Dwelling, multiple family*, means a building or a portion of a building containing more than two dwelling units.
- (at) *Dwelling, one-family*, means a building designed, intended, or used for permanent residential occupancy exclusively by one housekeeping units, and providing complete independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (au) *Dwelling, two-family*, means a building containing two dwelling units.
- (av) *Dwelling unit* means a self-contained portion of a building, intended, or used for permanent residential occupancy exclusively by one housekeeping unit and providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (aw) *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.
- (ax) *Easement* means a strip of land granted by a property owner for the purpose of constructing and maintaining an access drive and/or utilities, public or private, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage courses, and gas lines.
- (ay) *Façade or Building Elevation* means the entire exterior elevation of a building exposed to public view extending from the grade to the top of the highest rood edge or parapet wall of a building with a flat roof or the bottom of the highest eave line of a building with a gambrel, mansard, gable, or hip roof, and the entire width of the building within its outmost vertical planes.
- (az) *Farming* means the cultivation of the soil or keeping farm animals, including all related incidental activities, for commercial purposes.
- (ba) *Floor, main*, means the lowest building level above grade.
- (bb) *Footprint* means the area of the land covered by a building's foundation.
- (bc) *Frontage* means that boundary of a lot that abuts a public or private street or for the

- signage area calculations, the length of such boundary.
- (bd) *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.
 - (be) *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 or is attached to the principal use building.
 - (bf) *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.
 - (bg) *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.
 - (bh) *Gazebo* means a roofed accessory ~~structure~~~~building~~ partially open on all sides, typically used for relaxation or entertainment.
 - (bi) *Home occupation* means any occupation or business of a service or shop character conducted from the person's residence and which is clearly secondary to the principal use of the premises as a dwelling. For the purpose of this Chapter, family day care is not considered home occupation.
 - (bj) *Hotel or motel* means a building or portion of a building where lodging is offered to transient guests for compensation and in which there are more than two sleeping units.
 - (bk) *Housekeeping unit* means all persons residing together on the premises whose relationship includes a substantial amount of social interaction including the sharing of housekeeping responsibilities and expenses.
 - (bl) *Impervious surface* means a surface covering which does not permit water to percolate into the natural soil.
 - (bm) *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, but is not limited to, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.
 - (bn) *Junkyard* means open land where waste, discarded or salvaged materials and products are brought, sold, exchanged, stored, cleaned, packed, disassembled, processed or handled; such materials and products include, but are not limited to: scrap metal, rags, paper, rubber products, glass products, lumber products and products from wrecking, disassembling and/or crushing of automobiles and other vehicles.
 - (bo) *Landing* means a platform at the top or bottom of a flight of stairs in front of a door.
 - (bp) *Lot or plot* means one unit of a recorded plat or subdivision or, if not a part of a plat, defined by meets and bounds, occupied or to be occupied by buildings, including as a minimum such open spaces as are required under this Chapter and having at least one frontage or a recorded public access.
 - (bq) *Lot area* means the land area within the lot lines.
 - (br) *Lot, corner* means a lot situated at the junction of and fronting on two or more

adjoining streets.

- (bs) *Lot depth* means the average distance between the front and rear lot lines; it may be approximated as a distance between center points of the front and rear lot lines. For the purpose of this definition, a curved street changing direction by more than 60 degrees shall be considered two adjoining streets. For the purposes of this definition, the front lot line of a two-street corner lot is the line opposite to the chosen rear lot line, and the front lot line of a three-street corner lot is the middle one. For a double frontage lot, lot depth means the average distance between opposite front lot lines.
- (bt) *Lot, double frontage*, means an interior lot having frontage on two not adjoining streets.
- (bu) *Lot, flag*, means a lot with narrow or no frontage on the street where vehicular access is provided to the lot by means of a narrow portion of a lot or an access easement.
- (bv) *Lot, interior*, means a lot other than a corner lot.
- (bw) *Lot lines* means the lines bounding a lot and separating it from other lots or public right-of-ways.
- (bx) *Lot line, front*, means a lot line abutting a street or any other access way that provides the only site access.
- (by) *Lot line, side*, means any lot line adjacent to the front lot line, except two-street corner lots, where one of the lot lines adjacent to the front lot line shall be designated a rear lot line.
- (bz) *Lot line, rear*, means any lot line other than a front or side lot line and which is usually directly opposite the front lot line.
- (ca) *Lot, substandard*, means any lot which does not meet the minimum size requirements or other standards of this Chapter, including, but not limited to, setbacks and access requirements section.
- (cb) *Lot width* means the distance between end points of side lot lines at their intersection with the front lot line measured along the front lot line. For the purposes of this definition, the front lot line of a double frontage lot is the access side one.
- (cc) *Manufactured home* means a structure 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.
- (cd) *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, or enclosure used or intended for use as an accessory for such manufactured home park.
- (ce) *Marquee* means a flat roofed structure that is wholly supported by the building to which it is attached.
- (cf) *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 zoning district in which it is situated.
- (cg) *Occupancy, permanent*, means residential occupancy other than transient.

