

CALL TO ORDER

IN REGULAR SESSION Monday, May 20, 2019 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 Pro-Tem Metzger.

ROLL CALL

Roll was called:

Present: Council Members: Gates, McNeil, Metzger, Underhill, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: Mayor Caron and Traver.

Moved Wolfersberger, supported Gates, to excuse Mayor Caron and Council Member Traver. On a voice vote – **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Scott Loughrige of Cross Roads Church & Ministries gave the invocation and Mayor Pro-Tem Metzger led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved McNeil, supported Wolfersberger, to approve the agenda with the addition of the Michigan South Central Power Agency invoice in the amount of \$563,838.45 and item 12C. S. Marshall Avenue Bridge at Rice Creek. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

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

- A. Minutes of the City Council Work Session and Regular Session held on Monday, May 6, 2019;
- B. Approve city bills in the amount of \$ 851,229.53.

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

PRESENTATIONS AND RECOGNITION

Helen Guzzo, Senior Services Manager, provided an update on Calhoun County Senior Services and the upcoming millage renewal on the ballot in 2020.

INFORMATIONAL ITEMS

An Event Report was provided for upcoming pancake breakfast fly-ins and movie nights at Brooks Field in 2019.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Fiscal Year 2020 Budget Adoption:

Finance Director Jon Bartlett provided background regarding the Fiscal Year 2020 Budget and the related property tax millage rates for FY 2020.

Mayor Pro-Tem Metzger opened the public hearing to hear public comment regarding the Fiscal Year 2020 budget.

Hearing no comment, the hearing was closed.

Moved Gates, supported McNeil, to adopt the Fiscal Year 2020 Budget and approve the resolution for related property tax millage rates. On a roll call vote – ayes: Underhill, Wolfersberger, Gates, McNeil, and Metzger; nays: none. **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN
RESOLUTION #2019-16

THE CITY OF MARSHALL
GENERAL APPROPRIATION ACT AND TAX LEVY RESOLUTION
July 1, 2019 – June 30, 2020

THE CITY OF MARSHALL RESOLVES that the expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby appropriated on a departmental and fund total basis as follows:

<u>GENERAL FUND REVENUES</u>	
Taxes	\$3,647,482
Licenses and Permits	165,000
Intergovernmental Revenues	965,744
Charges for Services	109,650
Fines and Forfeits	48,300
Interest	30,000
Miscellaneous	206,723
Transfers In	1,679,920
Marshall Reg. Law Enforce.	318,679
Recreation	428,968

Farmer's Market	30,815
Airport	<u>188,920</u>
Total Revenues	\$7,820,201

GENERAL FUND EXPENDITURES

City Council	\$5,011
City Manager	296,637
Assessor	69,362
Attorney	55,000
Human Resources	90,155
Clerk	57,878
Finance/Treasurer	571,536
City Hall	86,510
Chapel	3,972
Other City Property	36,000
Cemetery	172,590
Non-Departmental	733,900
Police	2,009,827
Crossing Guards	12,749
Dispatch	117,000
Fire	1,237,182
Inspection	134,955
Planning/Zoning	79,657
Streets	843,489
Engineering	35,367
Compost	37,058
PSB Operations	120,688
Parks	88,961
Capital Improvements	165,100
Transfers Out	155,535
Marshall Reg. Law Enforce.	327,221
Recreation	443,554
Farmer's Market	25,743
Airport	<u>188,036</u>
Total Expenditures	\$8,200,673

Overall General Fund (including MRLEC, Recreation, Farmer's Market, and Airport) fund reserves shall decrease by \$380,472 based on the FY 2020 revenues and expenditures for the General Fund budget.

The City Council does hereby levy a tax of 17.1629 mills for the period of July 1, 2019, through June 30, 2020 on all taxable real and non-exempt personal property in the City of Marshall, according to the valuation of the same. This tax is levied for the purpose of defraying the general expense and liability of the City of Marshall and is levied pursuant to Section 8.01, Article 8 of the Charter of the City of Marshall.

The City Council does hereby levy a tax of .4899 mills for the period of July 1, 2019, through June 30, 2020, on all taxable real and non-exempt personal property in the City of Marshall, according to the valuation of the same. This tax is levied for the purpose of defraying the expense of operating the Leaf, Brush and Trash Removal Services of the City of Marshall as authorized by a vote of the citizens on November 6, 2012 (renewal vote on this millage was on November 2016 and passed).

