

### **CALL TO ORDER**

IN REGULAR SESSION Tuesday, February 18, 2020, at 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Caron.

### **ROLL CALL**

Roll was called:

Present: Council Members: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: Council Members McNeil and Metzger.

**Moved** Gates, supported Wolfersberger, to excuse the absence of Council Members McNeil and Metzger. On a voice vote – **MOTION CARRIED.**

### **INVOCATION/PLEDGE OF ALLEGIANCE**

Scott Loughrige of Cross Roads Church & Ministries gave the Invocation and Mayor Caron led the Pledge of Allegiance.

### **APPROVAL OF THE AGENDA**

**Moved** Traver, supported Underhill, to approve the agenda with the addition of the Michigan South Central Power Agency Invoice in the amount of \$641,799.67 and item 8J-Schedule Public Hearing for DNR Trust Fund Acquisition Grant. On a voice vote – **MOTION CARRIED.**

### **CANDIDATES FOR PUBLIC OFFICE**

Ron Smith announced his intent to run for Water Resource Commissioner in Calhoun County.

### **PUBLIC COMMENT ON AGENDA ITEMS**

None.

### **CONSENT AGENDA**

**Moved** Gates, supported Underhill, to approve the Consent Agenda:

- A. Approve the bylaws of the South Neighborhood Improvement Authority;
- B. Adopt the 2020 Workplan for the 2019-2024 Council Visioning and Goals;
- C. Approve the Local Government Approval Resolution for Partners in Wine, LLC's licensing application to the Michigan Liquor Control Commission
- D. Approve Roak Brewing Co. LLC's request for a Small Wine Makers License and Small Distiller License and authorize the City Clerk to certify the resolution;
- E. Approve the revised Hardship Exemption Policy and Guidelines;

- F. Approve changing the effective date of the P.A. 425 Agreement from January 1, 2020 to December 31, 2019 for the Backroads Saloon property located at 15325 W. Michigan Avenue;
- G. Approve amending the P.A. 425 Agreement for Family Bible Church for 725 Old US 27 N to update the legal description to reflect the planned expansion;
- H. Minutes of the City Council Regular Session held on Tuesday, January 21, 2020;
- I. Approve city bills in the amount of \$ 2,374,276.87.
- J. Schedule a public hearing for March 16, 2020 to consider an application for a Michigan Department of Natural Resources Trust Fund Acquisition Grant.

On a roll call vote – ayes: Traver, Underhill, Wolfersberger, Mayor Caron, and Gates; nays: none. **MOTION CARRIED.**

### **PRESENTATIONS AND RECOGNITION**

#### **A. Oaklawn Hospital Presentation:**

Greg Beeg, President and CEO of Oaklawn Hospital, provided an update on upcoming events and support given by Oaklawn to the community.

### **INFORMATIONAL ITEMS**

#### **A. Event Report – Hospitality Classic:**

**Moved** Wolfersberger, supported Gates, to approve the Hospitality Classic to be held on Saturday, May 16, 2020 and the required street closures. On a voice vote – **MOTION CARRIED.**

### **PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION**

#### **A. Conditional Rezoning Request #JPCRZ20.01 for 15325 W. Michigan Avenue:**

Planning and Zoning Administrator Trisha Nelson gave background regarding 15325 W. Michigan Avenue. Owners of the property requested to bring the property into the City through a 425 Agreement with Marshall Township and that request has been granted. After research and consideration, the owner has submitted a Conditional Rezoning Request. The agreement states the property would be zoned I-1 Research and Technical District for the exclusive purpose of a Marihuana facility. If a Marihuana Facility ceases to exist, the property would revert to B-4 Regional Commercial, which is the closest zoning to that of the Township Zoning of Highway Service.

Mayor Caron opened the public hearing to hear public comment regarding the

Conditional Rezoning Request for 15325 W. Michigan Avenue.

Hearing no further comment, the hearing was closed.

