

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

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

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

Consider Approval of the Minutes

No changes or amendments were requested of the minutes.

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

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

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

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

Discussion on Chapter 2-VII Administrative Citations

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

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

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

Ordinance Amending Section 86-97 One Family Residence District

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

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

Ordinance Repealing Section 86-51 Bed and Breakfast

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

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

Ordinance Amending Section 86-107 General Industrial District

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

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

Ordinance Amending Section 66-55 Procedures

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

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

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

Respectfully Submitted,

Steven Anderson
City Clerk