The City Council does hereby levy a tax of .9202 mills for the period of July 1, 2019, through June 30, 2020, on all taxable real and non-exempt personal property in the City of Marshall, according to the valuation of the same. This tax is levied to operate the Dial-A-Ride Transportation System in the City of Marshall as authorized by a vote of the citizens on August 5, 1975.

The City Council does hereby levy a tax of .9202 mills for the period of July 1, 2019, through June 30, 2020, on all taxable real and non-exempt personal property in the City of Marshall, according to the valuation of the same. This tax is levied for the purpose of defraying the expense of operating the Recreation Department of the City of Marshall as authorized by a vote of the citizens on April 4, 1959.

The City Council does hereby levy a tax of 1.6041 mills for the period of July 1, 2019, through June 30, 2020, on all taxable real and non-exempt personal property in the City of Marshall, according to the valuation of the same in a district known as the Downtown Development District. This tax is levied for the purpose of defraying the costs of the Downtown Development Authority.

	PROPOSED FY 2020	ACTUAL FY 2019	DIFFERENCE
General Operating	17.1629	17.1629	0.0000
Leaf, Brush and Trash Removal Services	.4899	.4954	0.0055
Recreation	.9202	.9306	0.0104
Dial-A-Ride	.9202	.9306	0.0104
Downtown Development Authority	1.6041	1.6041	0.0000
TOTAL	21.0973	21.1236	0.0263

The City Manager is authorized to make budgetary transfers within the appropriation centers established through this budget, and that all transfers between departments or funds may be made by the City Manager in an amount not to exceed \$20,000 per occurrence without prior Council approval pursuant to Section 19.2 of the provisions of the Michigan Uniform Accounting and Budgeting Act.

The City Council establishes the budget for the period of July 1, 2019, through June 30, 2020 for the following funds in the amounts set forth below:

ALL FUNDS REVENUES

General Fund	\$7,820,201
MVH-Major & Trunkline	695,749
MVH-Local	297,235
Leaf, Brush and Trash Removal	98,691
Northeast NIA	6,100
Local Development Finance	406,540
Downtown Development	200,595
Marshall House	902,013
Fiber to the Premise	1,417,360
Electric	22,100,900
Dial-a-Ride	541,559
Wastewater	2,019,317
Water	1,898,593
Data Processing	184,253
Motor Pool	<u>1,088,770</u>
Total Revenues	\$39,677,876

ALL FUNDS EXPENDITURES

General Fund	\$8,200,673
MVH-Major & Trunkline	874,219
MVH-Local	387,846
Leaf, Brush and Trash Removal	98,691
Northeast NIA	5,500
Local Development Finance	489,217
Downtown Development	170,295
Marshall House	929,772
Fiber to the Premise	1,135,028
Electric	22,132,003
Dial-a-Ride	569,973
Wastewater	2,857,458
Water	2,678,330
Data Processing	175,139
Motor Pool	<u>1,138,422</u>
Total Expenditures	\$41,843,196

Total fund reserves (not including the capitalization of assets) shall be decreased by \$2,196,520 based on the FY 2020 revenues and expenditures for All Funds. Fund reserves will increase by \$2,993,783 if all capital outlay is capitalized in the enterprise and internal services funds.

The City Council of the City of Marshall did give notice of the time and place when a public hearing on adoption of the budget would be held in accordance with Public Act 43 of 1963, proof of publication of the Notice of Public Hearing is now on file, and which Public Hearing was duly held pursuant to said notice and in conformity therewith. A copy of the budget proposal was on file with the City Clerk and on the

City's website and available for public inspection at least one week prior to adoption of the budget; and

Further, the City Council of the City of Marshall did give notice of the time and place when a public hearing would be held in conformity with the provisions of Public Act 5 of 1982 authorizing a tax rate in excess of the present authorized tax rate for General Operating, Recreation, Leaf & Brush, Dial-A-Ride and Downtown Development Authority tax levies, proof of publication of Notice of Public Hearing is now on file, and which Public Hearing was duly held pursuant to said notice and in conformity therewith; and

This Resolution shall take effect July 1, 2019.