**Moved** Gates, supported Underhill, to approve Conditional Rezoning Request #JPCR20.01 for 15325 W. Michigan Avenue to rezone from Marshall Township zoning of HS-Highway Service District to the City Zoning of I-1 Research and Technical District for the exclusive use of a Marihuana Facility and if the property ceases to exist for the use after six months the zoning would revert to B-4 Regional Commercial. On a roll call vote – ayes: Underhill, Wolfersberger, Mayor Caron, Gates, and Traver; nays: none. **MOTION CARRIED.**

**B. Ordinance Amendments:**

Attorney John Sullivan and Director of Public Safety Scott McDonald provided background regarding the proposed ordinance changes. The purpose of the various changes are to clean up some deficiencies and/or inaccuracies that were found in our current code.

Mayor Caron opened the public hearing to hear public comment on repealing City Ordinance 70.014 Bicycle License Required; repealing City Ordinance 134.01 Loitering; amending City Ordinance 136.01 Lawful Drinking Age; Amending City Ordinance 10.99 General Penalties; and the addition of City Ordinance 137.08 Possession of Alcoholic Liquor on School Property.

Barry Wayne Adams of 622 W. Green provided the definition of licensure and questioned the licensing of bicycles. He stated that licensing is an aspect of Marshall law.

Ron Smith inquired if we were repealing the ordinance regarding bicycle licenses.

Hearing no further comment, the hearing was closed.

**Moved** Underhill, supported Wolfersberger, to approve repealing City Ordinance 70.014 Bicycle License Required; repealing City Ordinance 134.01 Loitering; amending City Ordinance 136.01 Lawful Drinking Age; Amending City Ordinance 10.99 General Penalties; and the addition of City Ordinance 137.08 Possession of Alcoholic Liquor on School Property. On a roll call vote – ayes: Gates, Traver, Underhill, Wolfersberger, and Mayor Caron; nays: none. **MOTION CARRIED.**

**City of Marshall, Michigan  
Ordinance #2020-03**

AN ORDINANCE REPEALING §70.014 LICENSE REQUIRED

**WHEREAS**, Marshall City Code Section 70.014 requires that bicycles operated on city streets be licensed; and

**WHEREAS**, the Chief of Police is of the opinion that the licensing of bicycles is not necessary and does not further the health, safety and welfare of city residents or visitors;

**NOW, THEREFORE,**

**THE CITY OF MARSHALL ORDAINS** that Section 70.014 of the Marshall City Code is hereby repealed in its entirety.

### **REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

### **SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void or illegal by any Court of competent jurisdiction, such section, clause or provision shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

### **ENACTMENT**

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, and ordered to be given publication in the manner prescribed by law.

AYES: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS: None.

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Mayor

STATE OF MICHIGAN

COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the

ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, the original of which is on file in my office.

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Clerk

Adopted: February 18, 2020

Published: February 22, 2020

**City of Marshall, Michigan  
Ordinance #2020-04**

AN ORDINANCE REPEALING §134.01 LOITERING

**WHEREAS**, Marshall City Code Section 134.01 prohibits loitering; and

**WHEREAS**, the Chief of Police is of the opinion that the prohibition is not necessary and does not further the health, safety and welfare of city residents or visitors;

**NOW, THEREFORE,**

**THE CITY OF MARSHALL ORDAINS** that Section 134.01 of the Marshall City Code is hereby repealed in its entirety.

**REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

**SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void or illegal by any Court of competent jurisdiction, such section, clause or provision shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**ENACTMENT**

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AYES: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS: None.

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Mayor

STATE OF MICHIGAN

COUNTY OF CALHOUN

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Clerk

Adopted: February 18, 2020

Published: February 22, 2020

**City of Marshall, Michigan  
Ordinance #2020-05**

AN ORDINANCE ADDING SECTION 137.08 TO THE CITY OF MARSHALL CODE OF ORDINANCES

**WHEREAS**, Section 436.1904 of the Michigan Liquor Control Code of 1998, MCL 436.1101, et seq; prohibits the possession or consumption of alcoholic liquor on school property; and

**WHEREAS**, the City of Marshall Code of Ordinances does not address the subject matter; and

**WHEREAS**, the public good is furthered by maintaining consistency and uniformity between the Act and local ordinance;

**NOW, THEREFORE, THE CITY OF MARSHALL ORDAINS:**

**§ 137.08 POSSESSION OF ALCOHOLIC LIQUOR ON SCHOOL PROPERTY**

(A) Definitions. As used in this section:

“**PRIOR CONVICTION**” means a conviction for violating this ordinance, Section 436.1904 of the Michigan Liquor Control Code of 1998, MCL

436.1904, or a local ordinance substantially corresponding to Section 436.1904.

