

Division 1: Charter

Chapter C

CHARTER

ARTICLE 1

Incorporation: Form of Government: Powers**1-1. Incorporation.**

The inhabitants of the town of Marshfield within the corporate limits established by law shall continue to be a body corporate and politic with perpetual succession under the name "Town of Marshfield."

1-2. Form of Government.

The administration of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch to consist of the board of selectmen and other elected officers and a legislative branch to consist of the open town meeting.

1-3. Powers.

Subject only to express limitations on the exercise of any power of function by a town in the constitution or statutes of the commonwealth it is the intent and purpose of the voters of Marshfield to retain and secure through the adoption of this charter all of the powers it is possible to secure for the town under the constitution and statutes of the commonwealth.

1-4. Construction.

The powers of the town under this charter are to be construed liberally in favor of the town and the specific mention of particular powers is not intended to limit in any way the general powers of the town as stated in section 1-3.

ARTICLE 2
Town Meeting

2-1.

The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

2-2.

At least one member of each elected Board shall be present at each session of Town Meeting. Appointed officers and members of any appointed Commission, Committee or Study Group shall attend if so requested by appointing authorities.

2-3.

The Town Meeting Warrant shall either be published in a newspaper with general circulation in the town, or shall be mailed to every household in which a registered voter resides, no later than two weeks prior to the opening of the first session of town meeting.

2-4.

- (A) The Warrant for the Annual Town Meeting shall open for submission of articles on the first (1st) Monday in January and shall close on the fourth (4th) Monday in January. For Special Town Meetings, the Warrant shall open no later than 30 days prior to the opening of the first session and shall remain open for 10 days.
- (B) The Board of Selectmen shall give notice of the opening and closing of the Town Meeting Warrant at least seven (7) days prior to such opening or closing to all elected boards, appointed committees and department heads, and shall post such notice in at least ten (10) prominent locations in the Town, including but not limited to the Public Library and Town Hall. Such notice shall be published in a newspaper with general circulation in the Town at least seven (7) days prior to such opening.
- (C) If the Board of Selectmen at a duly called public meeting shall declare that an emergency exists requiring action by the Town at the earliest possible time then the provisions of this paragraph 2-4 shall not apply. An emergency for purposes of this Charter shall mean a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. **[Added 4-30-2011]**

ARTICLE 3
Elected Officials

3-1. General Provisions.

- (A) Elective offices. The offices to be filled by ballot of the whole town shall be, 1) a board of selectmen, 2) a board of assessors, 3) a board of public works, 4) a planning board, 5) a board of health, 6) trustees of the Veterans Memorial, 7) a school committee, 8) a moderator, 9) a town clerk, 10) a housing authority.
- (B) Eligibility. Any registered voter of the town shall be eligible to hold any elective town office; but no elected town official shall simultaneously hold any other elected town office. This section (B) shall not apply to any person who has received or receives tenure of office under the provision of c41S19B, C of the General Laws.¹
- (C) Election. The regular election for town office shall be held annually on the date fixed by by-law.

3-2. Elected Town Boards, Duties, Terms, etc.

3-2-~~Selectmen.~~

- (A) Composition, Term of Office. There shall be a board of selectmen consisting of three (3) members elected for three-year overlapping terms, so arranged that the term of one member shall expire each year. They shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (B) Powers and Duties in General. The executive powers of the town shall be vested in the board of selectmen, and shall be exercised by them or jointly through the town agencies and offices. The board of selectmen shall cause the laws and orders for the government of the town to be enforced, and shall cause a record of all their official acts to be kept. In addition to aforesaid powers and duties, they shall exercise such powers and duties as are and may be provided by the General Laws, this charter, by-law and/or vote of the town meeting. The Planning Board shall be consulted for a written recommendation by the Board of Selectmen prior to any action on the use and siting of any town owned property.
- (C) Appointments. The selectmen shall appoint, for fixed terms of one year, election officers, director of veterans' affairs, and a town counsel, and for a fixed term, as provided in Art. 4, a town administrator for a fixed term as provided in Article 4, a Facilities Manager; and for a three-year term, a town accountant. They shall appoint for fixed overlapping terms of three years, so that the term of at least one member expires each year; the members of the

1. Editor's Note: Reference is to MGL c. 41, §§ 19B and 19C.

board of appeals, library trustees, registrars of voters, advisory board and the following commissions: conservation, recreation, historical, development and industrial, council for aging, airport, communications, and the following committees: insurance, school building, permanent site and needs, capital budget, beautification and study groups in accordance with Art. 7 hereof.

- 1) Unless otherwise provided by this Charter or by-law, they shall have the power to appoint department heads, other appointed board, commission and committee members, and other town officials and employees as authorized or as may be authorized by the General Laws, this charter, by-law or Town Meeting and for whom appointment is not otherwise provided.
 - 2) In consideration of the unique historical background and the special historic significance of the town the selectmen may, with the approval of the Historical Commission, appoint a town historian for a term not to exceed seven years. The historian shall perform such duties as the Historical Commission may from time to time designate and may receive reimbursement for expenses to be within the amount so appropriated by the town meeting.
- (D) Investigations. The board of selectmen may investigate and may authorize the town administrator to investigate the affairs of the town and the conduct of any town department, including all elected boards, offices or agencies, and any doubtful claims against the town and take any action relative thereto. The report of the results of such investigation shall be placed on file in the office of the board of selectmen.
- (E) Building Inspection Department. There shall be a Building Inspection Department administered by the Inspector of Buildings, who shall be appointed by the Selectmen. The Building Inspection Department shall have responsibility for administration of the town building code by-law or as amended or superseded by state regulation. The local Building Inspector, Local Inspector for Wires, Local Inspector for Gas, Local Inspector for Plumbing and other inspectors as from time to time are determined necessary and their assistants shall be appointed annually by the Selectmen unless otherwise provided for by the General Laws.

3-2-~~Board~~ of Assessors.

- (A) Composition, Term of Office. The board of assessors shall consist of three (3) members elected to three-year overlapping terms, so arranged that the term of one member shall expire each year.
- (B) Compensation. The members of the board of assessors shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

- (C) Powers and Duties in General. The board of assessors shall have all powers and duties as set forth in the applicable provisions of the General Laws or as may be authorized by this charter or by-law.

3-2-Board of Public Works.

- (A) Composition, Term of Office. The board of public works shall consist of three (3) members elected for three-year overlapping terms so arranged that one term expires each year. They shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (B) Powers and Duties in General. The board of public works elected under section 3-2-3 shall be responsible for organizing and administering the following functions: construction and maintenance, highways, water and sewer systems, tree care, and parks, including landscaping and ground maintenance of all town buildings and property, and such other public works and related functions as may from time to time be vested in it through the General Laws, this charter, by-law or vote of the town meeting; and to this end the board shall, following each annual town election: (a) select from its membership a chairman, a vice-chairman, and a clerk for the ensuing year; and (b) be administratively organized into the following divisions: highway, water, trees, and cemeteries and parks. The board of public works, by a majority vote of its full membership, shall appoint a superintendent of public works for an initial term of three years and annually thereafter and shall fix his compensation within limits of an appropriation made for that purpose. The superintendent shall: (a) be especially qualified by education, training, and experience to perform the duties of the office and have such other qualifications as may be determined by by-law; (b) exercise and perform, under the board's supervision and direction, those public works functions for which the board is responsible; and (c) appoint, subject to approval by the board, such assistants, agents, and other employees as the exercise and performance of his powers, rights, and duties may require. The superintendent shall give the town a surety bond for the faithful performance of his duties in such sum and upon such conditions as the board may require; shall keep the board fully informed as to the public works needs of the town; shall keep a full and complete record of his operations; shall render to the board, as often as it may require, a full report thereon; and annually or more often shall prepare a synopsis of such reports for publication.
- (C) Engineering Department.
 - 1 Organization. There shall be an engineering department administered by the Superintendent of Public Works.
 - 2 Duties - Administrative. The engineering department shall provide the town with engineering services by town employees

and by contracting with qualified architectural/engineering firms.

- 3 Duties - General. The Engineering Department shall certify that all subdivision, sewerage and other such plans and specifications required by town by-laws conform to such by-laws and shall be responsible for maintenance of assessors' and town maps and certification of plans and specifications for public works construction projects. The Engineering Department shall provide onsite inspection to assure proper construction performance in accordance with subdivision plans and site plan approvals made by the Board of Appeals. The Engineering Department shall also provide engineering and other technical assistance to the Planning Board, Board of Health, Conservation Commission, Facilities Manager or any other town board or commission, reasonably requesting such service.
 - A) The Engineering Department shall have final approval responsibility for all plans and specifications relating to new construction and/or alterations or modifications of any existing town owned structure and shall consult with the Facilities Manager on all town owned buildings.
 - B) When reasonably requested the department shall supply engineering information to the town meeting.

3-2-4 Planning Board.

- (A) Composition, Term of Office. The planning board shall consist of five members elected to five-year overlapping terms so arranged that the term of one member shall expire each year.
- (B) Compensation. The planning board shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and Duties. The planning board shall from time to time make careful studies and when necessary prepare plans of the resources, potentials and needs of the town, and upon the completion of any such study, shall submit to the selectmen and town such part or parts thereof as said board may deem advisable and from time to time may extend or perfect such plan. A master plan for the Town is to be updated or revised in its entirety every 10 years or as the Planning Board or others deem advisable out of funds to be provided by appropriation. In carrying out its tasks the planning board may employ the town Engineering Department or outside consulting firms when special skills are required.
 - 1) The Planning Board, by a majority vote of its full membership shall appoint a Town Planner and staff as may be provided by appropriation.

- 2) The planning board shall regulate the subdivision of land within the meaning of the subdivision control law of the General Laws.²
 - 3) The planning board shall serve in an advisory capacity to any town department as required or requested.
- (D) In addition to all powers and duties set forth herein, the planning board shall have all such powers and duties as set forth in applicable provisions of the General Laws or as may be authorized by this charter or by by-law.

~~3-2-Board of Health.~~

- (A) Composition, Term of Office. The board of health shall consist of three (3) members elected to three-year overlapping terms, so arranged that the term of one member shall expire each year.
- (B) Compensation. The members of the board of health shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and Duties in General. The board of health shall have all powers and duties as set forth in the applicable provisions of the General Laws or as may be created by by-law or this charter.

~~3-2-Trustees of Veterans Memorial.~~ There shall be a board of trustees of the Veterans Memorial, which shall be elected and have the power and duties as set forth in the pertinent section of the General Laws (c41 S 105).

~~3-2-School Committee.~~

- (A) Composition, Term of Office. The school committee shall consist of five members elected to three-year overlapping terms so arranged that the term of two members shall expire each year for each of two years and the term of one member shall expire on the third year.
- (B) Powers and Duties. The school committee shall have all the powers and duties a school committee may have under the Constitution and General Laws of the Commonwealth, and it shall have such additional power and duties as may be authorized by this charter or by by-law. The Planning Board shall be consulted for a written recommendation by the School Committee prior to any action on the use or siting of any town owned property.

~~3-2-Moderator.~~

- (A) Term of Office. A moderator shall be elected for a 3 year term.

2. Editor's Note: See MGL c. 41, §§ 81K to 81GG.

- (B) Compensation. The moderator shall receive for his/her services such compensation as may annually be provided for that purpose by appropriation.
- (C) Duties. The moderator shall preside at all sessions of the town meetings, regulate the proceedings, decide all questions of order, make public declaration of all votes and perform such other duties as may from time to time be assigned to the office through by-law or vote of the town meeting or by this charter. In addition thereto he/she shall have the duties set forth in ch. 39, Sec.15, of the General Laws.
- (D) Temporary Absence. The town meeting may at any session elect a moderator pro tempore to preside in the moderator's absence or if and when he/she declines to preside.

3-2-Town Clerk.

- (A) Term of Office. The town clerk shall be elected for a term of three years. He/she shall receive for his/her service such compensation as may annually be provided for that purpose by appropriations.
- (B) Powers and Duties. The town clerk shall have the power and duties as set forth in the applicable provisions of the General Laws and such additional power and duties as may be authorized by this charter or by by-law.
- (C) By-Laws. All town by-laws shall be filed with the town clerk. The town clerk shall publish, and make available, at reasonable cost, copies of the by-laws and this charter to all persons requesting them.

3-2-~~10~~Housing Authority. There shall be a Housing Authority, four members of which shall be elected and one member appointed by the Governor of the Commonwealth which shall have the power and duties as set forth in the pertinent sections of the General Laws, as may be accepted by the town meeting.

3-3. Vacancies.

Should a vacancy occur in any elected office, board, commission or committee, such vacancy shall be filled in accordance with the appropriate provisions of the General Laws (Selectmen c41 S10; Moderator c39 S14; Town Clerk 41 S14; all other boards and commissions c.41 S11). No vacancy shall be filled until 14 days after public notice of such vacancy.

ARTICLE 4

Appointed Town Officials, Boards, Commissions and Committees**4-1. Duties, Terms, etc.****4-1-Town Administrator.**

- (A) Qualifications. The qualifications of Town Administrator shall be established by personnel By-Law.
- (B) Term. The Board of Selectmen, by a majority vote of its full membership, shall appoint a Town Administrator for an initial term of three years and at its discretion for successive terms thereafter which will not exceed three years each and shall fix his/her compensation within limits of an appropriation made for that purpose.
- (C) Personnel By-Laws. Except as provided herein, the office shall not be subject to any personnel by-law of the Town.
- (D) Residential Requirements. The Town Administrator need not be a resident of the town or Commonwealth.
- (E) Other Offices. He/she shall devote full time to the office and shall not hold any other public office, elective or appointive except as provided herein. He/she shall not engage in any other business or occupation during his term, unless such action is approved in writing by the board of selectmen.
- (F) Powers and Duties General. Except as otherwise authorized, the town administrator will report to the selectmen's office every business day, and will be engaged in such varied activities as the following: preparing the agenda for each weekly meeting of the board; handling all correspondence for the selectmen; receiving and carrying out decisions and instructions from them; coordinating the work of the several departments under the jurisdiction of the selectmen with other town departments and with state, county, or private agencies; providing the board with factual information upon which they make decisions and formulate policies; and receiving and adjusting complaints or making referrals to the proper governmental or private agency. The town administrator shall attend all town meetings.
- (G) Powers and Duties - Specific. The Town Administrator duties shall include but not be limited to:
 - 1) Administer the personnel by-law as voted by the town and as may be determined by collective bargaining agreements.
 - 2) Maintain a full and complete inventory of the town's property both real and personal.
 - 3) Supervise and maintain a central purchasing department.

- 4) Shall be an ex-officio non-voting member of all elected and appointed boards and commissions and committees.
 - 5) Shall keep informed and report to the selectmen on developments in municipal administration, grants etc. at both the state and federal level.
- (H) Vacancy. Shall be filled as soon as reasonably possible. Temporary appointment for a period of no longer than four months may be made by selectmen in the absence of a fully qualified individual.
- (I) Removal. As provided in Section 8-2 of this charter.

4-1-~~F~~acilities Manager.

- (A) The Board of Selectmen, by a majority vote of its full membership, in consultation with the Superintendent of Schools and Town Administrator, shall appoint a Facilities Manager for an initial term of three years and at its discretion for successive terms thereafter each of which shall not exceed three (3) years and shall fix compensation within limits of an appropriation made for that purpose.
- (B) The Facilities Manager will be accountable to the Superintendent of Schools for school operated buildings and to the Town Administrator for all other Town owned buildings, in consultation with the Engineering Department as required, excluding the waste treatment building(s) and water department infrastructure buildings and shall have a budget appropriate to his/her responsibilities and duties.
- (C) Duties. The Facilities Manager shall prepare an inventory of all town owned buildings and facilities, assess their conditions and needs, and prepare a long-term plan for the preventive maintenance and improvement of town buildings within the purview of this position.
- 1) The Facilities Manager shall implement and manage all programs that ensure the proper operation and maintenance of town buildings and systems therein and oversee other work that may be required. He/she shall arrange for annual contracts related to maintenance of town facilities and be a procurement coordinator for supplies necessary to the performance of the position.
 - 2) In addition, the Facilities Manager shall be involved ex-officio on all capital building projects and shall consult with the Engineering Department and Building Department as needed.