Dated: May 20, 2019

Trisha Nelson, City Clerk

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on May 20, 2019, and that said meeting was conducted and that the minutes of said meeting were kept and will be or have been made available.

Trisha Nelson, City Clerk

B. Amendments to the City of Marshall Code of Ordinances Sections 137.04 Marihuana and 137.05 Possession or Use of Drug Paraphernalia:

City Attorney John Sullivan explained with the passage of the Medical Marihuana law and the Recreational Marihuana Law, our current Ordinance 137.04 Possession or Use of Marihuana and 137.05 Possession and Use of Drug Paraphernalia required amending to conform to the current laws. The proposed changes have been reviewed and researched by the City Attorney and City Prosecuting Attorney.

Mayor Pro-Tem Metzger opened the public hearing to hear public comment regarding the proposed amendments to Ordinance 137.04 and Ordinance 137.05.

Barry Wayne Adams of 622 W. Green feels there is no constitutional authority to prohibit the use of marihuana. Marihuana is a natural herb and it is a privilege.

Moved McNeil, supported Gates, to approve the amendments to the City of Marshall Code of Ordinances Sections 137.04 Marihuana and 137.05 Possession or Use of Drug Paraphernalia. On a roll call vote – ayes: Wolfersberger, Gates, McNeil, Metzger, and Underhill; nays: none. **MOTION CARRIED.**

**City of Marshall, Michigan
Ordinance #2019-03**

AN ORDINANCE AMENDING CITY OF MARSHALL CODE OF ORDINANCES, SECTIONS 137.04 AND 137.05

WHEREAS, on November 6, 2018, Michigan voters approved Proposal 1, creating the Michigan Regulation and Taxation of Marihuana Act, codified in MCL 333.27951 et seq; and

WHEREAS, the Sections 137.04 and 137.05 of the Code of Ordinances are in conflict with the Michigan Regulation and Taxation of Marihuana Act; and

WHEREAS, the Michigan Regulation and Taxation of Marihuana Act mandates consistency and uniformity between the Act and local ordinance; 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 137.04 be deleted and replaced with the version set forth herein;

FURTHER, that the current version of Section 137.05 be amended as set forth herein:

§ 137.04 MARIHUANA.

(A) Definitions:

As used in this section:

CONSUME or **CONSUMING** means to smoke, ingest, eat, drink, or otherwise imbibe.

CULTIVATE means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

MARIHUANA means all parts of the plant genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination; industrial hemp; or any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA CONCENTRATE means the resin extracted from any part of the plant of the genus cannabis.

PROCESS or **PROCESSING** means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

PUBLIC PLACE means a place or location that is open to or may be used by the members of the community, or where the general public has a right or invitation to resort, or where the public may come and go, including without limitation any public street, sidewalk, or park; any area open to the general public in a publicly owned or operated building; real property or an appurtenance to the real property that is publicly owned; areas within a place of business that is open to the public at any time; any space, room, or building wherein, by general invitation, members of the public attend for reasons of business, communal activities, entertainment, instruction, lodging, or similar activities, and are welcome as long as they conform to what is customarily done there; any public conveyance; any place of employment where employees are working and guests or patrons are present or generally invited; any place of public assembly; the common areas of any commercial place of communal living; any place or location to which the public is generally invited or permitted to visit; within a privately owned vehicle located in a public place, such as a parking lot that is open for use by the general public; or otherwise any place determined by the courts of the State of Michigan to be a public place when analyzed in the context to which the term is applied. A public place does not include an area authorized by the city for consumption provided the area is not accessible to persons under 21 years of age.

SMOKING or **SMOKE** means the burning of marihuana or any substance or matter that contains marihuana within a cigar, cigarette, pipe, or any other item or device.

(B) Lawful Acts.

The following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:

- 1) Except as permitted in section 2), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate.

- 2) Within a person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 plants for personal use.
- 3) Assisting another person who is 21 years or older in any of the acts authorized in this section.
- 4) Giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years or age or older, as long as the transfer is not advertised or promoted to the public.

(C) Unlawful Act - Minor Using, Consuming, Possessing or Cultivating Marihuana.