- (ch) *Occupancy, transient*, means residential occupancy not exceeding 30 days or by a person who has permanent residency elsewhere.
- (ci) *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.
- (cj) *Owner* means any person, agent, firm or corporation having a legal or equitable interest in the property.
- (ck) *Patio* means a flat structure made of concrete, brick, wood, or other building materials, elevated above adjacent grade six inches or less at any point of the structure.
- (cl) *Pergola* means a structure forming a shaded area and made of vertical posts or pillars that usually support cross beams and a sturdy open lattice.
- (cm) *Permit* means an official document issued by the City that authorizes performance of a specific activity.
- (cn) *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.
- (co) *Porch, four season, or sunroom* means a heated room with the glazing exceeding 40 percent of the exterior wall area.
- (cp) *Porch, open*, means a roofed deck surrounded by walls not higher than 42 inches, with or without window screens above.
- (cq) *Porch, three-season*, means an unheated room with the glazing exceeding 40 percent of the exterior wall area.
- (cr) *Prefabricated building* means a building regulated by the State Building Code, which is constructed, in full or in sections, off the building site, for installation, or assembly and installation, on the building site on the permanent foundation.
- (cs) *PUD (planned unit development)* means a special zoning district which may include single or mixed uses and one or more lots or parcels, where one or more of the zoning or subdivision regulations, except use regulations, may be waived or altered to create a more flexible, creative and efficient approach to the use of land and which is subject to the procedures, standards and regulations contained in this Chapter.
- (ct) *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.
- (cu) *Recreational vehicle* means a vehicle, motorized or towed, that is built on a single chassis and is designed for recreational, travel, or seasonal camping use. For the purposes of this Chapter, the term recreational vehicle shall be synonymous with the

term fifth wheel, travel trailer, camper, or motor coach/home.

(cv) *Residential facility* means

(1) Any facility, licensed by the Department of Health and Human Service with the State of Minnesota 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 State of Minnesota, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, licensed sober houses, or schools for handicapped children. Nothing in this definition shall be construed to include any facility excluded by Minn. Stat. § 462.357, subd. 7.

(2) Any communal living facility, which, for gain or otherwise, provides one or more persons with education, support, or rehabilitation related to a disability recognized under the Fair Housing Act and which, because of the benefits of communal living, furthers their rehabilitation and access to housing, including sober houses operating in compliance with state law.

(cw) *Right-of-way* means a publicly owned strip of land covered, or intended to be covered, by a public roadway or other vehicle or pedestrian path, including adjacent land, which is dedicated, designated or reserved for public use.

(cx) *Roomer* means a person, not a part of a housekeeping unit, who rents a single room and resides with that housekeeping unit on a permanent basis with no right to cooking privileges or facilities and no special contract for food.

(cy) *Self-storage warehouse (ministorage)* means a building subdivided into compartments of 500 square feet or less each, which are rented to individuals on a monthly basis for storage of personal property.

(cz) *Setback* means the distance between the property line and the building on a lot.

(da) *Sleeping unit* means a room or a suite of rooms designed, intended, or used for permanent or transient occupancy and providing facilities for sleeping; it may also provide facilities for living, eating, and limited cooking. Such rooms that are part of a dwelling unit are not considered sleeping units.

(db) *Solar energy collector* means any device or system and associated facilities that convert direct solar energy to electricity.

(dc) *Stacking lane* means a waiting area for drivers who remain in their vehicles awaiting service at a drive through establishment.

(dd) *Staff development review committee* means a group of people appointed by the city administrator to will conduct a review of all development plans for any PUD. The committee shall include the city engineer, zoning administrator, and any other members of the city staff or city consultants as appropriate.

(de) *Story* means a portion of a building included between the upper of a building floor and the upper surface of the floor or bottom surface of the roof above and located entirely above ground.

(df) *Story, half*, means a finished 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, or, if not at exterior wall, not more than five feet above the story floor, and which is accessed through a permanent stair.

- (dg) *Street* means a roadway set aside for public vehicular traffic regardless be public or private or designation but excluding access and roadway easements and alleys as defined therein. Streets may be public or private.
- (dh) *Structural alterations* means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
- (di) *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.
- (dj) *Tent* means an independent temporary canopy structure, with or without side covers, constructed of fabric or other pliable material and supported by a lightweight, rigid frame.
- (dk) *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.
- (dl) *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 and has exterior walls on at least two sides.
- (dm) *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.
- (dn) *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.
- (do) *Use, conditional*, means a use not normally permitted in a particular zoning districts, but which may be allowed under certain conditions by the City Council action.
- (dp) *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 total area. Incidental use shall not be considered in determination of the zoning district placement.
- (dq) *Use, interim*, means a use not normally permitted in a particular zoning district, but which may be temporarily allowed by the City Council action until a particular date, until the occurrence of a particular event, or until the use is no longer allowed.
- (dr) *Use, mixed*, means a single building containing more than one type of use or a single development of more than one building and use, where different types of 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.
- (ds) *Use, permitted*, means a use formally allowed in a particular zoning district.
- (dt) *Use, principal*, means the main use of the property occupying at least 75 percent of the building area and determining the zoning district placement.
- (du) *Variance* means a modification of the provisions of this Chapter as applied to a specific property, which may be allowed under certain conditions by the City Council action.
- (dv) *Wind energy conversion systems (WECS)* means any device or system such as a wind charger, windmill, or wind turbine and associated facilities that convert wind energy to electricity.
- (dw) *Yard* means an open unoccupied, except for accessory building or structures, space lying between any lot line and the nearest wall or other vertical structural support of a

principal use building.

- (dx) *Yard, front*, means a yard extending across the front of the lot between the lot side lines.
- (dy) *Yard, rear*, means a yard extending across the rear of the lot between the lot side lines.
- (dz) *Yard, rear, depth of*, means the average distance between the rear line of the building and rear lot line.
- (ea) *Yard, required*, means the minimum yard required in a particular zoning district.
- (eb) *Yard, side*, means a yard extending along the side lot lines between the front lot line and 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: **EFFECTIVE DATE** This Ordinance shall take effect after its passage 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