4-1-~~L~~egal Counsel.

- (A) Term of Office. The Town Counsel shall be appointed by the Board of Selectmen for a term of one year, said term to commence on July

1 of each year, except where a vacancy exists, in which case the appointee shall complete the remainder of the current term. "Town Counsel" as used in this Charter, may refer to an individual or a law firm hired by the Selectmen to provide legal services to the Town. Town Counsel may serve on either a full time or part time basis, in the discretion of the appointing authority, subject to the amount of compensation appropriated for that purpose by the Town.

(B) Duties. The Town Counsel shall:

- 1) Be the legal counsel for the Town in its corporate capacity.
- 2) Provide legal consultation and advice to all boards, officers and employees of the Town, as may be authorized by the Board of Selectmen or its designee.
- 3) Review all Town Meeting Warrant Articles prior to each Town Meeting and advise the Board of Selectmen and relevant town boards, officers and employees regarding the legality of such articles.
- 4) Attend all Annual and Special Town Meetings, and provide such legal consultation and advice as may be requested by Town Meeting.
- 5) Conduct or oversee all litigation, including administrative proceedings, in which the Town, its boards or officers are involved in their official capacity, to the extent such legal services are not provided by the town's insurance carriers.
- 6) Review and approve as to form all contracts to which the Town is a party.

4-1-4 Treasurer/Collector. There shall be a Treasurer/Collector appointed by the Board of Selectmen for a term of three (3) years.

4-2. Vacancy.

Should a vacancy occur in any office, board or commission, such vacancy shall be filled in accordance with the appropriate provisions of the General Laws. Vacancies on Committees or Study Groups may be filled by the appointing authority. No vacancy shall be filled until 14 days after public notice of vacancy.

ARTICLE 5
Finances and Fiscal Procedures

5-1. Fiscal Year.

The fiscal year of the town shall be as required by the General Laws.

5-2. Submission of Budget and Budget Message.

On or before the last Monday of January, the selectmen assisted by the Town Administrator shall file with the advisory board a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

5-3. Budget Message.

The message of the selectmen shall explain the budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget including capital expenditures, indicate any major variations from the current year in financial policies, expenditures and revenues together with reasons for such changes, summarize the town's debt position and include other material as the selectmen may require.

5-4. The Budget.

The budget shall provide a complete financial plan of all town funds and activities, including Enterprise Accounts and the budget adopted by the school committee for the ensuing fiscal year. Except for the school budget or as may otherwise be required by statute or by this charter, it shall be in the form which the selectmen may require. In their presentation of the budget the selectmen shall utilize modern concepts of fiscal presentation, so as to furnish maximum information and provide the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (A) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures;
- (B) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure; and
- (C) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

5-5. Action on the budget.

- (A) The board of selectmen and the advisory board shall jointly hold one or more public hearings on the proposed budget not less than fourteen (14) days prior to the town meeting at which it is to be submitted for adoption.

5-6. Capital Improvement Program. [Amended 4-30-2011]

Town officers, board and committees shall, by the third Friday in November of each year, submit to the Capital Budget Committee all requests for capital projects and all information concerning such projects proposed to be undertaken in the next fiscal year. In addition, no later than the third Friday in November of each year, all town officers, boards and committees shall submit to the Capital Budget Committee a capital budget plan listing all capital projects then in effect and anticipated in the following five (5) fiscal years. Capital projects for consideration at a Special Town Meeting should be of an emergency nature only and shall be submitted to the Capital Budget Committee as promptly as the emergency circumstances allow prior to the date of a Special Town Meeting. The Capital Budget Committee will review all current project requests and five year capital budget plans and:

- (A) Develop a capital budget article to be presented to the next Annual Town Meeting or Special Town Meeting with recommendations; and
- (B) Incorporate all capital budget plans into an overall town capital budget program. The capital improvement program is to be developed and administered in accordance with the capital budget bylaws.

5-7. Financial Public Records.

A summary of the budget and capital improvements program and related warrant articles as adopted by the town meeting shall be prepared by the Town Administrator under the direction of the Selectmen and made available at the offices of both the Town Clerk and Selectmen for examination by the public not more than thirty (30) days after their adoption. These provisions shall not affect the availability of the annual town report, the town warrant or the report of the advisory board.

ARTICLE 6
General Organization

6-1. General.

- (A) Subject to the Massachusetts General Laws and the provisions of this charter, the town meeting may by by-law create, establish, organize, reorganize, consolidate or abolish any town board, commission, committee, department, office or agency in whole or in part as they deem necessary or advisable and shall prescribe the function of all such entities.
- (B) All appointments and promotion of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.
- (C) No board, commission, committee or study group shall be appointed until the appointing authority clearly sets forth the objectives, duties, authority and term of such body, unless such information is contained in the legislation establishing such body. The foregoing shall not apply to such bodies existing at the adoption of this charter, but the appointing authority shall give such guidance and direction as any such existing body may reasonable request.

6-2. Contracts.

All contracts involving the Town, whether or not requiring expenditure of funds, shall be reviewed by Town Counsel for form and content.

ARTICLE 7 Procedures

7-1. Meetings General.

All multiple member boards, commissions or committees of the town whether elected or appointed or otherwise constituted, shall meet within 30 days of appointment and regularly at such times and places within the town as they may prescribe. Special meetings of any board, commission, or committee shall be held on the call of the respective chairman or by one third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least twenty-four hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin board(s). Special meetings of any board, commission, or committee shall also be called within two (2) weeks after the date of the filing with the town clerk of a petition signed by at least twenty-five (25) registered voters and which states the purpose or purposes for which the meeting is to be called. All meetings of all boards, commissions and committees shall be open and public, provided, however, that the committee, commission or board may recess for the purpose of discussing in a closed or executive session limited to its own membership, any matter which would tend to defame or prejudice the character or reputation of any person, which would affect the public security, or which might have a direct fiscal effect on the town provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action on the matter is not taken until the board, commission or committee comes back into formal session, except as provided in Sec.23A, ch.39 of the General Laws.³

7-2. Agendas.

At least twenty-four hours before any meeting of a board, commission or committee is to be held an agenda containing all items which are scheduled to come before the board, commission or committee at the meeting shall be posted on the town bulletin board(s). No action taken on a matter not included in the posted agenda shall be effective unless the board, commission or committee first adopts by a separate vote a resolution declaring that a reasonable cause exists and stating such cause.

7-3. Rules and Journal.

Each board, commission or committee shall determine their own rules and order of business unless otherwise provided by this charter or by-law and shall provide for keeping a journal of their proceedings. Those rules and journals shall be a public record kept available in a place convenient to the public at all times and certified copies shall be kept available in the office of the town clerk.

3. Editor's Note: Section 23A of MGL c. 39 was repealed by St. 2009, c. 28.

7-4. Voting.

Except on procedural matters, votes of all boards, commissions, committees shall be taken by a call of the ayes and nays shall be recorded in the journal, provided however, that if the vote is unanimous only that fact need be recorded.

7-5. Quorum.

A majority of the members of the board, commission or committee shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the board, committee or commission; no other action of the board, commission or committee shall be valid or binding unless ratified by the affirmative vote of the majority of the full board, commission or committee.

ARTICLE 8
Recall and Removal

8-1. Recall.

8-1-~~1~~Who can be recalled. Any holder of an elective office, as defined in Article 3, may be recalled therefrom by the registered voters of the town as herein provided.

8-1-~~2~~Recall Petition. Any one hundred (100) registered voters of the town may file with the Town Clerk an affidavit on documents issued by the Town Clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. Anyone obtaining the affidavit documents from the Town Clerk, must return the affidavit documents to the Town Clerk within 14 days with the signatures of the one hundred (100) registered voters. The Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which shall be kept available. The blanks shall be issued by the Town Clerk with his/her signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in said office. A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk. The recall petition shall be returned and filed with the Town Clerk within twenty-one (21) days after the filing of the affidavit, and shall have been signed by at least fifteen (15) per cent of the registered voters of each precinct, who shall add to their signatures the street and number if any, of their residences. The Town Clerk shall within twenty-four (24) hours of receipt submit the petition to the registrars of voters in the town, and the registrars shall within fourteen (14) days certify thereon the number of signatures which are names of registered voters of the town.

8-1-~~3~~Selectmen's Action on Receiving Petition. If the petition shall be found and certified by the Town Clerk to be sufficient he/she shall submit the same with the certificate to the selectmen without delay, and the selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five (5) days thereafter, order an election to be held on a date fixed by them not less than sixty (60) nor more than seventy (70) days after the date of the town clerk's certificate that a sufficient petition has been filed. Provided however, that if any other town election is to occur within ninety (90) days after date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in the election.

8-1-~~4~~Nomination of Candidates. Any officer sought to be removed may be a candidate to succeed himself/herself, and unless he/she requests

otherwise in writing, the town clerk shall place his/her name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

- ~~8-1-5~~Incumbent Holds Office until election. The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he/she shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

8-2. Removals and Suspensions.

- ~~8-2-1~~Applicability. Any appointed officer, including a member of any appointed board, commission, committee, or any appointed salaried employee of the town, not subject to the provisions of the state civil service law, and whose position is not subject to any collective bargaining agreement between the town and its employees, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term cause shall include, but not be limited to the following: Incapacity other than temporary illness, inefficiency, absenteeism, insubordination and conduct unbecoming the office.

- ~~8-2-2~~Temporary Suspension. Any appointed officer or salaried employee of the town may be suspended from office by the appointing authority if such action is deemed by them to be necessary to protect the interests of the town. However, no suspension shall be for more than thirty (30) days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

- ~~8-2-3~~The appointing authority when removing any such officer or employee shall act in accordance with the following procedure:

- (A) The employee shall be served with a written notice to show cause why the employee should not be removed and a statement of the cause or causes therefore shall be delivered by registered or certified mail to the last known address of the person sought to be removed.
- (B) Within five (5) days of delivery of such notice the officer or employee may request a public hearing at which he/she may be represented by counsel, shall be entitled to present evidence, call witness and to question any witness appearing at the hearing, which hearing shall be held within 15 days of receipt of such notice.

- (C) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six (6) and fifteen (15) days after delivery of the notice of intent to remove the appointing authority shall take final action, whether removing the officer or employee or notifying him/her that the notice is rescinded.

8-2-4 Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed to a fixed term is not reappointed when his/her original term expires.

ARTICLE 9
General Provisions

9-1. Charter Changes.

This charter may be replaced, revised or amended in accordance with the procedures made available by article 89 of the amendments to the state constitution and any legislation enacted to implement the said amendment.

9-2. Severability.

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

9-3. Specific Provisions Shall Prevail.

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provisions shall prevail.

9-4. Rules and Regulations.

A copy of all rules and regulations adopted by an officer, board, commission, committee, department or agency of the town shall be filed in the office of the town clerk and made available for review by any person who requests such information.

ARTICLE 10
Transition Provision

10-1. Continuation of Existing Laws.

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not specifically repealed or amended or rescinded by due course of law or expire by their own limitation.

10-2. Continuation of Government.

All committees, commissions, boards, departments, officers and other agencies of the town shall continue to perform their duties until reappointed, re-elected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

10-3. Continuation of Administrative Personnel.

Any person holding an office or position in the administrative services of the town, or any person serving in the employment of the town shall retain such office or position and shall continue to perform his duties until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency; provided however, that no person in the permanent full time service or employment of the town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

10-4. Transfer of Records and Property.

All records, property and equipment whatsoever of any office, department, or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency shall be transferred forthwith to the office, department or agency to which such powers and duties and assigned.

10-5. Adoption of Certain Acts.

The provisions of Chapter 41 Section 103 of the General Laws are hereby adopted. Said section establishes a purchasing department authorized to purchase all supplies for the town and for every department thereof.

10-6. Effective Date.

This charter shall become effective July 1, 1976.

Division 2: General Bylaws

Chapter 1

GENERAL PROVISIONS

ARTICLE I

Approval of Codification

[The codification of the General Bylaws as Division 2 (Chapters 5 through 294) of the Town Code was approved by the Annual Town Meeting 4-24-2017 by Arts. 9 and 10.]

Chapter 5**ADMINISTRATION OF GOVERNMENT****GENERAL REFERENCES**

Committees and other agencies — See Ch. 52. Personnel — See Ch. 188.

Eminent domain — See Ch. 80.

Sale of property — See Ch. 201.

Finance and budget — See Ch. 95.

Town Meeting rules — See Ch. A901.

Officers and employees — See Ch. 170.

ARTICLE I
Town Meetings
[Adopted as Art. 1 of the General Bylaws]

§ 5-1. Notice.

Notice of every Annual and Special Town Meeting shall be given by posting attested copies of the warrant for such meetings at 10 public places in different parts of the Town not less than seven days before the holding of said Annual Meeting and 14 days before holding of any Special Town Meeting.

§ 5-2. Distribution of warrant. [Amended 10-15-2007 STM by Art. 20]

In addition to the legal notification required by the foregoing section, the final printed warrant shall be available and ready for distribution to residents four weeks preceding the Annual or Special Town Meeting every year.

§ 5-3. Quorum. [Amended 1979 ATM by Art. 42; 1988 ATM by Art. 15]

There will be no quorum for Town Meetings.

§ 5-4. Consideration of article at subsequent or adjourned session.

No article may be considered at a subsequent or adjourned session of the Town Meeting unless postponed by motion for that purpose during the same session at which the article was first voted.

§ 5-5. Voice votes. [Amended 4-28-1997 STM by Art. 1]

Where, by statute, a vote of the Town Meeting is required to be greater than a majority vote, the Moderator may call for a voice vote. If, in the Moderator's judgment, the voice vote indicates that substantially all of the Town Meeting members have voted affirmatively, he or she may dispense with the need to take a count and record the vote and may declare the particular question to have been voted affirmatively. If seven or more Town Meeting members challenge the Moderator's decision, a count shall be taken and the vote recorded.

§ 5-6. Articles to be voted by lottery. [Amended 4-27-2006 ATM by Art. 18 and Art. 20]

Town Meeting articles will be voted by lottery for articles following the operating budget articles in the case of the Annual Town Meeting and for all articles in the case of the Special Town Meeting. Each article will be drawn separately. A proponent of an article, with the permission of the Moderator, may propose linkage of similar articles.

§ 5-7. Purpose of Special Town Meetings. [Amended 4-27-2006 ATM by Art. 18 and Art. 20]

Except as otherwise provided in MGL c. 39, § 10, no Special Town Meetings shall be called by the Board of Selectmen except for the purpose of considering matters not anticipated at the time of the most recent Annual Town Meeting, which matters the Selectmen, in their discretion, decide should be acted upon by the Town prior to the next scheduled Annual Town Meeting.

§ 5-8. Preparation of warrant. [Amended 4-27-2008 ATM by Art. 30; 4-24-2017 ATM by Art. 10]

The Town Clerk's office will assume the responsibility of the printing, distribution and delivery of the Annual Town/Special Town Meeting warrant. The Selectmen will prepare all articles in final form before sending the warrant to the Town Clerk's office.

ARTICLE II

**Certain Powers of Town Officers
[Adopted as Art. 3 of the General Bylaws]****§ 5-9. Litigation and other proceedings.**

The Selectmen shall have authority to prosecute and compromise all litigation to which the Town is a party and to appear either personally or by counsel in proceedings before any tribunal, unless it is otherwise specially ordered by the Town.

§ 5-10. Execution of deeds.

Whenever it shall be necessary to execute any deed conveying land, the same shall be executed by the Treasurer/Collector in behalf of the Town, unless the Town shall otherwise vote in any special case.

ARTICLE III

Town Hall

[Adopted as Art. 46 of the General Bylaws]

§ 5-11. Operational management.

The Board of Selectmen or its designee shall have the authority and responsibility for the day to day operational management of the Town Hall so that the Selectmen may establish and control operating hours of all departments within Town Hall.

ARTICLE IV

Resolutions

[Adopted 1980 ATM by Art. 35 (Art. 51 of the General Bylaws)]

§ 5-12. Review by Selectmen.