- 1) It shall be unlawful for any person under the age of 21 to use or consume marihuana;
- 2) It shall be unlawful for any person under the age of 21 to possess marihuana in an amount which does not exceed 2.5 ounces;
- 3) It shall be unlawful for any person under the age 21 to cultivate marihuana in an amount that does not exceed 12 plants;
- 4) A person who is in violation of section 1) is guilty of a misdemeanor punishable by a fine of not more than \$500, or imprisonment in the county jail for a period of not more than 90 days, or both, and forfeiture of the marihuana;
- 5) A person who is in violation of either section 2) or 3) is responsible for a municipal civil infraction and may be punished as follows:
 - a) If the person is less than 18 years of age and it is a first violation, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling;
 - b) If the person is less than 18 years of age and it is a second or subsequent violation, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling;
 - c) If the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana;

- d) If the person is at least 18 years of age and it is a second or subsequent violation, by a fine of not more than \$500 and forfeiture of the marihuana.
 - 6) If a person under age 21 possesses, cultivates, delivers without remuneration or possesses with intent to deliver more than the amounts set forth in sections 2) or 3), the penalties in sections (H) and (I) shall also apply.
 - 7) This section shall not apply to a person under the age of 21 years who uses, consumes or possesses marihuana in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended.
- (D) Unlawful Act - Consuming or Smoking Marihuana in Vehicle.
- 1) It shall be unlawful for any person to consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle or motorboat;
 - 2) It shall be unlawful for any person to smoke marihuana within the passenger area of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle or motorboat on a public way;
 - 3) A person who is in violation of either section 1) or 2), is guilty of a misdemeanor punishable by a fine of not more than \$500, or imprisonment in the county jail for a period of not more than 90 days, or both, and forfeiture of the marihuana.
- (E) Unlawful Act - Using or Consuming Marihuana in a Public Place.
- 1) It shall be unlawful for any person to consume marihuana in a public place.
 - 2) It shall be unlawful for any person to smoke marihuana where prohibited by the person who owns, occupies or manages the property.
 - 3) This section shall not apply if the conduct falls within the prohibitions set forth in subsection (D) above.
 - 4) A person 21 years of age or older who violates either section 1) or 2) is responsible for a municipal civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.
 - 5) A person under age 21 years of age who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500, or imprisonment in the county jail for a period of not more than 90 days, or both, and forfeiture of the marihuana.
- (F) Unlawful Act - Possession or Consumption on School or Correctional Facility Property.

It shall be unlawful for any person to possess marihuana accessories or to possess or consume marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility, including the juvenile detention facility or the property upon which the facility is located. A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$500, or imprisonment in the county jail for a period of not more than 90 days, or both, and forfeiture of the marihuana or marihuana accessories.

(G) Unlawful Act - Possession, Cultivation, Delivery Without Remuneration – Place Visible to the Public, Unsecured Location, Concentrate.

- 1) It shall be unlawful for any person to cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids.
- 2) It shall be unlawful for any person to cultivate marihuana outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.
- 3) It shall be unlawful for any person to possess more than 2.5 ounces of marihuana in the person's place of residence, unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.
- 4) It shall be unlawful for a person to possess, purchase, transport, process, give away or otherwise transfer without remuneration up to 2.5 ounces of marihuana if more than 15 grams of the marihuana is in the form of concentrate.
- 5) It shall be unlawful for a person to give away or transfer without remuneration up to 2.5 ounces of marihuana if the transfer was advertised or promoted to the public.
- 6) A person who is in violation of sections 1)-5) is responsible for a municipal civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

(H) Unlawful Act – Marihuana, Amount not more than twice the amount.

- 1) It shall be unlawful for any person to possess, cultivate, deliver without remuneration to a person who is at least 21 years of age or possess with intent to deliver any of the following quantities of marihuana:

- a) more than 12 marihuana plants but not more than 24 plants;
 - b) more than 2.5 ounces but not more than 5 ounces outside a person's residence;
 - c) more than 10 ounces but not more than 20 ounces within a person's residence, not including any marihuana produced by plants cultivated on the premises.
- 2) A person who is in violation of section 1)a)-1)c) is subject to the following:
- a) for a first violation, is responsible for a municipal civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;
 - b) for a second violation, is responsible for a municipal civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marihuana;
 - c) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$2,000 and forfeiture of the marihuana.
- (l) Unlawful Act – Marihuana, Amount more than twice the Amount.
- 1) It shall be unlawful for any person to possess, cultivate or deliver without remuneration to a person at least 21 years of age any of the following quantities of marihuana:
 - a) more than 24 plants;
 - b) more than 5 ounces outside a person's residence;
 - c) more than 20 ounces within a person's residence, not including any marihuana produced by plants cultivated on the premises.
 - 2) A person who is in violation of section 1) a-c is responsible for a misdemeanor, punishable by a fine of not more than \$500. If the violation was habitual, willful, and for a commercial purpose, or if the violation involved violence, the punishment may include imprisonment in the county jail for a period of not more than 90 days.

(Prior Code, § 18-123) (Ord. passed 5-3-1982; Am. Ord. passed 7-1-1985; **Ord. 19-03, passed 5-20-2019**)

§ 137.05 POSSESSION OR USE OF DRUG PARAPHERNALIA.

- (A) Drug paraphernalia defined. Except as otherwise provided herein, "Drug paraphernalia" means any equipment, product, material, or combination of equipment, products or materials, which are specifically designed for use in

planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, including but not limited to:

- (1) An isomerization device specifically designed for use in increasing the potency of any species of plant which is a controlled substance;
- (2) Testing equipment specifically designed for use in identifying, or in analyzing, the strength, effectiveness or purity of a controlled substance;
- (3) A weight scale or balance specifically designed for use in weighing or in measuring a controlled substance;
- (4) A diluent or adulterant including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, specifically designed for use with a controlled substance;
- (5) An object specifically designed for use in ingesting, inhaling, or otherwise introducing cocaine, hashish, or hashish oil into the human body, such as:
 - (a) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, a permanent screen, a hashish head, or punctured metal bowl;
 - (b) A water pipe;
 - (c) A carburetion tube and device;
 - (d) A smoking and carburetion mask;
 - (e) A miniature cocaine spoon, and a cocaine vial;
 - (f) A chamber pipe;
 - (g) A carburetor pipe;
 - (h) An electric pipe;
 - (i) An air-driven pipe;
 - (j) A chillum;
 - (k) A bong; or
 - (l) An ice pipe or chiller.
- (6) A kit specifically designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance, or from which a controlled substance can be derived;

- (7) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
- (8) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing a controlled substance into the human body, and which consists of at least a razor blade and a mirror;
- (9) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of a controlled substance to the user;
- (10) A device, commonly known as a snorter, that is specifically designed to carry a small amount of a controlled substance to the user's nose;
- (11) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing a controlled substance;
- (12) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing a controlled substance into the human body;
- (13) A blender, bowl, container, spoon or mixing device used, intended for use, or designed for use in compounding a controlled substance;
- (14) A capsule, balloon, envelope or other container used, intended for use, or designed for use in packaging small quantities of a controlled substance;
- (15) A container and other objects used, intended for use, or designed for use in storing or concealing a controlled substance; and
- (16) A hypodermic syringe, needle and other instrument or implement adapted, for the use of any controlled substance by subcutaneous injection or intracutaneous injection, or any other manner or method of introduction into the human body.
- (17) Marihuana Accessories, defined as any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.**

- (B) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:**
- (1) Statements by an owner or anyone in control of the object concerning its use;**
 - (2) The proximity of the object, in time and space, to a direct violation of laws and ordinances relating to controlled substances;**
 - (3) The proximity of the object to controlled substances;**
 - (4) The existence of any residue of controlled substances on the object;**
 - (5) Advertisements, instructions or other descriptive material which explain or depict the use of the object;**
 - (6) Expert testimony concerning its use.**
- (C) Possession of drug paraphernalia prohibited.** It shall be unlawful for any person to use, or to possess with intent to use, any drug paraphernalia for planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance. **This prohibition shall include the possession of marihuana accessories on the grounds of a public or private school where children attend classes in preschool programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility, including juvenile detention facility property.**
- (D) Manufacture, delivery or sale of drug paraphernalia prohibited.** It shall be unlawful for any person to manufacture with intent to deliver or to sell, to possess with intent to deliver or to sell, to deliver, or to sell, any drug paraphernalia for planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance.
- (E) Advertisement of drug paraphernalia prohibited.** It is unlawful for any person to place any advertisement in any newspaper, magazine, handbill, sign, poster, or other publication knowing that the purpose of such advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. **This section shall not apply to advertisements for marihuana accessories.**