“**SCHOOL**” means a private or public school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12.

“**SCHOOL PROPERTY**” means a building, playing field, school bus, vehicle or other property used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

- (B) A person shall not consume alcoholic liquor on school property or possess alcoholic liquor on school property with the intent to consume it on school property except as a part of a generally recognized religious service or religious ceremony or at a non-school function approved by the school superintendent or head administrator of the school.
- (C) A person who violates this section is guilty of a misdemeanor punishable as follows:
  - (1) If the person has no prior convictions, by imprisonment for not more than 90 days or a fine of not more than \$250.00, or both.
  - (2) If the person has 1 prior conviction, by imprisonment for not more than 90 days or a fine of \$500.00, or both.

(D) This section does not apply to a minor who is subject to prosecution under section 136.01.

(E) This section does not prohibit an individual from being convicted of or found responsible for any other violation of law arising out of the same transaction as the violation of this section

**Statutory reference:**

*Liquor Control Code, see MCL 436.1904.*

**REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

**SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void or illegal by any Court of competent jurisdiction, such section, clause or provision shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**ENACTMENT**

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, and ordered to be given publication in the manner prescribed by law.

AYES: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS: None.

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Mayor

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, the original of which is on file in my office.

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Clerk

Adopted: February 18, 2020  
Published: February 22, 2020

**City of Marshall, Michigan  
Ordinance #2020-06**

AN ORDINANCE AMENDING CITY OF MARSHALL CODE OF ORDINANCES,  
SECTIONS 136.01

**WHEREAS**, Section 136.01 of the Code of Ordinances is in conflict with the Michigan Liquor Control Code of 1998, MCL 436.1101, et seq; and

**WHEREAS**, the public good is furthered by maintaining consistency and uniformity between the Act and local ordinance;

**NOW, THEREFORE, THE CITY OF MARSHALL ORDAINS** that the current version of Section 136.01 be deleted and replaced with the version set forth herein;

**~~§ 136.01 LAWFUL DRINKING AGE.~~**

~~(A) No person, either directly or indirectly, by himself, herself, clerk, agent, servant or employee, shall sell, furnish, give or deliver any alcoholic beverage, beer or wine to any person under the age of 21 years, or to any person who is under the influence of intoxicating liquor, nor shall any person knowingly furnish a place where at the time of furnishing the place any alcoholic liquor, beer or wine is consumed by any person under the age of 21 years.~~



~~(1) For the purposes of this section, where the word "person" is used, it is intended that that word shall include both adults and minors.~~

~~(2) For the purposes of this section, the use of the word "place" is intended to include a home, apartment, condominium, other dwelling unit or any building accessory to a residence or an outbuilding or yard, pool or vacant property or rental hall or building.~~

~~(B) No person under the age of 21 years shall represent himself to be over the age of 21 years, or make any false statements or give false information regarding his or her age to any police officer or person or employee in charge of any place where beer and wine and other alcoholic beverages are sold, in order to procure the sale or furnishing of beer, wine or other alcoholic beverage.~~

~~(C) No person shall make any false representation to procure the sale or furnishing of beer, wine or other alcoholic beverage to a person under the age of 21 years.~~

~~(D) No person under the age of 21 years may be permitted in any place where beer and wine or other alcoholic beverages are sold for consumption on the premises, excepting places in which the principal business is:~~

~~(1) Preparing and serving of meals to the public;~~

~~(2) The operation of bowling lanes; or~~

~~(3) The operation of a golf course.~~

~~(E) (1) A person less than 21 years of age shall purchase or knowingly possess transport or possess alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan Liquor Control Code of 1998, a common carrier designated by the Liquor Control Commission under the Michigan Liquor Control Code of 1998, the Liquor Control Commission or an agent of the Liquor Control Commission and is transporting or having alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle.~~