The Board of Selectmen, within 30 days after a Town Meeting, shall discuss in open session any resolution passed at such meeting.

Chapter 16
ANIMALS

ARTICLE I

Dog Licenses**[Adopted 1985 ATM by Art. 52 (Art. 49 of the General Bylaws)]****§ 16-1. Unlicensed dogs.**

No person who owns, keeps or otherwise has the control of any dog which has not been licensed pursuant to MGL c. 140 shall allow such dog to remain within the Town of Marshfield after June 30 of any license period.

§ 16-2. Violations and penalties.

The penalty for violation of this article shall be \$10 for each offense to be paid to the Town Clerk when dog is licensed.

ARTICLE II

Animal Control**[Adopted 1990 ATM by Art. 37 (Art. 27 of the General Bylaws)]****§ 16-3. Restraint of dogs. [Amended 4-27-2008 ATM by Art. 32; 4-24-2017 ATM by Art. 10]**

No dog shall be allowed in any public place or on any lands, beaches or ways within the Town unless it is effectively restrained by a chain or leash and under the direct and positive control of its owner or handler.

- A. It shall be the duty of the Animal Control Officer to enforce this section of the General Bylaws of the Town. All dogs found running at large within the Town may be impounded, and thereafter the Animal Control Officer shall make a complete registry of the dog including the breed, if discernible, color, sex and identification tag or marks. If the dog is licensed, he shall note the name and address of the owner and shall send notice by mail, to the owner, that the dog has been impounded. If the owner of the dog is unknown, or if the owner does not respond to said notice within two days, written notice of the impounding of the dog shall be posted in one or more public buildings of the Town in a conspicuous place.
- B. The provisions of this section shall not prohibit the use of hunting dogs for hunting purposes during appropriate hunting season. This section shall not prohibit the training of hunting or working dogs and shall not prohibit field trials for hunting and working dogs when conducted by a responsible person.
- C. The penalty for violation of this section shall be \$25 for a first offense. The penalty for each ensuing offense shall be as follows: second offense: \$50; third offense: \$75; fourth offense and each additional: \$100. The penalty for dogs running at large and which are deemed to be a nuisance or dangerous (either through a previous dog bite or by determination of the Animal Control Officer) will be \$200. All penalties shall be imposed on the owner or keeper and shall be cumulative as they relate to the individual rather than to any specific dog.

§ 16-4. Restraint of domestic livestock.

- A. No person who owns, rents, keeps or otherwise has the care, custody or control of any hoofed animal or other domestic animal, with the exception of dogs and cats, shall allow any such animal to run at large or unrestrained in any public way or place to which the public has a right of access. No such animal shall be tied or tethered in such a manner that it may reach any public way or place to which the public has a right of access.
- B. The penalty for violation of this section shall be \$10 for the first offense and \$20 for each subsequent offense. It shall be the duty of the Animal

Control Officer to enforce this section. **[Amended 4-24-2017 ATM by Art. 10]**

§ 16-5. Animal Control Program. [Amended 4-24-2017 ATM by Art. 10]

The Board of Selectmen shall establish fees and sufficient charges to support the cost of the Animal Control Program.

Chapter 25**BATHHOUSES****§ 25-1. License required.**

No public bathhouse or bathhouses shall be maintained within the limits of the Town without a license from the Selectmen.

Chapter 34**BOATING AND WATERWAYS****GENERAL REFERENCES**

Seawalls — See Ch. 217.

Marina and boating facilities — See Ch. 630.

Shellfish — See Ch. 226.

§ 34-1. Purpose. [Amended 4-24-2017 ATM by Art. 10]

The purpose of this bylaw is to protect, preserve, and promote the public's rights to safe and pleasurable use of the navigable waterways and aid and assist the commercial fleet located within the Town of Marshfield.

§ 34-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CAPTAIN OF THE PORT — The Chief of Police of the Town of Marshfield.

COMMERCIAL VESSEL — Any vessel which is used to harvest fish or shellfish for purposes of sale, to carry passengers for hire or for mooring or scuba related business.

FAIRWAY — A defined area, as shown on official navigational charts, used continually for unobstructed vessel access to and from moorings, launching and shoreside facilities for the safety and convenience of the boating public.

GROUND TACKLE — The mooring block, float, buoys, chain, swivel and pennant which are the property of the vessel owner.

HARBORMASTER — The Harbormaster and all Assistant Harbormasters as defined in MGL c. 102 duly appointed by the Board of Selectmen, Town of Marshfield, Massachusetts. The recommendation of the Captain of the Port shall be considered by the Board of Selectmen in making such appointments.

HOUSEBOAT — Any boat/vessel designed primarily for human habitation, dwelling or entertaining and which is not motorized. Some houseboats may also be known as a shanty boat. **[Added 11-4-2013 STM by Art. 6]**

MARINA — A location of safe refuge, moorage, slippage, storage or anchorage for five or more vessels, which may supply provisions, marine supplies or chandlery, or at which these may be obtained, and at which a fee may be charged for the use of these facilities and/or services, to include any and all wharfs, piers, pilings, dolphins, floats (fixed or portable), or any boat facilities either private or public used for the keeping of any vessels over five in number. This definition shall include municipal boating facilities, piers and moorings. **[Amended 4-24-2017 ATM by Art. 10]**

MARSHFIELD WATERWAYS COMMITTEE — A seven-member advisory board appointed by the Board of Selectmen to protect and preserve the public's rights of the use and enjoyment of the Town's waterways, to protect the natural resources along and in the waterways and to promote safe navigation within the Town's waterways.

MOORING — Space where ground tackle is located, or place where a buoyant vessel, lobster car, raft, float or dock is secured with mooring tackle. **[Amended 4-24-2017 ATM by Art. 10]**

SKIN DIVER — Swimmers using fins and/or masks or snorkel tubes or self-contained underwater breathing devices.

VESSEL — All boats, including every description of motorized watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation.

WATERWAYS OF THE TOWN OF MARSHFIELD — The navigable waters within the Town of Marshfield north from the line of boundaries of the Town of Duxbury to the line of boundaries of the Town of Scituate, to the geographical seaward boundaries of the Town of Marshfield. The waterways of the Town of Marshfield shall include, without limitation:

- A. GREEN HARBOR BASIN — The waters of the Town of Marshfield from the seaward most limit of the southwest jetty continuing upstream of the Green Harbor River to include all navigable rivers, creeks and tributaries, including all waters subject to the ebb and flow of the tides twice in 24 hours.
- B. NORTH RIVER — That portion of the river within the boundaries of the Town of Marshfield to the geographical center of the river and all navigable rivers, creeks and tributaries pertaining thereto, including all waters subject to the ebb and flow of the tides twice in 24 hours.
- C. SOUTH RIVER — That portion of the river within the boundaries of the Town of Marshfield to the geographical center of the river and all navigable rivers, creeks and tributaries pertaining thereto, including all waters subject to the ebb and flow of the tides twice in 24 hours.
- D. MASSACHUSETTS BAY — That portion of Massachusetts Bay contiguous to the Town of Marshfield from the mean high-water line to the seaward jurisdictional limits of the Town. **[Amended 4-24-2017 ATM by Art. 10]**

§ 34-3. Mooring block specifications.

- A. Ground tackle specifications including mooring block specifications, chain sizes, pennants and mooring float and buoy requirements shall be established by the Harbormaster.
- B. Ground tackle not marked as called for by this regulation shall be removed after notice by certified mail by the Harbormaster. The mooring location may be forfeited and reassigned according to current regulations.

§ 34-4. Care and maintenance of ground tackle.

- A. No ground tackle, after being set on bottom, shall be removed or in any way changed or sold without advance approval of the Harbormaster.
- B. The care, maintenance and registration of all ground tackle is the responsibility of the owner. All mooring inspections shall be performed by a certified mooring service company on file with the Harbormaster's office. Mooring inspections will be conducted every three years. Mooring tackle and blocks shall be removed from Marshfield waterways and disposed of if found to be in unserviceable condition. Moorings not inspected within the assigned inspection year will be revoked.
- C. Inspection of all ground tackle shall be done at owner's expense and logged at the Harbormaster's office. The Harbormaster is authorized to remove any ground tackle at reasonable times for inspection. Mooring tackle, docks, floats, and rafts shall not be placed in Marshfield waterways without prior approval of the Harbormaster and should not impede safe navigation. The Harbormaster shall establish regulations and specifications for inspection of ground tackle. **[Amended 4-24-2017 ATM by Art. 10]**

§ 34-5. Mooring regulations.

- A. All moorings shall be registered with the Harbormaster each year. The due date for mooring fees shall be set at 30 days from date of issuance. All applicable fees and taxes owed to the Town shall be paid before registration is issued. Mooring fees are established by the Harbormaster and approved by the Board of Selectmen. Failure to pay the mooring fee may result in forfeiture of the mooring after notice by certified mail.
- B. An annual mooring waiting list shall be compiled and kept at the Harbormaster's office. It is available to the public for review on request. Mooring permits will be granted by the Harbormaster in order of application date as suitable locations become available. Persons without a mooring shall have priority. Mooring waiting list fees are established by the Harbormaster and approved by the Board of Selectmen. Persons on the wait list shall reapply annually between April 15 and June 30 of each calendar year. Renewals must be in person

or by mail or fax. If an applicant on the wait list refuses a mooring location, the applicant will not lose his/her place on the mooring wait list. **[Amended 4-24-2017 ATM by Art. 10]**

- C. A mooring permit owner may not exchange his/her mooring location with another mooring permit owner without permission of the Harbormaster. A mooring permit is not transferable except to the permit holder's spouse or next of kin.
- D. Each mooring permit holder shall place his/her registered vessel on the assigned mooring for a minimum of 30 days each twelve-month mooring fee billing period. Otherwise, the mooring is deemed abandoned and shall be forfeited. A mooring permit holder may apply for a one-year grace period to retain his/her designated mooring if he/she has sold the registered boat and is purchasing a replacement vessel, or if his/her current vessel has suffered a mechanical failure sufficient to require removal from the water for repairs, or for other extenuating circumstances approved by the Harbormaster. Prior written notification must be given to the Harbormaster.
- E. The payment of a mooring fee only gives the mooring permit holder the use of a specific location. Permit holders are prohibited from increasing the size of the vessel on the assigned mooring without advance approval of the Harbormaster. Mooring locations are subject to change at the discretion of the Harbormaster.
- F. Mooring servicing companies shall be registered and approved each year with the Harbormaster's office. **[Amended 4-24-2017 ATM by Art. 10]**
- G. All operators of vessels on moorings secured fore and aft will moor their vessels fore and aft at all times to prevent the vessel from swinging with the change of tides. Mooring locations may be designated fore and aft by the Harbormaster only when deemed a hazard to navigation. **[Amended 4-24-2017 ATM by Art. 10]**
- H. No vessel or other party may use a mooring other than the owner and vessel originally assigned by registration and on file at the Harbormaster's office except with the permission of the Harbormaster.
- I. No mooring pennants attached to a float will be longer than prescribed by mooring regulations available at the Harbormaster's office or without the express permission of the Harbormaster.
- J. The type of pennant may be changed by using a substitute of equal or greater strength by permission of the Harbormaster.
- K. The mooring chain and pennant may be increased in diameter but may not be increased in length except by permission of the Harbormaster.
- L. No ground tackle shall have more than one vessel attached. No permanent rafting of vessels shall be allowed on one ground tackle

other than the vessel's tender except with the permission of the Harbormaster.

- M. Any ground tackle owner in violation of the above regulations will have his/her ground tackle removed at his/her expense per order of the Harbormaster and lose his/her mooring.
- N. Mooring holders may elect to replace mooring buoys with winter logs after September 15. Winter mooring gear shall be removed by June 1 and replaced with appropriate mooring tackle. Winter logs not removed after June 1 will be considered a hazard to navigation and removed by the Harbormaster or his designee. Winter logs removed will not be replaced with a floating buoy. Mooring holders electing to use winter logs shall have the log painted white with a two-inch blue stripe near the top and also be identified by mooring number. Typically winter logs are four feet in length.
- O. The number of commercial vessel moorings available shall not be any less than exist as of June 30, 1991.

§ 34-6. General regulations for Town waterways.

- A. No vessel except emergency vessels shall be operated within the limits of the Green Harbor Basin and North and South Rivers at a speed in excess of six knots or cause a disturbing wake.
- B. No person shall scuba dive or snorkel in Green Harbor or any Town navigable fairway without permission of the Harbormaster's office. The use of all public piers, floats and Town-owned boat launching ramps by swimmers is hereby prohibited. Swimming in any fairway is also prohibited. **[Amended 4-24-2017 ATM by Art. 10]**
- C. Use of jet skis, water bikes or similar crafts on the North or South River or within 300 feet of Marshfield beaches is prohibited.
- D. Tying up of skiffs to a Town pier or float is prohibited except by permit and at a designated location provided for by the Harbormaster. All skiffs without a permit will be removed at the owner's expense after due notice by certified mail. Skiff fees and skiff regulations are established by the Harbormaster and approved by the Board of Selectmen.
- E. Town floats or piers shall not be used for storage of fishing gear, nets, lobster traps or any other materials except during actual loading or unloading of vessels. Ramps and walkways shall be kept clear at all times. After 24 hours and after an attempt to notify the owner, equipment stored in violation of this section will be considered abandoned. It shall be removed and stored at the owner's expense per order of the Harbormaster.
- F. Vessels with moorings in waterways of the Town of Marshfield shall not use Town floats for overnight tie-up. This regulation does not preclude the use of floats for service work on vessels with the permission of

the Harbormaster. Transient vessels may be given permission by the Harbormaster to use Town floats or Town moorings for overnight tie-up. Tie-up fees are established by the Harbormaster and approved by the Board of Selectmen. The Town is not responsible for any loss or damage to boats at Town piers, dock or floats. Owners will be held responsible for damage to structures and pilings owned by the Town.

- G. Fishing from Town piers, floats and Town-owned boat launching ramps is prohibited from May 1 to October 1 except with permission from the Harbormaster. No person shall set fishing gear or traps in navigable fairways, channels, or basins upon the North and South Rivers and Green Harbor. **[Amended 4-24-2017 ATM by Art. 10]**
- H. The cleaning and gutting of fish on the Town piers, floats or Town-owned boat launching ramp is prohibited. If any fish are cleaned or gutted aboard vessels tied up to the Town piers or floats, the waste shall be stored in a suitable container for proper disposal.
- I. Minor children shall not be allowed the use of Town floats, piers or launch ramps without adult supervision.
- J. Bicycles, roller skates, skateboards and motor-driven vehicles (mopeds, motorcycles) shall not be driven on the Town piers, floats or Town-owned boat launch ramps.
- K. The Town floats from the south side of the Town launch ramp of the Town pier may be used only for the pickup and discharge of passengers and gear for the time limits set by the Harbormaster.
- L. The Town floats from the north side of the Town launch ramp of the Town pier are reserved for commercial vessels only for the time limit set by the Harbormaster.
- M. The Harbormaster shall have the responsibility for maintaining the public safety on the piers, floats, launch and parking areas, walkways and the waterways of the Town of Marshfield. This shall include the safe placement of all floating structures or vessels. The Harbormaster is authorized to remove all such structures or vessels that he deems a hazard to navigation or otherwise in violation of any bylaws, rules, or regulations in the waterways of the Town. The Harbormaster is authorized to make regulations for the efficient operation of Marshfield waterways with the approval of the Board of Selectmen.
- N. No vessel greater than 50 feet in length without a Marshfield mooring shall tie up to the Town piers or floats at any time without the permission of the Harbormaster. No vessel shall impair normal vessel traffic while tied to a Town pier, float, rack, pile, mooring, camel or dolphin in the waters of the Town.
- O. No trailered vessel shall be launched from any Town pier or launch ramp without the person launching the vessel having obtained a launch permit from the Harbormaster. Skiffs with a valid skiff permit are

considered to have a launch permit. Launch ramp fees are established by the Harbormaster and approved by the Board of Selectmen. Any person found launching a trailered vessel without a permit shall be fined not more than \$50 for each violation. **[Amended 11-4-2013 STM by Art. 6; 4-24-2017 ATM by Art. 10]**

- P. Pollution of the waterways of Marshfield is prohibited. Prohibited activities include discharging of untreated sewage, rubbish, refuse, dead fish or fish carcasses/bait and hazardous waste (gas, oil, antifreeze, etc.). Abandoned or derelict boats, floats, docks and motors are prohibited on the piers, docks, and waterways of Marshfield.
- Q. The Selectmen are instructed and authorized to control, regulate or prohibit the taking of eels, shellfish, and sea worms within the Town of Marshfield, in accordance with MGL c. 130, § 52. The Harbormaster shall be designated Shellfish Warden and may appoint assistant shellfish wardens and establish regulations and fees for taking of shellfish. The Selectmen are instructed and authorized to control, regulate or prohibit the taking of herring within the Town of Marshfield, in accordance with MGL c. 130, § 95.
- R. Houseboats are prohibited from mooring or anchoring within Town waters, except at marinas which provide the following: **[Added 11-4-2013 STM by Art. 6]**
 - (1) A permanent float, dock or slip from which the houseboat may be directly accessed from land;
 - (2) A sewer connection to a public sewage system or sewage pumpout, i.e., tight tank system;
 - (3) All all-weather supply of electricity year round;
 - (4) A connection to a public water supply by means of an individual anti-backflow valve; and
 - (5) Compliance with all applicable Town bylaws and safety requirements.