(F) Exceptions. This section shall not apply to the following:

- (1) Manufacturers, jobbers, licensed medical technicians technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection;**
 - (2) Persons 21 years or older who possess, use, manufacture or purchase marihuana accessories except as provided in subsection (C) above;**
 - (3) Distribution and sale of marihuana accessories to persons 21 years or older;**
 - (4) The providing of marihuana accessories to registered qualifying patients or registered qualifying caregivers for purposes of a qualifying patient's medical use of marihuana under the Michigan Medical Marihuana Act;**
 - (5) Possession or use of marihuana accessories by registered qualifying patient for the purpose of the qualifying patient's use of marihuana;**
 - (6) A person acting as an agent of a marihuana retailer or marihuana accessory retailer who sells or otherwise transfers marihuana accessories to a person under 21 years of age, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government issued photographic identification containing a date of birth, and the person complied with any rules promulgated pursuant to the Michigan Regulation and Taxation of Marihuana Act.**
- (G) Civil forfeiture. Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent sell in violation of this section shall be seized and forfeited to the city.**

(H) Penalties.

- (1) Except as otherwise provided herein, any person who shall be convicted of violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed \$500, or by imprisonment not to exceed 90 days, or by both in the discretion of the court.**
- (2) Any person who violates this section and the violation relates to marihuana accessories shall be responsible for a municipal civil**

infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana accessories.

(3) Each day a violation continues shall be considered a separate offense and may be punished accordingly.

(Ord. 08-06, passed 5-19-2008; **Ord. 19-03, passed 5-20-2019**)

Statutory reference:

Paraphernalia, see MCL 333.7451

Paraphernalia sales, see MCL 333.7453

Possession/Use on school property, see MCL 333.27951 et seq

Exceptions, see MCL 333.7457 and MCL 333.27951 et 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 20th day of May, 2019, and ordered to be given publication in the manner prescribed by law.

AYES: Gates, McNeil, Metzger, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS: None.

Mayor

STATE OF MICHIGAN

COUNTY OF CALHOUN

I, Trisha Nelson, 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 20th day of May , 2019, the original of which is on file in my office.

Clerk

Adopted: May 20, 2019

Published: May 25, 2019

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

A. Marihuana Related Offenses Schedule of Fines Resolution:

Moved Wolfersberger, supported Gates, to adopt the resolution for the approval of the proposed Municipal City Infraction Fines Schedule for Marihuana Related Offenses. license. On a roll call vote – ayes: Gates, McNeil, Metzger, Underhill, and Wolfersberger; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION #2019-17**

**RESOLUTION AUTHORIZING SCHEDULE OF CIVIL FINES, PAYABLE TO THE
MARSHALL MUNICIPAL ORDINANCE VIOLATION BUREAU FOR ADMISSIONS
OF RESPONSIBILITY BY PERSONS SERVED WITH MUNICIPAL CIVIL
INFRACTION VIOLATION NOTICES
MARIHUANA RELATED OFFENSES**

At a regular meeting of the City Council of the City of Marshall, Michigan, held in the Council Chambers, Town Hall located at 323 W. Michigan Avenue, Marshall, Michigan, on the 20th day of May, 2019 at 7 p.m.

PRESENT: Gates, McNeil, Metzger, Underhill, and Wolfersberger.

ABSENT: Caron and Traver.

MOTION BY: Wolfersberger

SUPPORTED BY: Gates

WHEREAS, on November 6, 2018, Michigan voters approved Proposal 1, creating the Michigan Regulation and Taxation of Marihuana Act, codified in MCL 333.26421 et seq; and

WHEREAS, on May 20, 2019, 2019, City Council passed Ordinance #2019-03, amending Sections 137.04 and 137.05 of the Code of Ordinances to conform the sections to the requirements of the Michigan Regulation and Taxation of Marihuana Act; and

WHEREAS, Sections 137.04 and 137.05 now provide that certain prohibited conduct shall be considered Municipal Civil Infractions; and