~~(2) A person who violates this division is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in M.C.L.A. § 436.1703.~~

~~(F) (1) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor or possess or attempt to possess alcoholic liquor, except as provided by law. A person less than~~

~~21 years of age who violates this section shall be guilty of a misdemeanor and punishable by the fines and sanctions set forth in Act 58 of 1998, M.C.L.A. § 436.1703(b).~~

~~— (2) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis, as required in this division, is responsible for a civil infraction and may be ordered to pay a civil fine.~~

~~(Prior Code, § 18-117) (Ord. passed 8-21-1978; Am. Ord. passed 9-17-1979; Am. Ord. passed 7-1-1985; Am. Ord. passed 5-16-1988; Am. Ord. 99-1, passed 1-4-1999; Am. Ord. 99-9, passed 10-4-1999)~~

***Statutory reference:***

*Liquor Control Act, see M.C.L.A. §§ 436.1101 et seq.; M.S.A. §§ 18.971 et seq.*

**§ 136.01 MINORS – ALCOHOL**

(A) Definitions. As used in this section:

“**MINOR**” means an individual less than 21 years of age.

“**ANY BODILY ALCOHOL CONTENT**” means either an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or any presence of alcohol within a person’s body resulting from the consumption of alcoholic liquor.

“**EMERGENCY MEDICAL SERVICES PERSONNEL**” means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904, as amended.

“**HEALTH CARE FACILITY OR AGENCY**” means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, as amended.

“**PRIOR JUDGMENT**” means that term as defined in 2017 PA 123, MCL 436.1703, as amended.

“**DILIGENT INQUIRY**” means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator’s or chauffeur’s license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

- (B) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcoholic content, except as provided herein. A minor who is in violation of this section is subject to the following:
- (1) For a first violation, the minor is responsible for a municipal civil infraction and shall be fined not more than \$100.00. The court may also order the minor to undergo a substance abuse assessment, participate in substance use disorder services, perform community service and submit to random or regular preliminary chemical breath analysis as a condition of probation. A minor may be found responsible or admit responsibility only once under this section.
  - (2) If the violation occurs after 1 prior judgment, the minor is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation or other orders of the court associated with that conviction, or a fine of not more than \$200, or both. The court may also order the minor to undergo a substance abuse assessment, participate in substance use disorder services, perform community service and submit to random or regular preliminary chemical breath analysis as a condition of probation. If a person pleads guilty under this section, the court may defer further proceedings as provided in MCL 436.1703(3)-(4), as amended, however a successful deferral, discharge or dismissal is considered a prior judgment for the purposes of subsection (3) below.
  - (3) If the violation occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor, punishable by imprisonment for not more than 60 days if the court finds that the minor violated an order of probation or other orders of the court associated with that conviction, or a fine of not more than \$500, or both. The court may also order the minor to undergo a substance abuse assessment, participate in substance use disorder services, perform community service and submit to random or regular preliminary chemical breath analysis as a condition of probation.
- (C) A person who furnishes fraudulent identification to a minor or, notwithstanding subsection (B), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00 or both.
- (D) The secretary of state shall suspend the operator's or chauffer's license of an individual convicted of a second or subsequent violation of section

(B) or a violation of section (C) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(E) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request the individual to submit to a preliminary chemical breath analysis. If the minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(F) A law enforcement agency, on determining that an individual less than 18 years of age and not emancipated under 1968, PA 293, MCL 722.1 to 722.6, allegedly consumed possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of section (B), or on determining that the individual is considered not to be in violation pursuant to subsections (G)(5)-(7), shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation or (G)(5)-(7) contact if the name of the parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. Notification under this section shall occur within 48 hours and shall be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first class mail. If the person is less than 17 years of age, and is incarcerated for a violation of section (B), notification under this section shall be immediate whenever possible.

(G) The following individuals shall not be considered in violation of section (B)

(1) A minor who possesses alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed under the Michigan Liquor Control Code of 1998, MCL 436.1101, et seq, or by the Liquor Control Commission or an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(2) A minor who consumes alcoholic liquor in connection with enrollment in a course offered by an accredited educational institution in an academic building of the institution under the supervision of a faculty member if the purpose of the consumption is solely educational and is a requirement of the course.