§ 34-7. Special safety regulations.

- A. All vessels with a tuna pulpit that measures more than five feet in length, measured from the bow stem forward, must be able to raise it from a lowered position to an upright position when tying up to the Town pier or floats. Any vessel moored in a specially designated area must show a flashing yellow light on the pulpit when in the down position from dusk to dawn. This safety regulation also applies to the mooring areas. Failure to comply will be grounds to deny the vessel use of the waters of the Town.
- B. No person shall operate a vessel in Green Harbor or North or South River of the Town while towing water skiers, aquaplanes or other

similar devices except in connection with water carnivals and exhibitions authorized by the Captain of the Port in an area designated by the Selectmen and with permission of the Harbormaster.

- C. No person shall operate, or cause to allow to be operated, a vessel powered by machinery within 300 feet of any swimmer.
- D. Motorboats shall not be operated within 300 feet of a public bathing beach unless operating in an area designated by the Harbormaster.
- E. The designated boat lane on Green Harbor Beach shall be the place to operate or anchor a vessel powered by machinery.
- F. Sailing vessels underway in Green Harbor with no other means of propulsion shall not navigate through a mooring field unless heading to dock, berth or sea.
- G. Barges, sectional barges, dump scows, dredges, crane barges, large tugs shall not be moored, anchored in Marshfield waterways without prior approval of the Captain of the Port or Harbormaster. A fee schedule shall be established for marine equipment moored in Marshfield waterways and approved by the Board of Selectmen. **[Added 10-26-2015 STM by Art. 7]**
- H. Residents or contractors conducting private pier, dock, wharf, dredging or marine work shall notify the Harbormaster two weeks prior to, or sooner to arrange for proper mooring/dockage. All privately conducted work shall accompany a work time, completion date and safety/emergency plan. Idle equipment shall not be moored in Marshfield waters and will be subject to removal at the owner's expense. **[Added 10-26-2015 STM by Art. 7]**

§ 34-8. Appeals.

Decisions of the Harbormaster that do not involve bylaw violations and/or criminal matters may be appealed to the Captain of the Port within seven days via certified receipt. The Captain of the Port will respond in writing within 10 days of such appeal. The Waterways Committee shall be informed of appeals and findings.

§ 34-9. Violations and penalties; enforcement. [Amended 11-4-2013 STM by Art. 6; 4-24-2017 ATM by Art. 10]

Except where otherwise provided, any person who violates any provision of this bylaw, the Harbormaster's regulations and/or any shellfish regulations (set forth in Chapter 226 of the General Bylaws) shall be punished by a fine of \$150 for the first offense (with the exception of illegal taking of shellfish which shall be a fine of not more than \$300 per each offense), \$250 for the second offense and \$300 for a third or subsequent offense. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute

a separate offense. This bylaw may be enforced by the Harbormaster, Shellfish Constables/Wardens and/or police officers.

§ 34-10. Severability.

In the event that any provision, section or clause of this bylaw is hereinafter judicially found to be invalid, such invalidity shall not affect the validity of the remaining portions of the rules and regulations.

Chapter 40

BUILDINGS, MOVING OF

§ 40-1. Permit required.

A permit must be obtained from the Selectmen to move a building over any way in the Town.

Chapter 43

BUILDINGS, NUMBERING OF

**§ 43-1. Numbers to be affixed; inspection. [Amended 4-24-2017
ATM by Art. 10]**

At the time of any required or requested inspection by any Town department or board of any building in Town, numbers assigned to such building by the Department of Public Works shall be affixed in such a manner that they are clearly visible from the way furnishing access to such building. No certificate of compliance or permit for such building shall be issued until the inspector verifies that such numbers are affixed in a permanent, weather-resistant way in accordance with the bylaw. Removal of numbers after inspection shall be a violation of this bylaw.

Chapter 52

COMMITTEES, BOARDS AND OTHER AGENCIES

GENERAL REFERENCES

Capital Budget Committee — See Ch. 95, Art. VI. Personnel Board — See Ch. 188.

ARTICLE I

Advisory Board

**[Adopted as Art. 5 of the General Bylaws; amended 4-24-2017 ATM
by Art. 10]**

§ 52-1. Membership; terms of office.

The Advisory Board shall consist of nine members who shall be voters of the Town, holding no other Town office, and shall serve without pay. Three members shall be appointed by the Selectmen annually to hold office for the term of three years. Vacancies occurring during the term of office shall be filled by the Selectmen.

§ 52-2. Duties.

It shall be the duty of the Advisory Board to consider all municipal questions for the purpose of making reports or recommendations to the Town, and it may hold public meetings, which the Selectmen shall attend if so requested by the Board.

§ 52-3. Organization; quorum.

The Advisory Board shall organize by the choice of a Chairperson and Clerk who shall keep a record of all meetings of the Board, and five members shall constitute a quorum for the transaction of business.

ARTICLE II

Council for the Aging

**[Adopted March 1957 (Art. 24 of the General Bylaws); amended
1986 STM by Art. 1]**

§ 52-4. Membership.

There is hereby established a Council for the Aging consisting of nine members appointed by the Board of Selectmen from the voters and residents of the Town.

§ 52-5. Terms of office.

Appointees shall hold office for a period of three years each so that three appointments shall expire annually.

§ 52-6. Funds.

The Town may appropriate funds for the use of the Council which shall be expended by the Council subject to the approval of the Board of Selectmen.

§ 52-7. Duties. [Amended 4-24-2017 ATM by Art. 10]

It shall be the duty of the Council to carry out programs designed to meet problems of the aging in coordination with programs of the Department of Elder Affairs.

ARTICLE III

Community Preservation Committee**[Adopted 2001 ATM by Art. 10 (Art. 78 of the General Bylaws)]****§ 52-8. Establishment; appointment; term of office.**

- A. There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to MGL c. 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:
- (1) One member of the Conservation Commission as designated by the Commission for a term of three years.
 - (2) One member of the Historical Commission as designated by the Commission for a term of three years.
 - (3) One member of the Planning Board as designated by the Board for a term of three years.
 - (4) One member of the Recreation Commission as designated by the Commission for a term of three years.
 - (5) One member of the Housing Authority as designated by the Authority for a term of three years.
 - (6) Four members to be appointed by the Board of Selectmen, two members to be appointed for a term of one year and thereafter for a term of three years and two members to be appointed for a term of two years and thereafter for a term of three years.
- B. Should any of the commissions, boards, councils or committees which have appointment authority under this section of the bylaw be no longer in existence for whatever reason or for whatever reason fail to appoint an individual to the Committee, the appointment authority for that commission, board, council, or committee shall become the responsibility of the Board of Selectmen.

§ 52-9. Duties.

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a

newspaper of general circulation in the Town. **[Amended 4-24-2017 ATM by Art. 10]**

- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- C. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

§ 52-10. Legislative body actions on recommendations. [Added 4-28-2014 ATM by Art. 28]

Subject to the requirement of MGL c. 44B, no expenditures shall be made from the Community Preservation Fund without first an appropriation from Town Meeting. The Town Meeting may make appropriations from or reservations of community preservation funds in the amount recommended by the Committee or it may reduce or reject any recommended amount. It may also vote to reserve all or part of the annual revenues recommended by the Committee for appropriation for specific acquisitions or initiatives for later appropriation by allocating the funds to the reserve for that category of expenditures instead. The Town Meeting may not increase any recommended appropriation or reservation, and it may not appropriate or reserve any fund monies on its own initiative without a prior recommendation by the Committee.

§ 52-11. Quorum requirement; cost estimates.

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

§ 52-12. Amendments. [Amended 4-24-2017 ATM by Art. 10]

This bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL c. 44B.

§ 52-13. Severability. [Amended 4-24-2017 ATM by Art. 10]

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

§ 52-14. Initial appointments.

Each appointing authority shall have 10 days after approval by the Attorney General to make its initial appointments. Should any appointing authority fail to make its appointment within that allotted time, the Selectmen shall make the appointment.

Chapter 64**DRAINAGE DITCHES****§ 64-1. Filling of open ditches; reopening by Town. [Amended 4-24-2017 ATM by Art. 10]**

No person shall fill an open drainage ditch in the Town unless such ditch is piped in accordance with the requirements of the Department of Public Works. In the event such ditch is filled in violation of the foregoing, the Department of Public Works shall reopen same and shall bill the owner of the lot, or the person filling the ditch, for the cost of such reopening, and such cost shall be recoverable in a civil action by the Town.

Chapter 70**EARTH REMOVAL****GENERAL REFERENCES**

Excavations — See Ch. 86.

Farming — See Ch. 89.

§ 70-1. Removal of topsoil and loam. [Amended 4-28-2008 STM by Art. 9]

The removal of topsoil and loam from any land in the Town to any location outside the Town is prohibited under all circumstances. Topsoil and loam shall mean those earthen materials lying at the surface which are suitable for the support of plant life.

§ 70-2. Removal of soil, loam, sand, gravel or other earth material. [Amended April 2011 ATM]

The removal of soil, loam, sand, gravel or other earth material from land in any district which falls within the superimposed Inland Wetlands or Coastal Wetlands Districts is prohibited, except where such removal is in connection with dredging being carried out by a governmental agency. The Board of Selectman will not issue any earth removal permits for projects submitted after June 30, 2011, for properties located in districts that are zoned as residential (currently designated as RB, R-1, R-2 and R-3) although existing permits may be renewed.

§ 70-3. Exceptions.

- A. The removal of earth material in any of the following operations shall be exempt from this bylaw:

- (1) The removal of less than 100 cubic yards of material in the aggregate from any one lot. **[Amended 4-28-2008 STM by Art. 9]**
 - (2) The transfer of material from one part of a lot to another part of the same lot.
 - (3) The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or appurtenance, provided the quantity of material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenances below finished grade.
- B. The Board of Selectmen may, in its reasonable discretion, issue an earth removal permit without requiring full compliance with the requirements of this bylaw when it determines that such proposed earth removal is the minimum quantity of material necessary to be removed in order to construct a building, structure, street, driveway, sidewalk, path or appurtenance in accordance with the approvals therefor issued by the appropriate Town officials, boards or agencies; provided, however, that this exception shall not apply where the Board of Selectmen determines, after hearing, that the proposed construction is a pretext for earth removal and sale, or that the proposed earth removal shall cause damage to the public health, safety or the environment. Whenever a Town official, board or agency issues a permit or approval for a project involving the removal of in excess of 100 cubic yards of earthen material, the official, board or agency shall notify the Board of Selectmen of such permit or approval and shall consider making any necessary compliance with this bylaw a condition of such permit or approval. **[Amended 4-28-2008 STM by Art. 9]**

§ 70-4. Conditions.

For the removal of soil, loam, sand, gravel, quarry or other earth materials other than that specifically exempt above, and for the processing and treating of earth materials, the following conditions shall govern:

- A. Removal operations shall not be conducted closer than 200 feet to a public street.
- B. All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 feet to any public street or to any adjoining lot line. **[Amended 4-24-2017 ATM by Art. 10]**
- C. Off-street parking as required in the Table of Off-Street Parking Regulations shall be provided.⁴

4. Editor's Note: See the Zoning Bylaw, § 305-8.01, Minimum off-street parking requirements.

- D. Any access to excavated areas or areas in the process of excavation will adequately be posted with "Keep Out – Danger" signs.
- E. Any work face or bank that slopes more than 30° downward adjacent to a public street will be adequately fenced at the top.
- F. Adequate provision is to be made for drainage during and after the completion of operations.
- G. Lateral support shall be maintained for all adjacent properties.
- H. The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.
- I. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
- J. No permit shall be issued or renewed under this bylaw until the applicant has submitted to the Board current and complete information on the actual and proposed depth of excavation and the maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the month of March, April or May. Such tests shall be conducted by a Massachusetts registered professional engineer at the expense of the applicant and shall be observed by a representative of the Board. Tests results shall be submitted to the Board over the engineer's stamp.
[Amended 10-19-1987 STM by Art. 13]
 - (1) The groundwater monitoring wells shall be left in place during the period that the applicant holds a permit hereunder, and readings therefrom shall be taken during March, April, or May of each year. The results of such readings shall be submitted to the Board over the engineer's stamp.
 - (2) Excavation shall be restricted to those areas which are at elevations 10 feet or more above the maximum groundwater elevation as determined by the testing conducted under the provisions of this subsection.
- K. Before granting approval, the Board of Selectmen shall find that the proposed operation will not be injurious or dangerous to the public health; will not produce noise, dust or other effects observable from adjacent property in amounts seriously objectionable or detrimental to the normal use of the property; and will not have a material adverse effect on the water supply, health or safety of persons living in the neighborhood or on the use of or amenities of adjacent land.

- L. No permit shall be issued for a period of more than one year, although such a permit may be renewed for additional periods in the same manner.
- M. In granting a permit hereunder, the Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which may include conditions as to the overall operations set forth above and as relating to the site plan and land reuse plan requirements set forth in §§ 70-5 and 70-6 below. **[Amended 4-24-2017 ATM by Art. 10]**
- N. The Board of Selectmen shall require the person holding a permit hereunder to provide it with documentary evidence of the quantities of material excavated, the date of removal of such material, and the owner of the vehicle used to transport the material. **[Amended 10-19-1987 STM by Art. 13]**
- O. All auto and truck accessways to all active and inactive mining operations for sand and gravel must have controlled access by lockable gates. **[Amended 1988 ATM by Art. 23]**
- P. Night operations shall not be permitted.

§ 70-5. Site plans.

Site plans shall be filed in triplicate with the Board of Selectmen for any land which is used or intended to be used for the extraction of sand, gravel, rock, and associated earth materials. Site plans of the removal areas shall be prepared by a registered professional engineer or a registered land surveyor at a scale of 40 feet to the inch and shall be in accordance with and indicate the following:

- A. Lot lines and ownership.
- B. Existing topography and proposed elevations at two-foot contour intervals.
- C. Names of abutters as found on the most recent tax list.
- D. Adjacent public streets and private ways.
- E. Proper provisions for safe and adequate water supply and sanitary sewerage and for temporary and permanent drainage of the site.
- F. A locations plan at a scale of one inch equals 1,000 feet.
- G. Plan for regrading of all or parts of the slopes resulting from such excavation or fill.
- H. Plan for replacement of at least four inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

- I. Proposed lateral support to all adjacent property.
- J. Proper provision for vehicular traffic, service roads, and control of entrances and exits to highways. **[Amended 4-24-2017 ATM by Art. 10]**
- K. The relation of future buildings, temporary buildings, and operations machinery to the removal areas.
- L. Delineation of removal areas and depths.
- M. Provision for a substantial fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope of more than one foot in two feet. Such fence shall be located 10 feet or more from the edge of the excavation or quarry and shall be at least six feet in height.
- N. Method of removal.
- O. Distance of excavation to street and lot lines.
- P. Disposition of boulders and tree stumps.
- Q. Cleaning, repair and/or resurfacing of streets used in the removal activities which have been adversely affected by the removal activity.