WHEREAS, Chapter 35 of the Code of Ordinances authorizes City Council to establish by resolution the schedule of civil fines applicable to Municipal Civil Infractions processed through the Municipal Ordinance Violations Bureau;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marshall establishes the following schedule of fines for certain conduct declared to be Municipal Civil Infractions under Sections 137.04 and 137.05 of the Code of Ordinances:

<u>Section</u>	<u>Violation</u>	<u>Fine Amount</u>
137.04(C)3)c	Possession/Cultivation Minor 18+	\$100
137.04(C)3)d	Possession/Cultivation Minor 18+	\$500
	Second or Subsequent Offense	
137.04(C)4)	Possession/Cultivation/Delivery without remuneration/Possession	\$500
	with intent to deliver Minor/Not more than twice the amount	\$500
137.04(C)4)	Possession/Cultivation/Delivery without remuneration/Possession with intent to deliver Minor/Not more than twice the amount/Second or subsequent offense	\$1000
137.04(E)4)	Using/Consuming in a public place	\$100
137.04(G)1)	Cultivation/ Place visible to public	\$100
137.04(G)2)	Cultivation /Unsecured location	\$100
137.04(G)3)	Possession > 2.5 ounces in residence Unsecured location	\$100
137.04(G)4)	Possession/Consumption/Purchase/Transport Process/Deliver without remuneration Excess concentrate	\$100
137.04(G)5)	Deliver without remuneration with	\$100

137.04(H)2)a)	Advertisement or promotion Possession/Cultivation/Deliver without remuneration/Possession with Intent to Deliver /Not more than twice the amount	\$500
137.04(H)2)b)	Possession/Cultivation/Deliver without Remuneration/Possession with Intent to Deliver/ Not more than twice the amount Second or subsequent offense	\$1000
137.05(H)2)	Marihuana Accessories/Minor in Possession	\$100

AYES: Gates, McNeil, Metzger, Underhill, and Wolfersberger.

NAYES: None.

ABSTAINED:

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
COUNTY OF CALHOUN) ss:

I, the undersigned, the fully qualified Clerk of the City of Marshall, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Marshall at a regular meeting held on the May, 20, 2019, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto set my official signature this 20th day of May, 2019.

Trisha Nelson, City Clerk

B. Annual Compensation of Administrative Officials, Department Heads, and Salaried Personnel:

Moved Gates, supported Wolfersberger, to approve the proposed Fiscal Year 2020 wages for the administrative officials, department heads and salaried personnel. On a roll call vote – ayes: Wolfersberger, Gates, McNeil, Metzger, and Underhill; nays: none. **MOTION CARRIED.**

C. South Marshall Avenue Bridge at Rice Creek:

Moved Wolfersberger, supported McNeil, to waive the bidding process and approve

the hiring of Davis Construction for services related to the repair of the S. Marshall Bridge over Rice Creek for an amount of \$179,000 with an additional contingency amount of \$21,000 and approve payment to DLZ for their assistance with design services associated with the recommended repair to the bridge, in an amount not to exceed \$15,000. On a roll call vote – ayes: McNeil, Metzger, Underhill, Wolfersberger, and Gates; nays: none. **MOTION CARRIED.**

APPOINTMENTS/ELECTIONS

A. Marshall District Library Board Appointments:

Moved McNeil, supported Underhill, to approve the reappointment of Shelley Preston to the Marshall District Library Board with a term expiring March 31, 2022 and appoint Ken Koberstein with a term expiring March 31, 2021. On a voice vote – **MOTION CARRIED.**

B. Parks and Recreation Board Appointment:

Moved Underhill, supported Wolfersberger, to approve the appointment of Jerry Underhill to the Parks and Recreation Board with a term expiring July 1, 2021. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Wolfersberger, supported Gates, to enter into closed session under section 8 (c) of the Open Meetings Act to discuss strategy for collective bargaining agreements. On a roll call vote – ayes: Metzger, Underhill, Wolfersberger, Gates, and McNeil; nays: none. **MOTION CARRIED.**

Enter into closed session at 8:00 p.m.

Return to open session at 8:21 p.m.

ADJOURNMENT

The meeting was adjourned at 8:21 p.m.

Joe Caron, Mayor

Trisha Nelson, City Clerk