- (3) A minor who consumes sacramental wine in connection with religious services at a church, synagogue, or temple.
  - (4) A minor who participates in an employer-sponsored internal undercover enforcement operation which has prior approval of the local prosecutor, or who participates in an undercover operation under the direction of state or local police, or the Liquor Control Commission.
  - (5) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for observation or treatment, including but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520b to 750.520g, committed against the minor.
  - (6) A minor who has consumed alcoholic liquor and accompanies another minor who voluntarily presents himself or herself to a health facility or agency for observation or treatment, including but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520b to 750.520g, committed against the minor.
  - (7) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.
- (H) A person shall not, either directly or indirectly, by himself, herself, clerk, agent, servant or employee:
- (1) Knowingly sell, furnish, give, or deliver alcohol to a minor, or fail to make a diligent inquiry as to whether the person is a minor.
  - (2) Knowingly sell, furnish, give, or deliver alcohol to any person who is under the influence of alcohol.
  - (3) Knowingly furnish a place where alcohol is possessed or consumed by a minor.
  - (4) A person in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00 or both.

(Prior Code, § 18-117) (Ord. passed 8-21-1978; Am. Ord. passed 9-17-1979; Am. Ord. passed 7-1-1985; Am. Ord. passed 5-16-1988; Am. Ord. 99-1, passed 1-4-1999; Am. Ord. 99-9, passed 10-4-1999, AM. Ord. 2020-06, passed 2-18-2020)

**Statutory reference:**

*Liquor Control Act, see M.C.L.A §§ 436.1101 et seq.; M.S.A. §§ 18.971et seq.*

## **REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

## **SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void or illegal by any Court of competent jurisdiction, such section, clause or provision shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

## **ENACTMENT**

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, and ordered to be given publication in the manner prescribed by law.

AYES: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS: None.

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Mayor

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, the original of which is on file in my office.

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Clerk

Adopted: February 18, 2020

Published: February 22, 2020

**City of Marshall, Michigan**  
**Ordinance #2020-07**

## **AN ORDINANCE AMENDING § 10.99 GENERAL PENALTY**

**WHEREAS**, the City of Marshall, Michigan has previously enacted an ordinance providing penalties for violations of ordinances; and

**WHEREAS**, amendments to the City Code have been made which require amendments to Section 10.99(H); and

**NOW, THEREFORE, THE CITY OF MARSHALL ORDAINS** that Section 10.99(H) of the Marshall City Code is hereby amended by the deletion and inclusion of the following language:

- (A) Any person violating any provision of this Code for which a penalty is not otherwise specified, either in that provision or elsewhere in the Code, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be subject to a fine of not more than \$500, or to imprisonment in the county jail for a period of not more than 90 days, or to both such fine and imprisonment in the discretion of the court.
- (B) Provisions of this Code prescribing any penalty shall not apply to the failure of any city officer or employee to perform an official duty.
- (C) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 736 of the Public Acts of 1961, as amended and other applicable laws.
  - (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any ordinance, the civil fine for a violation shall be not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct and indirect, to which the city has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10 nor more than \$500 be ordered.
  - (2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Code or any ordinance. As used in this section, REPEAT OFFENSE means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any three-year period (unless some other period is specifically provided by this Code or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code or any

ordinance for a particular municipal civil infraction violation the increased fine for a repeat offense shall be as follows:

- (a) The fine for any offense which is a first repeat offense shall be no less than \$150 and no more than \$500, plus costs.
  - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500, plus costs.
  - (c) Repeat offenses are determined on the basis of the date of the commission of the offenses.
- (D) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance; and any omission or failure to act where the act is required by this Code or any ordinance.
- (E) Each act of violation and each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (F) In addition to any remedies available at law, the city may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code or any city ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.
- (G) The penalties and sanctions provided by this section, unless another penalty or sanction as expressly provided, shall apply to the amendment of any section of this Code and/or any addition to this Code whether or not such penalty or sanction is reenacted in the amendatory ordinance.
- (H) All violations under the following chapters, articles and sections of the Marshall City Code of Ordinances shall be municipal civil infractions and shall be processed in accordance with Public Act 17 of the Public Acts of 1994, as amended, and pursuant to the provisions of this code related to municipal civil infractions:

Sections **50.01 through 50.99**, 70.009, 70.011, 70.013, ~~70.014~~, 90.15 through 90.17, **except as otherwise provided in section 90.22** , 91.02, 92.01 through 92.11, 97.02(A), 97.21, 112.03, 130.03, ~~132.02~~, ~~134.01~~, 134.27, ~~134.28~~, 134.30, **136.01(B)(1)**, 136.02, **136.03(G)**, **136.03(J)**, 137.01, 137.02, 137.03, **137.04(C)** **except as otherwise provided in 137.04(H)2)c)** or 137.04(I), 137.04(E), 137.04(G), 137.04(H) **except as otherwise provided in subsection 137.04(H)(2)(C)**, **137.05(H)(2)**, **137.23** ~~138.02~~, ~~138.03~~, ~~138.05~~, ~~138.06~~, ~~150.001 through 150.005~~, ~~150.067 through 150.069~~, **150.068**, ~~150.084 through 150.088~~.



(Prior Code, § 1-10) (Ord. 98-2, passed 2-2-1998; Am. Ord. 98-9, passed 8-3-1998 Am.Ord; **Am Ord.**\_\_\_\_\_, **passed** \_\_\_\_\_, **Am. Ord. 2020** - \_\_\_\_\_, **passed** \_\_\_\_\_, **2020**)

## **REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

## **SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

## **SAVINGS**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

## **EFFECTIVE DATE**

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

## **ENACTMENT**

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February 18, 2020, and ordered to be given publication in the manner prescribed by law.

AYES: Mayor Caron, Gates, Traver, Underhill, and Wolfersberger.

NAYS: None.

ABSTENTIONS: None.

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 18<sup>th</sup> day of February, 2020, the original of which is on file in my office.

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Clerk

Adopted: February 18, 2020

Published: February 22, 2020

**C. Adoption of the July 1, 2020 through June 30, 2026 Capital Improvement Program:**

Finance Director Jon Bartlett explained the Capital Improvement Program (CIP) is a guide for future capital improvements for the City. Through the CIP process the ground work has been laid to ensure that capital improvements are identified and prioritized.

Mayor Caron opened the public hearing to hear public comment regarding the July 1, 2020 through June 30, 2026 Capital Improvement Program.

Hearing no comment, the hearing was closed.

**Moved** Traver, supported Gates, to approve the adoption of the July 1, 2020 through June 30, 2026 Capital Improvement Program. On a voice vote – **MOTION CARRIED.**

**OLD BUSINESS**

None.

**REPORTS AND RECOMMENDATIONS**

**A. Athletic Field Dug-out and Fencing Project:**

**Moved** Traver, supported Underhill, to approve the bid from Pure Fence Company LLC, of Battle Creek, MI in the amount of \$44,988 for the fence and backstop renovations and construction of dug-outs at the athletic fields and approve the budget in account 208-751-970.00 be increased by \$4,988. On a roll call vote –

eyes: Wolfersberger, Mayor Caron, Gates, Traver, and Underhill; nays: none.  
**MOTION CARRIED.**

**B. South Neighborhood Improvement Authority Development Plan and Tax Incremental Financing Plan:**

**Moved** Underhill, supported Gates, to approve the ordinance approving the South Neighborhood Improvement Authority Development Plan and Tax Incremental Financing Plan. On a voice vote – **MOTION CARRIED.**

**MARSHALL CITY ORDINANCE  
CALHOUN COUNTY, MICHIGAN**

**ORDINANCE NUMBER #2020-08**

AN ORDINANCE TO AMEND TITLE III, ADMINISTRATION, OF THE CITY OF MARSHALL CODE OF ORDINANCES BY AMENDING CHAPTER 31: CITY ORGANIZATIONS

THE CITY OF MARSHALL ORDAINS:

**Section 1.** THAT TITLE III, ADMINISTRATION, CHAPTER 31: CITY ORGANIZATIONS BE AMENDED BY ADDING THE FOLLOWING SECTIONS TO READ AS FOLLOWS:

Section

- |       |  |
|-------|--|
| 31.97 | Establishment of Development Plan and TIF Plan |
| 31.98 | Amendments to Development Plan and TIF Plan    |

**31.97 ESTABLISHMENT OF DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN.**

Pursuant to the provisions of and under the authority of Public Act 57 of 2018, as amended there is hereby created and approved the South Neighborhood Improvement Plan and Tax Increment Financing Plan; an official copy of which shall be maintained by the Marshall City Clerk and available for copy or inspection at Marshall City Hall. The Marshall City Council does adopt by this section that the proposed Development Plan and Tax Increment Financing Plan is feasible and that the South Neighborhood Improvement Authority Board has the ability to implement the plans with the consent and approval of the Marshall City Council.

**31.98 AMENDMENTS TO DEVELOPMENT PLAN AND TIF PLAN.**

No amendments to the Development Plan or the TIF Plan shall be made by the South Neighborhood Improvement Authority Board without prior approval by the Marshall City Council.

**Severability.**

The various parts, sections and clauses of the Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**Effective Date.**

This Ordinance shall be effective on the day of publication.

Date Enacted: February 18, 2020

Date Published: February 22, 2020

**Section 2.** This Ordinance [or a summary thereof as permitted by MCL 125.3401 shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

**Section 3.** This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 18<sup>th</sup> day of February, 2020.

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Joe Caron, MAYOR

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Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on February 18, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

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Trisha Nelson, CITY CLERK

**C. 2<sup>nd</sup> Quarter Financial Report:**

**Moved** Wolfersberger, supported Gates, to accept the 2<sup>nd</sup> Quarter Financial Report as presented. On a voice vote – **MOTION CARRIED.**

**D. 2<sup>nd</sup> Quarter Investment Portfolio:**

**Moved** Gates, supported Underhill, to accept the 2<sup>nd</sup> Quarter Investment Portfolio Report as presented. On a voice vote – **MOTION CARRIED.**

**E. 2<sup>nd</sup> Quarter Cash & Investment Position Report:**

**Moved** Gates, supported Underhill, to accept the 2<sup>nd</sup> Quarter Cash & Investment Position Report as presented. On a voice vote – **MOTION CARRIED.**

**F. MERS Defined Benefit Waiver Request:**

**Moved** Wolfersberger, supported Gates, to approve the MERS Defined Benefit Waiver Request and direct the Finance Director to file the waiver with the Michigan Department of Treasury. On a voice vote – **MOTION CARRIED.**

**APPOINTMENTS/ELECTIONS**

**A. Local Advisory Committee Appointment:**

**Moved** Gates, supported Underhill, to approve the reappointment of Helen Guzzo to the Local Advisory Committee with a term expiring February 1, 2023. On a voice vote: **MOTION CARRIED.**

**B. Planning Commission Appointment:**

**Moved** Underhill, supported Wolfersberger, to approve the reappointment of Lisa McNiff to the Planning Commission with a term expiring November 1, 2022. On a voice vote – **MOTION CARRIED.**

**C. Board of Review Appointments:**

**Moved** Gates, supported Traver, to approve the reappointment of Desmond Kirkland and Kathy Miller to the Board of Review with a term expiring January 1, 2022. On a voice vote – **MOTION CARRIED.**

**D. Library Board Appointment:**

**Moved** Underhill, supported Wolfersberger, to approve the reappointment of MJ Harting-Minkwic to the Marshall District Library Board with a term expiring March 31, 2023. On a voice vote – **MOTION CARRIED.**

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

Barry Wayne Adams of 622 W. Green Street spoke regarding the Constitution of 1835 and recited some of the sections. He feels the City is doing things under military authority.

**COUNCIL AND MANAGER COMMUNICATIONS**

**ADJOURNMENT**

The meeting was adjourned at 8:10 p.m.

\_\_\_\_\_  
Joe Caron, Mayor

\_\_\_\_\_  
Trisha Nelson, City Clerk