§ 70-6. Land restoration plans.

Land restoration plan(s) must be submitted to and approved by the Board of Selectmen subject to the regulations set forth in the following subsections:

- A. The Board of Selectmen may require up to three approved alternative future land restoration plans to be submitted for such land as is used for the extraction of sand, gravel, rock, and associated earth materials. It is recognized that land restoration of the removal areas is in the public interest.
- B. Said land restoration plan and its implementation applies to the conversion of the abandoned site and its planned restoration. It is, therefore, required that any land restoration plan correspond to a situation which could reasonably occur in the immediate future (zero to five years), and be revised as necessary as the existing physical character of the removal area changes.
- C. The land restoration plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

§ 70-7. Bond.

The Board of Selectmen shall require a bond or other security to insure compliance with its conditions of authorization, unless in a particular case

it specifically finds that such security is not warranted and so states its decision giving the reasons for its findings.

§ 70-8. Violations and penalties. [Amended 10-19-1987 STM by Art. 13; 4-28-2008 STM by Art. 9]

- A. The penalty for the violation of this bylaw, or the removal of any soil, loam, sand or gravel within the Town of Marshfield without a permit hereunder, except as hereinbefore provided, shall be as follows: **[Amended 4-24-2017 ATM by Art. 10]**
- (1) For the first offense: \$50.
 - (2) For the second offense: \$100.
 - (3) For each subsequent offense: \$200.
- B. In addition to the penalties provided for in Subsection A above, the violation of any provision of this bylaw or any condition of a permit issued hereunder may, at the discretion of the Board, be punishable by the immediate revocation of the permit. No permit shall be revoked until the holder thereof has been given notice and an opportunity to be heard by the Board.
- C. Each unit of removal, used to remove soil, loam, sand or gravel, such as a truckload of any size, from the original site constitutes a separate offense under this bylaw.
- D. Such penalties shall be in addition to the existing rights of the Town to enforce its bylaws.

§ 70-9. Permit procedures.

- A. No such permit shall be issued except upon written application therefor to the Board of Selectmen with a copy thereof to the Planning Board.
- B. Such application shall be accompanied by such filing and publication fee as the Board of Selectmen may reasonably determine.
- C. Within 10 days after receipt of such application, the Board of Selectmen shall fix a reasonable time for a hearing upon such application and shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and shall also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected hereby, as they appear on the most recent local tax list, and to the Board of Health, the Board of Public Works and Planning Board of the Town. At the hearing, any party whether entitled to notice thereof or not may appear in person or by agent or by attorney. **[Amended 4-24-2017 ATM by Art. 10]**

- D. The Planning Board may, in its discretion, investigate the case and report in writing its recommendations to the Board of Selectmen. The Board of Selectmen shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report.

§ 70-10. Existing operations.

- A. Any existing sand or gravel removal activity operating under a permit issued by the Board of Selectmen may continue until the expiration of the permit thereof, provided that no such permit shall issue:
- (1) If such removal shall adversely affect the water table or the natural or engineered drainage in the Town; or
 - (2) If such removal shall create unreasonable noise, dust, fumes, or other effects which are detrimental to the public health or public welfare.
- B. Discontinuance for more than 12 consecutive months shall be deemed to constitute abandonment.

Chapter 76

ELECTRICAL INSTALLATIONS

§ 76-1. Notice to Wire Inspector. [Amended 4-24-2017 ATM by Art. 10]

No person shall install wires, conduits, apparatus, fixtures, or other appliances for carrying or using electricity for lights, heat or power within or connected to any building without first notifying the Wire Inspector in writing of the proposed installation.

§ 76-2. Standards and inspections.

All electrical installations or alterations must conform to the National Electric Code and be inspected and approved by the Wire Inspector.

Chapter 80

EMINENT DOMAIN

§ 80-1. Limitation on Town authority. [Amended 4-24-2017 ATM by Art. 10]

In consideration of the protection of private property rights and of the Town's character and natural environment and the preservation and enhancement of the quality of life of the Town's current and future generations, the authority of the Town of Marshfield and its agencies of

local government, as reserved to localities under MGL c. 79, to seize privately owned parcels against the expressed will of the owner through the use of eminent domain procedures shall, in light of Kelo vs. New London, be specifically further limited as follows:

- A. To only those proposed taking actions incorporating the transfer of private parcel(s) to the Town of Marshfield or any of its authorized agencies of local government and under no circumstances to another private party; and
- B. To only those proposed taking actions whose purpose is the creation of a facility for actual public use and ownership, to include public open spaces, parks, and watershed protection districts, and never for the purposes of economic development or the enhancement of the local tax base.

§ 80-2. Seizure of property endangering health and safety.

Nothing in the bylaw shall limit the authority of the Town of Marshfield or its authorized agencies of local government to seize property that is endangering the health and safety of its residents which could otherwise be seized or foreclosed upon for tax delinquency in accordance with the provisions of MGL c. 60.

Chapter 86

EXCAVATIONS

GENERAL REFERENCES

Earth removal — See Ch. 70.

Streets and sidewalks — See Ch. 250.

Farming — See Ch. 89.

§ 86-1. Barriers; protection of public safety.

Any person excavating land or any person in charge of such excavation and any owner of land which has been excavated shall erect barriers or take other suitable measures to fence the excavation within two days after such person has been notified in writing by the Board of Selectmen or the Building Commissioner that in its or his opinion such excavation constitutes a hazard to public safety.

§ 86-2. Violations and penalties.

Whoever violates this bylaw shall be punished by a fine of \$200 per day for every day such person is in violation of such notice commencing with the fourth day thereof. The Superior Court has jurisdiction in equity to compel compliance with this bylaw. See MGL c. 40, § 21, cl. (19), as amended.

Chapter 89

FARMING

ARTICLE I

Right to Farm**[Adopted 4-23-2007 ATM by Art. 28 (Art. 85 of the General Bylaws)]****§ 89-1. Legislative purpose and intent.**

- A. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97 of the Constitution and all state statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9; MGL c. 111, § 125A; and MGL c. 128, § 1A. We the citizens of Marshfield restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").
- B. This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Marshfield by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

§ 89-2. Definitions.

- A. The word "farm" shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.
 - (1) Farming and all its branches and the cultivation and tillage of the soil.
 - (2) Dairying.
 - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticulture, or horticultural commodities.
 - (4) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations.
 - (5) Raising of livestock including horses.
 - (6) Keeping, training, and boarding of horses as a commercial or private enterprise.
 - (7) Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches, and rheas) and camelids (such as llamas and alpacas) and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.
- B. "Farming" shall encompass activities including, but not limited to, the following:

- (1) The operation and transportation of slow moving farm equipment over roads within the Town.
- (2) Control of pests, including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals.
- (3) Application of manure, fertilizers and pesticides.
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm.
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto.
- (6) Maintenance, repair, or storage of seasonal equipment or apparatus owned or leased by the farm or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products.
- (7) On-farm relocation of earth and the clearing of ground for farming operations.
- (8) Construction, operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for farming purposes.
- (9) The operation, management, conservation, improvement or maintenance of a farm and its buildings, tools, and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations.

§ 89-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Marshfield. The above-described agricultural activities may occur on holidays, weekdays, and weekends, by night or day, and shall include the incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

§ 89-4. Disclosure notification.

- A. Within 30 days after this bylaw becomes effective, the Board of Selectmen shall prominently post in the Town Hall and make available for distribution the following disclosure: **[Amended 4-24-2017 ATM by Art. 10]**

"It is the policy of this community to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural uses, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a Town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust, and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances."

- B. In addition to the above, copies of this disclosure notification shall be available in a public area at the Town Hall.

§ 89-5. Resolution of disputes.

- A. Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen may forward a copy of the grievance to the Agricultural Commission (or Committee) or its agent, which shall review and facilitate the resolution of the grievance and report its recommendations to the referring Town authority within an agreed upon time frame. **[Amended 4-24-2017 ATM by Art. 10]**
- B. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission (or Committee) or its agent, which shall review and facilitate the resolution of the grievance and report its recommendations to the Board of Health within an agreed upon time frame.

§ 89-6. Severability.

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Marshfield hereby declares the provisions of this bylaw to be severable.

Chapter 95
FINANCE AND BUDGET

ARTICLE I

General Provisions**[Adopted as Art. 4 of the General Bylaws]****§ 95-1. Appropriations.**

It shall be the duty of the Town Clerk immediately after every Town Meeting to furnish the Treasurer/Collector with a statement of all moneys appropriated by the Town at such meetings, and of the purposes for which monies were respectively appropriated.

§ 95-2. Expenditures.

No money shall be paid from the treasury without a warrant or order from the Selectmen, or a majority thereof. Every order for the payment of money shall designate the appropriation against which the same is drawn, and it shall be the duty of the Treasurer/Collector and Selectmen to keep a correct account of all appropriations made by the Town and all sums that are drawn from such appropriations, and it shall also be the duty of the Treasurer/Collector and Selectmen to see that the expenditures are not in excess of the appropriation against which orders are drawn.⁵

§ 95-3. Bills to be itemized.

All bills presented against the Town for payment shall be itemized, properly approved by the officers or persons authorized to contract the same, and delivered or sent to the Selectmen.

5. Editor's Note: A quotation from MGL c. 44, § 5, which appeared in this section has been removed, as that section was repealed by St. 1969, c. 849.

ARTICLE II

Balance Accounts**[Adopted 1937 ATM by Art. 32 (Art. 14 of the General Bylaws)]****§ 95-4. Duties of Treasurer/Collector and Accountant.**

The Town Treasurer/Collector and the Town Accountant shall balance their accounts, one with the other, each month, including the bank statements, and the Treasurer/Collector and the Accountant shall report in writing to the Selectmen monthly the amount of the cash balance supplemented with a statement that the bank account has been reconciled.

ARTICLE III
Annual Audit

[Adopted 1938 ATM by Art. 49 (Art. 15 of the General Bylaws)]

§ 95-5. Supervision of audit. [Amended 4-24-2017 ATM by Art. 10]

There shall be an annual audit of the Town's accounts under the supervision of the Director of Accounts of the Department of Revenue in accordance with the provisions of MGL c. 44, § 35.

ARTICLE IV

Town Collector

[Adopted March 1954 (Art. 25 of the General Bylaws)]

§ 95-6. Collection of accounts.

The Treasurer/Collector shall collect, under the title of "Town Collector," all accounts due the Town, in accordance with the provisions of MGL c. 41, § 38A, as amended.

ARTICLE V

Risk Management and Insurance Program
[Adopted 1979 ATM by Art. 35 (Art. 53 of the General Bylaws)]

§ 95-7. Program to be established.

The Board of Selectmen shall establish a Risk Management and Insurance Program for the Town of Marshfield and shall require that such a program include all Town departments, officials, committees and boards and shall be under the supervision and control of the Town Administrator who further shall be charged with the responsibility and management of the program.

ARTICLE VI

Municipal Charges and Bills**[Adopted 1992 ATM by Art. 30 (Art. 67 of the General Bylaws)]****§ 95-8. Due dates. [Amended 4-24-2017 ATM by Art. 10]**

Due dates for the payment of municipal charges and bills are as follows:

Bill or Charge	Due Date
Water bill	30 days after bill date
Sewer use bill	30 days after bill date
Sewer capital bill	30 days after bill date
Trash bill	30 days after bill date

§ 95-9. Interest. [Amended 4-24-2017 ATM by Art. 10]

The rate at which interest shall accrue if such bills or charges remain unpaid after such due date is fixed as that rate at which interest may be charged on overdue tax bills under the provisions of MGL c. 59, § 57.

§ 95-10. Applicability.

The provisions of the bylaw shall apply to all users wherever situated.

ARTICLE VII

Capital Budget**[Adopted 11-15-1993 STM by Art. 12 (Art. 56 of the General Bylaws)]****§ 95-11. Capital Budget Committee.**

- A. The Town shall establish a Capital Budget Committee (the Committee) to assist and advise the Town, its boards, committees and departments on annual capital project appropriations and in preparing and reviewing a five-year capital budget program. The Committee shall consist of five citizens of the Town appointed by the Board of Selectmen to serve three-year overlapping terms. The Town Administrator shall be an ex officio member of the Committee without the right to vote. The Committee shall choose its own officers.
- B. The Committee shall review and make recommendations on borrowing under MGL c. 44, §§ 7 and 8, and on all capital projects as defined within this bylaw.

§ 95-12. Capital project defined; effect of bylaw.

As used in the bylaw, the term "capital project" means the acquisition of tangible property or construction or alteration of a public building or public work that has a projected useful life of five years or more and is estimated to cost, exclusive of interest, \$25,000 or more. This bylaw shall not limit the rights conferred by federal or state statute on any Town department, board, commission, or committee regarding expenditures of funds, including but not limited to the rights of the School Committee as stated in MGL c. 71, § 34.

§ 95-13. Requests for capital projects.

Town officers, boards and committees shall, by the third Friday in November of each year, give to the Committee, on forms prepared by it, all requests for capital projects and all information concerning such projects proposed to be undertaken in the next fiscal year. The information submitted shall include the proposed method of financing (e.g. borrowing or operating funds). The Committee may further require a statement of the projected total cost of the project, including, if the project is to be funded through borrowing, a statement of the number of years to pay off the project and annual principal and interest payments. The Committee may further require a breakdown of the total principal cost of each project into the following categories: materials, labor, administrative cost, planning and design, or any other categories as the Committee deems necessary for proper evaluation.

- A. The Committee shall consider the relative need, impact, timing and cost of the expenditures and the effect each will have on the financial position of the Town.

- B. No requests received after the submission deadline will be included in the capital budget article at the Annual Town Meeting, unless a majority of the Committee voted to include said article as a result of a compelling or unforeseen event or emergency.

§ 95-14. Capital Project Fund. [Added 4-22-2013 STM by Art. 6]

- A. A Capital Project Fund shall be established by Town Meeting vote. The Town Accountant is hereby authorized to close all completed general revenue, free cash and retained earnings financed capital appropriation balances in the General and Enterprise Funds to this fund. No expenditures shall be made from the Capital Project Fund. The fund shall serve solely as a source for financing future capital needs.
- B. Unobligated balances in bonded capital project accounts shall be transferred to the Capital Project Fund at the completion of each such capital project. These balances shall be reserved for future appropriation in accordance with the municipal finance laws. To the extent that Town Meeting has not voted to designate capital project funds for a specific future project, the unreserved fund balance in the Capital Project Fund shall be available for appropriation for additional capital needs.
- C. As capital projects are completed during the course of a fiscal year, the responsible department head shall notify the Town Accountant and/or Treasurer/Collector, who shall close unobligated appropriation balances to the Capital Project Fund. All year-end encumbered capital appropriation balances shall be brought forward from one year to the next, without any action of the responsible department head.
- D. Not later than July 15 of each fiscal year, each department head having a capital appropriation in either an Enterprise Fund or the General Fund, for which there is an unexpended and unencumbered balance at June 30, shall provide the Town Accountant and/or Treasurer/Collector with a detailed request to carry the balance forward into the new fiscal year. This request shall contain a detailed description of the work to be performed, including any variations from the original plan, and a projected schedule for completion of the project. Prior to closing any appropriation for a capital project which has not been completed, the Town Accountant shall obtain the concurrence of the Board of Selectmen.
- E. To the extent that undesignated and unreserved funds are available in the Capital Project Fund at the time that the capital budget is submitted to Town Meeting, this fund shall be used as the priority source for capital appropriations. Free cash shall not be used as a financing source for a capital appropriation while equal funding is available in the Capital Project Fund.
- F. The Town Accountant and/or Treasurer/Collector shall provide the Capital Budget Committee and the Board of Selectmen with an annual

detailed report on the status of all capital appropriations, including a summary of all activity into and out of the Capital Project Fund.

§ 95-15. Capital budget article.

The Committee shall draft a capital budget article or articles for inclusion in the Annual Town Meeting warrant, with the Committee's recommendations on each capital project request. The Committee's recommendation shall include project financing and statutory reference if funds are to be borrowed. In the case of Annual Town Meeting the Committee shall submit a draft of the article or articles to the Advisory Board and Selectmen no later than March 1 of each year or 60 days before the Annual Town Meeting, whichever date is latest, and no later than 30 days prior to the date of Town Meeting in the case of articles submitted for Special Town Meeting. The article or articles shall be reviewed by the Advisory Board and Board of Selectmen, and they may make recommendations on each capital project to the Committee. All capital requests submitted in a manner consistent with this bylaw will be included in the capital budget article or articles and each request shall have the Committee's recommendation.

§ 95-16. Funding requests to be included in capital budget article.

No request for funding of a capital project shall appear on the Town Meeting warrant except in a capital budget article that has been developed in accordance with §§ 95-11B through 95-15 above; provided, however, that nothing herein shall interfere with the right of any citizen, department, board or committee to seek to modify any capital budget article at Town Meeting or place petition articles on the warrant consistent with the rules of Town Meeting and consistent with the requirements of the Massachusetts General Laws.

§ 95-17. Bonded project accounting.

- A. By October 1 of each year, the Town Administrator and the Town Accountant will submit to the Committee a bonded project accounting, which shall state as of the previous June 30:
 - (1) The amount authorized;
 - (2) The amount borrowed (either temporarily or permanently);
 - (3) The amount authorized and unissued;
 - (4) The amount expended; and
 - (5) The unexpended balance, for each bonded project.
- B. By December 31, all departments, boards and committees, with the assistance of the Town Administrator, shall submit a written report to the Committee of each bonded project and shall state, among other things, whether each project is complete and ready for closeout or, if

not complete, when the project will be complete and how much of the remaining authorization will be used.

§ 95-18. Capital budget plans.

No later than the third Friday in November of each year, all Town boards, departments or committees shall submit to the Committee a capital budget plan listing all capital projects then in effect and anticipated in the next five years, along with the projected costs of these projects and projected methods of financing. The Committee will incorporate all capital budget plans into an overall Town capital budget program.

**§ 95-19. Capital projects considered at Special Town Meeting.
[Amended 4-24-2017 ATM by Art. 10]**

Capital projects for consideration at a Special Town Meeting should be of an emergency nature only and shall be submitted to the Capital Budget Committee as promptly as the emergency circumstances allow prior to the date of a Special Town Meeting. In all other respects, the provisions of §§ 95-11A and 95-16 above shall apply to a Special Town Meeting as they do to Annual Town Meetings.

Chapter 98

FIREARMS AND HUNTING

ARTICLE I

Discharging Rifles

[Adopted 1929 ATM by Art. 8 (Art. 12 of the General Bylaws)]

§ 98-1. Discharge by minors.

It shall be unlawful for any minor less than 18 years of age to discharge any rifle within the Town of Marshfield, except that such minor may discharge a rifle or air rifle on any properly safeguarded public or private rifle range that has been approved by the Selectmen.

ARTICLE II

Restricted Areas**[Adopted 1959 ATM by Art. 64 (Art. 28 of the General Bylaws)]****§ 98-2. Areas to be designated by Selectmen.**

There shall be no hunting or use of firearms in any areas in the Town designated and posted by the Selectmen. Such areas may be so designated and posted upon the recommendation of a Safety Committee appointed annually by the Selectmen, comprising three members, including one member of the Rod and Gun Club.

Chapter 101

FIRES AND FIRE PREVENTION

GENERAL REFERENCES

Electrical installations — See Ch. 76.

Smoking — See Ch. 232.

Gas permits — See Ch. 195, Art. I.

ARTICLE I

Hydrants**[Adopted 1948 ATM by Art. 45 (Art. 19 of the General Bylaws)]****§ 101-1. Maintenance; use permits.**

The maintenance and care of the hydrants of the Town water system shall be the responsibility of the Department of Public Works. The use, control, inspection, and reporting to the Department of Public Works of any inefficiency in connection with said hydrants shall be the responsibility of the Fire Department, which shall issue permits for their use, when used by anyone other than the Department of Public Works or the Fire Department, said permit to be carried on the person of him to whom issued, and shall not be transferable.

§ 101-2. Enforcement.

The enforcement of this bylaw and prosecution of violations in connection therewith shall be the responsibility of the Police Department.

ARTICLE II

Fires on Beach Areas

**[Adopted 1970 ATM by Art. 55 (Art. 38 of the General Bylaws);
amended 1975 ATM by Art. 22]**

§ 101-3. Permit required.

No fires shall be built on any beach area including the dunes in the Town of Marshfield without a written permit from the Fire Department. Said permits shall be restricted to cookouts using charcoal or bottled gas as a fuel. All permit holders shall be responsible for the cleaning and restoration of the fire area. No person shall stockpile wood or any combustible material on the beach areas and dunes.

ARTICLE III

Smoke Detectors

[Adopted 1981 ATM by Art. 33 (Art. 47 of the General Bylaws)]

§ 101-4. When required.

The installation of smoke detectors in accordance with regulations issued by the office of the State Fire Marshal shall be required after January 1, 1982, in all apartment buildings and in each apartment and residential dwelling before such building is sold or otherwise changes hands and in all commercial and industrial buildings.

ARTICLE IV

Fuel Storage Tanks**[Adopted 1986 STM by Art. 2 (Art. 57 of the General Bylaws)]****§ 101-5. Reinforced concrete tank. [Amended 4-24-2017 ATM by Art. 10]**

Any person or business requesting a license and/or permit for the underground storage of fuel oil, gasoline, diesel fuel, kerosene or hazardous materials defined by MGL c. 21D, § 2, shall be required to build a reinforced concrete tank lined with fiberglass or an approved epoxy paint and approved waterproofing on the outside of the tank. Within this tank shall be placed a standard gasoline storage tank as specified in 527 CMR 9.00, Tanks and Containers, adopted by the the Board of Fire Prevention Regulations pursuant to MGL c. 148, § 9, as most recently amended. The residual space shall be filled with sand and provisions made for an observation pipe for inspection purposes, with two observation wells outside the tank.

§ 101-6. Dual containment tank.

In the alternative, and with the approval of the Fire Chief, such person or business may substitute for the tanks described in § 101-5 hereof a dual containment tank with proper monitoring devices for observing the containment area between the walls of such tank. Only steel or fiberglass piping will be allowed in tanks subject to this section.

§ 101-7. Replacement tanks; installation plans.

This bylaw shall also apply to replacement tanks. A plan of said installations, designed by a registered engineer, shall be furnished to the Fire Chief and approved by the Fire Chief before any license is granted by the local licensing authority (Board of Selectmen) for a license for storage pursuant to MGL c. 148, § 13, as amended.

ARTICLE V

Underground Storage Tanks**[Adopted 1987 STM by Arts. 14 and 15 (Arts. 61 and 62 of the General Bylaws)]****§ 101-8. Registration required; testing.**

- A. On or before December 1, 1988, any person who owns, leases, or otherwise controls any parcel of land within the Town of Marshfield wherein an underground storage tank or container has been installed, except septic tanks or containers designed and intended solely for the storage of water, shall register such tank or container with the Marshfield Fire Chief.
- B. As part of the registration process, such person shall furnish to the Marshfield Fire Chief evidence, deemed sufficient by him, to establish the date of installation of said tank or container. If such evidence is not furnished, the tank or container shall be conclusively presumed to have been installed 20 years prior to the effective date of this bylaw. Tanks which are not registered as provided therein shall be tested immediately upon discovery at the owner's expense. Testing will consist of any appropriate test approved in advance by the Fire Chief.

§ 101-9. Prohibited tanks. [Amended 4-24-2017 ATM by Art. 10]

Notwithstanding any other provisions of these General Bylaws, the installation of any underground tank or other container described under State Fire Prevention Regulations 527 CMR 9.01 et seq., except septic tanks or containers designed and intended solely for the storage of water, is prohibited within the Town of Marshfield.

- A. The Marshfield Fire Chief may vary the application of this bylaw in any case where, in the opinion of the Marshfield Fire Chief, the applicant has demonstrated a clear and convincing hardship and has presented a plan for installing such tank which complies with the provisions of Article IV of this chapter relating to the construction of underground storage tanks.
- B. Before acting upon an application for a variance hereunder, the Marshfield Fire Chief shall hold a public hearing within 30 days of his receipt of a written request for a variance, said hearing to be advertised by publication in a newspaper of general circulation in the Town of Marshfield at least seven days before the date of the hearing. The approval or denial of an application for a variance shall be in writing to be issued within 60 days from the conclusion of the hearing which shall contain a brief statement of the reasons therefor.

ARTICLE VI

Lock Boxes**[Adopted 1988 ATM by Art. 32 (Art. 63 of the General Bylaws)]****§ 101-10. Keys and information to be provided. [Amended 4-24-2017 ATM by Art. 10]**

Any building, excluding single-family residential structures, that either has a fire alarm or is in excess of 5,000 square feet shall provide a secure area at its location for storage of the building key(s), numbers for contact people, building layout plan and alarm instructions. This may be accomplished by installing an approved lock box or a master box compatible with the Fire Department's present system. One year from the effective date of this bylaw, all keys in the possession of the Marshfield Fire Department will be returned.

ARTICLE VII

Carbon Monoxide Detectors

**[Adopted 1997 ATM by Art. 60 (Art. 76 of the General Bylaws);
amended 4-25-2005 STM by Art. 5]**

§ 101-11. Detectors required.

Every building or structure erected or substantially altered to be occupied in whole or in part for residential purposes shall be protected with an approved carbon monoxide detector/detectors, which sounds an audible alarm.

§ 101-12. Certification; heating plants and fuel-burning appliances.

Certification of required carbon monoxide detector/detectors will be provided during the sale or transfer of said building or structure. Any installation/modification of a heating plant, regardless of the type of fuel, that utilizes a power vent for exhausting purposes shall be protected with a minimum of one Underwriters' Laboratories (UL) approved carbon monoxide detector for every 1,200 square feet of living space to protect all sleeping areas. Any dwelling that adds a new fuel-burning appliance such as a wood or coal stove or gas-fired clothes dryer shall be protected with UL approved carbon monoxide detector(s) as described above.

§ 101-13. Enforcement. [Amended 4-24-2017 ATM by Art. 10]

The head of the Fire Department and the office of the Building Commissioner shall enforce the provisions of this bylaw.

ARTICLE VIII

Removal of Combustible Materials**[Adopted April 2009 ATM by Art. 18 (Art. 88 of the General Bylaws)]****§ 101-14. Inspections and orders. [Amended 4-24-2017 ATM by Art. 10]**

The head of the Fire Department, or any member to whom the head of the Fire Department may delegate, upon complaint of a person having an interest in any building or premises or property adjacent thereto, shall, at any reasonable hour, enter into buildings and upon premises, which term for the purposes of the remainder of this article shall include alleys adjacent thereto, within his jurisdiction and make an investigation as to the existence of conditions likely to cause fire. He shall, in writing, order such conditions to be remedied, and whenever such officers or persons find in any building or upon any premises any accumulation of combustible rubbish, including but not limited to wastepaper, rags, cardboard, string, packing material, sawdust, shavings, sticks, waste leather or rubber, broken boxes or barrels or any other refuse or usable materials that are or may become dangerous as a fire menace or as an obstacle to easy ingress into or egress from such buildings or premises, they shall, in writing, order the same to be removed or such conditions to be remedied. Notice of such order shall be served upon the owner, occupant or his authorized agent by a member of the Fire or Police Department.

§ 101-15. Failure to comply with order; violations and penalties.

- A. If said order is not complied with within 24 hours, the person making such order, or any person designated by him, may enter into such building or upon such premises and remove such refuse or any usable materials or abate such conditions at the expense of such owner or occupant. Any expense so incurred by or on behalf of the Town shall be a debt due the Town, as the case may be, upon completion of such removal or abatement and the rendering of an account therefor to the owner. The provisions of the second paragraph of MGL c. 139, § 3A, relative to liens for such debt and the collection of the claims for such debt, shall apply to any debt referred to in this section, except that the head of the Fire Department shall act hereunder in place of the Board of Selectmen.
- B. Any such owner or occupant who fails or refuses to comply with said order shall be punished by a fine of \$100 for the first offense, \$200 for the second offense and \$300 for the third and subsequent offenses.

§ 101-16. Noncriminal disposition.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, and Chapter 161, Article I, of the Marshfield General Bylaws.

ARTICLE IX

Open Burning**[Adopted April 2009 ATM by Art. 19 (Art. 89 of the General Bylaws)]****§ 101-17. Permit required; exception; violations and penalties.**

No person shall set, maintain or increase a fire in the open air at any time except by permission granted by the Forest Warden/Chief of the Fire Department or his designee. A written record of the granting thereof, setting forth the date upon which permission was granted, the dates covered by such permission, the name and address of the person to whom, and the manner in which, such permission was granted, and any other necessary information relative thereto shall be made and kept by the Forest Warden/Chief and be at the location where the burning will occur. Persons 18 years of age or older may, without a permit, set, maintain or increase a reasonable fire for the purpose of cooking on privately owned land if the fire is enclosed within rocks, metal or other nonflammable material. The Forest Warden/Chief shall make it a condition for granting a permit that any burning shall be in compliance with MGL c. 48, § 13, and may make it a condition for granting such permit that sufficient Fire Department personnel, to be assigned at the expense of the person seeking such permit, shall be present at such burning to control the fire until it is entirely extinguished. Any permit granted under this section may be revoked at any time. Whoever violates any provision of this section shall be punished by a fine of \$100 for the first offense, \$200 for the second offense and \$300 for the third and subsequent offenses.

§ 101-18. Noncriminal disposition.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, and Chapter 161, Article I, of the Marshfield General Bylaws.

ARTICLE X

**Piling Snow on Hydrants or Fire Protection Devices
[Adopted April 2009 ATM by Art. 20 (Art. 90 of the General Bylaws)]****§ 101-19. Prohibited acts.**

No person other than an employee in the service of the commonwealth or the Town or in the service of an independent contractor acting for the commonwealth or the Town shall pile, push or plow snow or ice on or against any fire hydrant or fire protection device used for fire protection which is located in any public or private way so as to conceal such hydrant or device or cover any outlet thereof. Whoever violates this section shall be punished by a fine of \$300.

§ 101-20. Noncriminal disposition.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, and Chapter 161, Article I, of the Marshfield General Bylaws.

ARTICLE XI

Fire Protection Devices**[Adopted April 2009 ATM by Art. 21 (Art. 91 of the General Bylaws)]****§ 101-21. Permit required to shut off, disconnect, obstruct or remove.**

Except as hereinafter provided, no person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system, water main, hydrant or other device used for fire protection/detection or carbon monoxide detection and alarm in any building owned, leased or occupied by such person or under his control or supervision, without first procuring a written permit so to do from the head of the Fire Department, which permit such head is hereby authorized to issue subject to such terms and conditions as, in his judgment, protection against fire and the preservation of the public safety may require. This section shall not prevent the temporary shutting off or disconnection or partial removal of such a system, main, hydrant or other device for the purpose of making necessary repairs or preventing freezing or other property damage; provided, however, that the head of the Fire Department is notified immediately of such emergency action. The head of the Fire Department shall also be notified when the system, main, hydrant or other device is placed back in service. Violation of this section shall be punished by a fine of \$150 for the first offense and \$300 for the second offense.

§ 101-22. Noncriminal disposition.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, and Chapter 161, Article I, of the Marshfield General Bylaws.

Chapter 118
HISTORIC PRESERVATION

ARTICLE I

**Demolition of Historically Significant Buildings or Structures
[Adopted 4-27-2008 ATM by Art. 31 (Art. 87 of the General Bylaws)]****§ 118-1. Intent and purpose.**

This bylaw is adopted for the intent and purpose of identifying and protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating or restoring, whenever possible, buildings, structures or properties which constitute or reflect distinctive features of the architectural, aesthetic or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town.

§ 118-2. Definitions.

For the purpose of this bylaw, the following words and phrases have the following meanings:

COMMISSION — The Marshfield Historical Commission.

DEMOLITION PERMIT — The permit issued by the Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

HISTORICALLY SIGNIFICANT BUILDING, STRUCTURE OR PROPERTY — Any building, structure or property which is in whole or in part 50 years or more old and has been determined by the Commission to be significant by virtue of being:

- A. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or
- B. Historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or
- C. A vista, bridge, stone wall, tree, road marker or sign, or any other property identified as of aesthetic, architectural, cultural, political or historical significance by the Commission.

INSPECTOR — The Marshfield Building Commissioner/Zoning Enforcement Officer or any other person authorized to issue demolition permits.**[Amended 4-24-2017 ATM by Art. 10]**

§ 118-3. Regulated buildings, structures and properties.

- A. The provisions of this bylaw shall apply only to the following buildings, structures or properties:

- (1) A building, structure or property listed on the National Register of Historic Places, or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or
 - (2) A building, structure or property located within 200 feet of the boundary line of any federal, state or local historic district; or
 - (3) A building, structure or property included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, or designated by the Commission for inclusion in said Inventory; or
 - (4) Any building, structure or property defined as an historically significant building, structure or property in § 118-2 above.
- B. Notwithstanding the preceding sentence, the provisions of this bylaw shall not apply to any building, structure or property located in a local historical district and subject to regulation under the provisions of MGL c. 40C. **[Amended 4-24-2017 ATM by Art. 10]**

§ 118-4. Procedure for issuance of demolition permit.

- A. The Inspector shall forward a copy of each demolition permit application for a building, structure or property to the Commission within seven days after the filing of such application.
- B. Within 30 days after its receipt of such application, the Commission shall determine whether the building, structure or property is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he or she makes a timely request to the Commission.
- C. If the Commission determines that the building, structure or property is not historically significant, it shall so notify the Inspector and the applicant in writing and the Inspector may issue a demolition permit.
- D. Within 60 days after the applicant is notified that the Commission has determined that a building, structure or property is historically significant, the applicant for the permit shall submit to the Commission 10 copies of a demolition plan which shall include the following information:
 - (1) A plot plan or Assessor's map showing the location of the building, structure or property to be demolished with reference to lot lines and neighboring building and structures;
 - (2) Photographs of all street facade elevations;
 - (3) A description of the building, structure or property, or part thereof, to be demolished;

- (4) The reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition; and
 - (5) A brief description of the proposed reuse of the parcel on which the building, structure or property to be demolished is located.
 - E. The Commission shall hold a public hearing with respect to the application for a demolition permit and shall give public notice of the time, place and purpose thereof at least 14 days before said hearing in such a manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.
 - (1) Within 60 days after its receipt of the demolition plan the Commission shall file a written report with the Inspector on the demolition plan that shall include the following:
 - (a) A description of the age, structural style, historic association and importance of the building, structure or property to be demolished.
 - (b) A determination as to whether or not the building, structure or property should preferably be preserved.
 - (2) The Commission shall determine that a building, structure, or property should preferably be preserved only if it finds that the building, structure or property is a historically significant building, structure or property which, because of the important contribution made by the building, structure or property to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.
 - F. If, following the demolition plan review, the Commission does not determine that the building, structure or property should preferably be preserved, or if the Commission fails to file a report with the Inspector within the time limit set out in Subsection E above, the Inspector may issue a demolition permit.
 - G. If, following the demolition plan review, the Commission determines that the building, structure or property should preferably be preserved, then the Inspector shall not issue a demolition permit for a period of 12 months from the date of the filing of the Commission's report unless the Commission informs the Inspector prior to the expiration of such twelve-month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building, structure or property who

is willing to preserve, rehabilitate or restore the building, structure or property, or has agreed to accept a demolition permit on specified conditions approved by the Commission.

§ 118-5. Emergency demolition. [Amended 4-24-2017 ATM by Art. 10]

If the condition of the building, structure or property poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building, structure or property may request the issuance of an emergency demolition permit from the Inspector. As soon as practicable after the receipt of such a request, the Inspector shall arrange to have the property inspected by a board consisting of the Inspector, the Chairpersons of the Commission and the Board of Health and the Chief of the Fire Department, or their respective designees. After inspection of the building, structure or property and consultation with this board, the Inspector shall determine whether the condition of the building, structure or property represents a serious and imminent threat to public health or safety. If the Inspector finds that the condition of the building, structure or property poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate issuance of a demolition permit under the provisions of this section, the Inspector shall file a written report describing the condition of the building, structure or property and the basis for the decision to issue an emergency demolition permit with the Commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of the buildings and structures established by MGL c. 143, §§ 6 to 10. In the event that a Board of Survey is convened under the provisions of MGL c. 143, § 8, with regard to any building, structure or property identified in § 118-3 of this bylaw, the Inspector shall request the Chairperson of the Commission or the Chairperson's designee to accompany the Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

§ 118-6. Responsibility of owners.

- A. Upon determination that the building, structure or property is considered a significant building, structure or property the owner shall agree to preserve the building, structure or property; make a reasonable bona fide effort to locate a purchaser who is willing to preserve the building, structure or property; or accept a demolition permit on specified conditions approved by the Commission.
- B. Upon determination that the building, structure or property is considered a significant building, structure or property, the owner shall be responsible for properly securing the building, structure or property, if vacant, to the satisfaction of the Inspector. If the Commission determines that the owner failed to so properly secure the building, structure or property, and if said failure is found to have caused or allowed a subsequent destruction of the building, structure or property

any time during the twelve-month demolition delay period, and that said damage could have been prevented by the required security measures, said destruction shall be considered a demolition and a violation of this bylaw. The provisions of this section shall not apply to those significant buildings, structures or property that were demolished due to fire, collapse, storm or other natural disaster, provided that fire damage was not the result of arson or other intentional destruction by the owner or its agents, as determined by the Chief of the Fire Department or his designee. The owner must notify the Inspector if an occupied property becomes vacant during the twelve-month period.

- C. In the instance of eventual demolition of the property the owner shall allow the Commission access to the building, structure or property to take photographs, secure samples of wallpaper and paint or generate any documentation deemed desirable for historical record purposes.

§ 118-7. Noncompliance.

- A. Except as provided below, whenever a significant building, structure or property or any portion thereof has been voluntarily demolished in violation of this bylaw, and for a period of three years after the completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land on which the demolished significant building, structure or property was located.
- B. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative or on application of the owner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of the bylaw better serves the intent and purpose of this bylaw, it may, prior to the expiration of said period of three years, but no sooner than six months from the date of completion of any demolition in violation of this bylaw, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to fulfill the purposes of this bylaw, and may so notify the Inspector.

§ 118-8. Severability.

In case any section, paragraph or part of this bylaw is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of this bylaw shall continue in full force and effect.

Chapter 134

JUNK

GENERAL REFERENCES

Peddling and soliciting — See Ch. 184.

Solid waste — See Ch. 238.

ARTICLE I

Junk Dealers and Collectors**[Adopted 5-10-1976 (Art. 8 of the General Bylaws)]****§ 134-1. License required.**

No person shall engage in the business of collecting, by purchase or otherwise, junk, old metals and secondhand articles from place to place unless having a license issued by the Selectmen, and all persons to whom a license is issued shall display the license number on any vehicle used to transport such junk. Any shop and all articles or merchandise therein, and any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid, may be examined at all times by the Selectmen, or by any person by them respectively authorized thereto. Any license may be revoked at pleasure by the Board of Selectmen or a majority thereof.

§ 134-2. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

Whoever, not being so licensed, keeps such shop or is such dealer or junk collector in the Town, or being licensed, keeps such shop or is such dealer or junk collector in any other place or manner than that designated in his license, or after notice to him that his license has been revoked, shall forfeit \$20 or the maximum fine authorized by MGL c. 140, § 55, whichever is greater, for each offense, and whoever violates any rule, regulation, or restriction contained in his license shall forfeit \$20 or the maximum fine authorized by MGL c. 140, § 55, for each offense.

ARTICLE II

Storage of Junk and Junk Automobiles**[Adopted 1976 ATM by Art. 61 (Art. 31 of the General Bylaws)]****§ 134-3. Open storage prohibited without license. [Amended 4-24-2017 ATM by Art. 10]**

No person or entity, corporate or otherwise, as owner(s) or one(s) in control of premises, shall keep in the open in any area of the Town of Marshfield any substantial amount of junk, or more than two junk automobiles, as those terms are hereinafter defined, for more than 30 consecutive calendar days without being licensed to do so under this bylaw.

- A. "Substantial amount of junk" shall be defined as old scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste and other old or scrap ferrous and nonferrous material whose total weight exceed 75 pounds.
- B. "Junk automobile" shall be defined as an automobile that is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage or for stripping in order to make use of parts thereof. Any disassembled parts from such a vehicle shall be considered junk under this bylaw.

§ 134-4. License procedure.

- A. A license to keep any substantial amount of junk or more than two junk automobiles must be requested by filing an application in writing for such a license with the Selectmen's office of the Town of Marshfield. The Selectmen shall hold a public hearing upon such a request, notice of which shall be published in a newspaper issued in Marshfield at least three days prior to the hearing. The cost of the publishing shall be paid by the Town of Marshfield.
- B. The Selectmen may grant a one-year license upon such condition as the Selectmen deem proper to keep such junk or junk automobiles in the open after a public hearing has been held and the Selectmen determine that the keeping of the same will not depreciate property values in the area, will not create a hazard to the public safety, or will not become a public nuisance. Renewals of said licenses shall be granted only after the procedure set forth above is followed.

§ 134-5. Exceptions.

- A. Notwithstanding the aforesaid sections, no person shall be in violation of this bylaw if, prior to a determination of guilt by any judicial body, that person or entity acquires a determination by the Marshfield Planning Board, through the procedures hereinafter prescribed, that those articles or pieces of property which the Town of Marshfield claims to be junk or junk automobiles are not junk or junk automobiles as defined in the bylaw. Any person or entity requesting a determination

that articles or property are not within the scope of this bylaw must do so by written application to the Planning Board of the Town of Marshfield. Said Planning Board shall hold a public hearing upon such a request, notice of which shall be published at least three days before the date of the hearing. The cost of the publishing shall be paid by the applicant. **[Amended 4-24-2017 ATM by Art. 10]**

- B. Notwithstanding the aforesaid sections, no junk or junk automobile shall be deemed to be "in the open" as that phrase is used in § 134-3 if it is totally screened from view of any public road or public way.

§ 134-6. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

Any person or entity who or which violates this bylaw shall be liable for a fine of \$20 or the maximum fine authorized by MGL c. 140, § 55, whichever is greater, for each day of violation.

§ 134-7. Severability. [Amended 4-24-2017 ATM by Art. 10]

Any clause, section, or part of this bylaw determined to be invalid by the judiciary for any reason shall be severable from any other clause, section, or part, without affecting the validity of that which remains.

Chapter 145

LICENSES AND PERMITS

ARTICLE I

Outstanding Taxes and Charges**[Adopted 1986 ATM by Art. 27 (Art. 60 of the General Bylaws)]****§ 145-1. List of delinquent parties.**

The Treasurer/Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

§ 145-2. Denial, revocation or suspension of license or permit.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector; provided, however, that written notice is given to the party and the Treasurer/Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer/Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Treasurer/Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificates.

§ 145-3. Payment agreement.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension

or revocation of said license or permit; provided, however that the holder be given notice and a hearing as required by applicable provisions of law.

§ 145-4. Waiver. [Amended 4-24-2017 ATM by Art. 10]

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property. This bylaw shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; sale of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

Chapter 161

NONCRIMINAL DISPOSITION

ARTICLE I

General Bylaws

**[Adopted as Art. 2 of the General Bylaws; amended 10-18-2004 STM
by Art. 6]**

§ 161-1. Authorization.

Pursuant to the civil infraction procedures set forth in MGL c. 40, § 21D, the noncriminal disposition of the following violations is hereby authorized: any violation of any Town bylaw.

§ 161-2. Civil assessment.

The civil assessment for any violation shall be the amount(s) set forth in the law, bylaw, order or regulation being enforced, or, if no amount is set forth, the assessment shall be \$300.

§ 161-3. Governing law.

This bylaw is intended to comply fully with the provisions of MGL c. 40, § 21D, and to authorize the noncriminal disposition of the infraction set forth above pursuant to the civil infraction procedure set forth therein, the provisions of which shall be controlling in all instances in any case in which the enforcement officer elects to proceed with the noncriminal disposition of an alleged violation of any bylaw.

§ 161-4. Enforcement.

In addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel charged with enforcing a particular bylaw or regulation, if any, shall also be enforcing persons for such bylaw or regulation. Each day during which a violation exists shall be deemed to be a separate offense.

ARTICLE II

Board of Health Regulations**[Adopted 1996 ATM by Art. 25 (Art. 72, § 1, of the General Bylaws)]****§ 161-5. Noncriminal disposition authorized.**

- A. Whoever violates any provisions of the rules and regulations of the Board of Health may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may be used for violations of any rule or regulation of the Board of Health which is subject to a specific penalty. Without intending to limit the foregoing, it is the intention of this section that the following rules and regulations be included within the scope of this subsection, that the specific penalties, as listed here, shall apply in such cases and that the municipal personnel listed for each section, if any, shall be enforcing persons for such section. **[Amended 4-24-2017 ATM by Art. 10]**
- B. A violation of the following listed regulatory provisions may be dealt with in a noncriminal manner as provided by Subsection A of this section. Each day on which any violations exist shall be deemed to be a separate offense.
- (1) Board of Health regulations regarding the sale and distribution of tobacco in the Town of Marshfield:⁶
- (a) Fine allowed: \$150.
 - (b) Enforcement agent: Board of Health, Director of Public Health, or authorized Board of Health representative.
 - (c) Fine schedule: first offense: \$50; second offense: \$100; third and subsequent offense: \$150.

6. Editor's Note: See Ch. 670, Tobacco Control.

Chapter 170
OFFICERS AND EMPLOYEES

GENERAL REFERENCES

**Committees, boards and other agencies — See Personnel — See Ch. 188.
Ch. 52.**

ARTICLE I

Selectmen and Assessors

[Adopted 1970 ATM by Art. 26 (Art. 43 of the General Bylaws)]

§ 170-1. Offices not to be held by same person.

No person shall hold at one time the office of Selectman and Assessor in the Town of Marshfield.

§ 170-2. When effective.

Said amendment to the bylaw to take effect with the Town election of 1971, and as to the Town incumbents holding both offices, as their respective terms expire.

ARTICLE II

Town Engineer

[Adopted 1971 STM by Art. 7 (Art. 42 of the General Bylaws)]

§ 170-3. Appointment. [Amended 4-24-2017 ATM by Art. 10]

The office of Town Engineer shall be under the jurisdiction of the Board of Public Works. He shall be appointed annually by the Board of Public Works.

ARTICLE III

Use of Town-Owned Vehicles

[Adopted 4-23-1979 STM by Art. 15 (Art. 69 of the General Bylaws)]

§ 170-4. Personal use prohibited.

All personal use of Town-owned vehicles is expressly prohibited except where specifically authorized in writing by the Board of Selectmen.

ARTICLE IV

**Indemnification of Retired Police Officers and Firefighters
[Adopted 2000 STM by Art. 2 (Art. 77 of the General Bylaws)]****§ 170-5. Medical expenses and charges.**

- A. The Town shall, upon written application by any of its police officers or firefighters retired either before or after the passage of this bylaw or, in the event of the death of any such police officer or firefighter, upon written application by his widow or, if he leaves no widow, by his next of kin, indemnify, out of any funds appropriated for the purposes of this bylaw, such police officer or firefighter or, in the event of his death, his widow, or if he leaves no widow, his next of kin, for all reasonable hospital, medical and surgical, chiropractic, nursing, pharmaceutical, prosthetic and related expenses and reasonable charges for podiatry incurred by such police officer or firefighter after his retirement; provided, however, that no person shall be indemnified under this bylaw unless the Board of Selectmen shall, upon receipt from the applicant of due proof, certify:
- (1) That the expenses for which indemnification is sought were the natural and proximate result of the disability for which the police officer or firefighter was retired;
 - (2) That such expenses were incurred after the Town Meeting approval of this bylaw;
 - (3) That the hospital, medical and surgical, chiropractic, nursing, pharmaceutical, prosthetic and related expenses and reasonable charges for podiatry to which such expenses relate were rendered within six months before the filing of the application;
 - (4) That such expenses were in no ways attributable to the use by the police officer or firefighter of any intoxicating liquor or drug or to his being gainfully employed after retirement or to any other willful act or conduct on his part; and
 - (5) That such expenses are reasonable under all the circumstances.
- B. Provided further, that indemnification hereunder shall be limited to those expenses and charges not covered under any applicable insurance policy, medical service plan or health maintenance contract.

§ 170-6. Construal of provisions.

The above article should read he/she, his/hers, widow/widower, where it states "he, his and widow."

ARTICLE V

Drug Testing**[Adopted April 2004 ATM by Art. 17 (Art. 80 of the General Bylaws)]****§ 170-7. Applicants for Town employment.**

All persons seeking employment with the Town of Marshfield, with the exception of persons to be employed by the School Department, shall be subject to the following requirements:

- A. The applicant shall participate in the Town-approved pre-employment screening for illegal narcotics.
- B. The applicant must complete any and all documents mandated by the Payroll and/or Human Resources Department, including the designated employment application.

Chapter 180
PEACE AND GOOD ORDER

GENERAL REFERENCES

Animals — See Ch. 16.

Peddling and soliciting — See Ch. 184.

Firearms and hunting — See Ch. 98.

Smoking — See Ch. 232.

Junk — See Ch. 134.

ARTICLE I

Police Regulations**[Adopted as Art. 7 of the General Bylaws]****§ 180-1. Hawking in public streets.**

No person shall stand in any public street for the purpose of hawking or selling any article or for the exercise of any business or calling, after being requested to desist therefrom by any police officer of the Town.

§ 180-2. Obstruction of public ways. [Amended 1980 ATM by Art. 37; 4-24-2017 ATM by Art. 10]

No person or persons shall stand in a group or near each other on any way, sidewalk, or seawall, or park any vehicle on any sidewalk, way or other place to which the public has a right of access in such a manner as to obstruct the free passage of pedestrians or vehicles, and any such person or persons shall at once move on an order of a police officer or special police officer, and any such person or persons after refusing or neglecting to move on such order may be arrested without a warrant by any police officer or special police officer. Any person who violates this bylaw shall be fined \$100 for each offense.

§ 180-3. Disorderly conduct. [Amended 7-14-1966 STM by Art. 5]

No person shall behave in a rude, indecent or disorderly manner or use any indecent, profane, insolent or insulting language, make threats or use other language tending to create a breach of the peace in any public place, any street or sidewalk or place to which the public has a right of access in the Town or upon any doorstep, portico or other projection from any house or building or in any other place within audible distance of any dwelling, house or other building thereon.

§ 180-4. Leaving materials on public ways overnight.

No persons shall leave any wagon, cart, or other vehicle, wood, coal, or other articles in any street, way or sidewalk, and suffer the same to remain overnight without maintaining a sufficient light over or near the same, through the night to protect travelers from danger.

§ 180-5. Horses and livestock on sidewalks. [Amended 4-24-2017 ATM by Art. 10]

No person shall drive any horse, cattle or swine, or permit the same while under his care to go upon any sidewalk, or suffer any horse to remain hitched across any sidewalk so as to cause injury to person or property, or to obstruct the safe and convenient passing of persons lawfully using the same.

§ 180-6. Deposit of garbage and refuse. [Amended 10-18-2004 STM by Art. 5; 4-24-2017 ATM by Art. 10]

No person shall throw or deposit in the street, or on any sidewalk in any public area, or any public way, or any park or other recreation area, or any other Town land or property any ashes, dirt, rubbish or filth of any kind, appliances, tires, television sets, computers, or any animal or vegetable matter, except such material as may be used to prevent slipping. Any person who violates this bylaw shall be fined \$300 for each offense. Each day of a continuing violation shall count as a separate offense.

§ 180-7. Indecent figures, obscene words and nuisances.

No person shall make any indecent figure or write any indecent or obscene words upon any fence, building or structure in any public place, or commit any nuisance upon any sidewalk, or against any tree, building, or structure adjoining the same.

§ 180-8. Contents of cesspools and privies. [Amended 4-24-2017 ATM by Art. 10]

The contents of any sink, cesspool, or privy shall not be emptied on any beach or into the sea adjacent to any beach in the Town but shall be disposed of in the earth or otherwise as the Board of Health may by rules provide, but apart from any dwelling house.

§ 180-9. Vehicles on beaches.

- A. No motor vehicle shall be operated on any beach in the Town of Marshfield except emergency and agricultural or farm vehicles and those vehicles authorized by special permission of the Police Department. **[Added 7-14-1966 STM by Art. 18; amended 1984 ATM by Art. 88]**
- B. No vehicle shall be driven over the sand dunes, and vehicular access to the Town beach shall be solely by routes established by the Selectmen, marked by the Department of Public Works and enforced by the Police Department. **[Amended 1973 ATM by Art. 72]**

§ 180-10. Alcoholic beverages. [Amended 1980 ATM by Art. 36; 1992 ATM by Art. 54; 4-24-2017 ATM by Art. 10]

No person shall drink any alcoholic beverages as defined in MGL c. 138, § 1, whether in or upon a vehicle or on foot, while in or upon any public way or any place to which the public has a right of access, or any place to which the public has access as invitees or licensees, or any park or playground, or beach, or seawall (nor carry or cause to be carried any alcoholic beverages onto any park or playground, or beach, or seawall); nor shall any person drink any alcoholic beverages while in or upon private land or private building, or private structure, or private place without the consent of the owners or person in lawful control thereof. Any police officer or special

police officer may arrest without a warrant any person found violating this bylaw or who the police officer or special police officer has probable cause to believe has violated this bylaw. Any person violating this bylaw shall be fined \$100 for each offense.

§ 180-11. Diving or swimming in boat channel prohibited.

No person shall dive or swim from any bridge or part thereof into a navigable boat channel in the Town of Marshfield.

ARTICLE II

Peeping Toms

[Adopted 1957 ATM (Art. 6 of the General Bylaws)]

§ 180-12. Prohibited acts.

No person except an officer of the law in the lawful performance of his duties shall enter upon the premises of another or upon any public property with the intent of looking or peeping into the windows of a house or other building, or of spying in any manner upon any person or persons therein.

ARTICLE III

Coasting

[Adopted March 1957 (Art. 23 of the General Bylaws)]

§ 180-13. Coasting in public streets or places.

There shall be no coasting in any public street or public place in the Town except in such street or place as may be designated by the Board of Selectmen.

ARTICLE IV

Noise**[Adopted 1989 ATM by Art. 50 (Art. 65 of the General Bylaws)]****§ 180-14. Prohibited acts. [Amended 4-24-2017 ATM by Art. 10]**

- A. It shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof in the Town, other than that section of any establishment licensed under MGL c. 138 and c. 140, § 181, to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of 400 feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of 400 feet from the vehicle or premises from which it originates shall constitute prima facie evidence of a violation of this bylaw.
- B. It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, other than that section of any establishment licensed under MGL c. 138 and c. 140, § 181, to cause or allow any loud, unnecessary, excessive or unusual noises, including any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph, or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or the making of loud outcries, exclamation or other loud or boisterous noises or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise, where the aforesaid noise is plainly audible at a distance of 400 feet from the building, dwelling, premises, shelter, boat, or conveyance in which it is produced. The fact that the noise is plainly audible at a distance of 400 feet from the premises from which it originates shall constitute prima facie evidence of a violation of this bylaw. Any person shall be deemed in violation of this bylaw who shall make or aid, or cause, or suffer, or allow, or assist in the making of the aforesaid and described improper noises, disturbance, or breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat, or conveyance or any part thereof during a violation of this bylaw shall constitute prima facie evidence that they are a part of such violation.

§ 180-15. Violations and penalties.

Any person violating the provisions of this bylaw shall be punished by a fine not to exceed \$200 for each offense and may be arrested by a police officer if violation is in his/her presence.

ARTICLE V

**Public Consumption of Marijuana or Tetrahydrocannabinol
[Adopted 4-28-2014 ATM by Art. 10 (Art. 93 of the General Bylaws)]****§ 180-16. Restriction against public consumption.**

No person shall ingest or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) other than a qualifying patient with a valid medical certification of a debilitating condition all as defined under state law while in or upon any street, sidewalk, public way, footway or pathway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any Town-owned vehicle; or in any place accessible to the public. No person, including a qualifying patient with a valid medical certification of a debilitating condition, as defined under state law, shall smoke marijuana or tetrahydrocannabinol in any public place set forth herein.

§ 180-17. Enforcement; violations and penalties.

This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this bylaw shall be \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

Chapter 184
PEDDLING AND SOLICITING

ARTICLE I

Door-to-Door Solicitation**[Adopted 1-21-1957 (Art. 22 of the General Bylaws)]****§ 184-1. Intent.**

This bylaw establishes registration requirements and specific operation requirements for persons intending to engage in door-to-door solicitation in the Town of Marshfield. The Bylaw is intended to protect citizens from the perpetration of fraud or other crimes and to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or noncommercial messages.

§ 184-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

PERMIT — The photo identification card issued to a permittee.

PERSON — Any individual, firm, copartnership, corporation, company, associations, organizations, committee or other such entity.

REGISTRATION — The document given to the organization, corporation, company, association or committee for solicitation.

SOLICIT or SOLICITATION —

A. Includes any one or more of the following activities:

- (1) Seeking to sell or to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, or services of any kind, character or description.
- (2) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type of publication.

B. This bylaw shall not apply to persons soliciting solely for religious, charitable or political purposes.

§ 184-3. Registration and permit requirements.

There shall be two types of filings required, an organization solicitation registration and an individual solicitation permit.

§ 184-4. Organization solicitation registration.

A. Every organization intending to engage in door-to-door solicitation in the Town of Marshfield must register with the Police Chief using the organization solicitation registration form available at the Town Clerk's office. The Police Chief shall have 20 days to approve the registration for such solicitation or notify the applicant that the registration is denied.

- B. The organization registrant is obligated to inform the Chief of Police as to the areas of Town in which its agents will be soliciting each day solicitation is to take place. Where solicitation will occur after 6:00 p.m., the registrant will inform the Chief of Police of the specific streets on which the intended solicitation or canvassing is to occur.

§ 184-5. Individual solicitation permit.

- A. Each individual who seeks to solicit must complete an individual solicitation permit application form and provide a passport-sized photograph to be used for the permit badge.
- B. Upon approval, the Chief shall cause an individual permit, with picture identification, to issue within five business days. The permit issued is nontransferable and must be displayed at all times while the permittee is conducting business.
- C. Upon request, the permittee shall show his/her permit to a police officer. The permit shall be valid for no more than six months from the date of issue. The organization registrant shall pay a processing fee of \$5 per badge issued. The Police Chief, for good cause shown, may waive this fee.

§ 184-6. Basis for denial of registration.

- A. The Chief of Police may refuse to register an organization which has been charged with fraud or deceptive or misleading advertising or is under investigation by the Attorney General's Consumer Fraud Prevention Division, until such charge or investigation is disposed of and the organization found not culpable.
- B. No registration shall issue to any organization that the Police Chief determines has violated this bylaw; no registration shall issue to any organization if the Police Chief determines that the registration form is incomplete; no registration shall issue if the Police Chief determines that the application contains any fraudulent or untruthful statements.

§ 184-7. Basis for denial of permit.

- A. No permit shall issue if the applicant for the permit has ever been convicted of a felony, or any one or more of the following misdemeanors:
 - (1) Assault and battery;
 - (2) Breaking and entering a building or ship with intent to commit a misdemeanor;
 - (3) Larceny;
 - (4) Shoplifting, cheating by check;
 - (5) Unlawful or fraudulent use of credit cards;

- (6) Unlawful taking of money;
 - (7) Stealing or poisoning of a dog;
 - (8) Buying, receiving or concealing stolen goods;
 - (9) Deceptive advertising;
 - (10) Making or publishing false statements;
 - (11) Destruction or injury of a building;
 - (12) Trespass on property after prohibition;
 - (13) Trespass with internal combustion engine or source of mechanical power.
- B. No permit shall issue to any person who has violated any provision of this bylaw; no permit shall issue if the Chief determines that the individual permit application form is incomplete; no permit shall issue if the Chief determines that the individual permit application form contains any untruthful or fraudulent statement.

§ 184-8. Posted property.

No person may enter any residential property for the purpose of solicitation which is posted "No Solicitation." Such signage must be located near the main entrance of the property to be entered and have letters at least one inch in size. Entering such posted property shall be cause for permit and/or registration revocation.

§ 184-9. Misrepresentation of endorsement by Town.

No person having received a registration or a permit shall represent to the public that the same constitutes an endorsement or approval by the Town or its officials.

§ 184-10. Suspension of permit.

Should a permittee be arrested and charged with a crime that is alleged to have occurred in the course of conducting business under the permit, the permit shall be automatically suspended. Such suspension shall last until the resolution of the criminal proceedings. Should the permittee be found guilty of the offense, the permit shall be revoked and no subsequent permit shall be issued.

§ 184-11. Revocation of permit or registration.

Upon determination by the Chief of Police that a permittee has been convicted of a felony or an above-named misdemeanor the permit shall be revoked and returned to the Police Chief within three business days. Upon a determination that a registration form contains untruthful or misleading information, or that the registrant has been convicted of fraud or found

by the Attorney General's office to have violated any consumer protection law or regulation, the registration and any permits issued under that registration shall be revoked. All revoked permits must be turned in to the Police Department within three days of notice by the Chief to the registrant or permittee. Failure to do so shall constitute a violation of this bylaw and each day the permit is not turned in shall constitute a separate offense.

§ 184-12. Violations and penalties.

Any person who commits an unlawful act as described in this bylaw shall be punished by a fine of \$100 per outstanding permit, per day. The Board of Selectmen may also seek civil injunctive relief in any court of competent jurisdiction against an organization registrant and/or individual solicitation permittee to restrain violations of the provisions of this bylaw.

§ 184-13. Appeals.

Any person or organization that is denied registration or permit or whose registration or permit has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within five days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal. The Board of Selectmen must issue a decision within 21 days of the filing of the appeal.

ARTICLE II

Peddler's License

[Adopted 3-7-1960 (Art. 30 of the General Bylaws)]

§ 184-14. License from Board of Selectmen required.

There shall be no peddling of commercial goods in the Town of Marshfield unless a peddler's license shall have first been obtained from the Board of Selectmen.

Chapter 188**PERSONNEL****GENERAL REFERENCES**

Officers and employees — See Ch. 170.

§ 188-1. Authorization and application.

- A. Pursuant to the authority contained in MGL c. 41, §§ 108A and 108C, there shall be established plans which may be amended from time to time by vote of the Town at a Town Meeting:
- (1) Classifying positions in the service of the Town, other than those filled by popular election, those under the direction and control of the School Committee, those employees covered by a collective bargaining agreement, and certain positions for which the compensation is on a fee basis or the incumbents of which render intermittent or casual service, into groups and classes doing substantially similar work or having substantially equal responsibilities; **[Amended 4-24-2017 ATM by Art. 10]**
 - (2) Authorizing a compensation plan for positions in the classification plan; and
 - (3) Providing for the administration of said classification and compensation plans.
- B. Nothing in any of the Town of Marshfield's personnel rules, policies, procedures or other documents relating to employment with the Town of Marshfield ("the Town") creates any express or implied contract or guarantee of continued employment for a specific term. No past practices or procedures, whether oral or written, form any express or implied agreement or contract to continue such practices or procedures. No promises or assurances, whether written or oral, which are contrary to or inconsistent with the limitations set forth in this subsection create any contract of employment unless:
- (1) The terms are put in writing;
 - (2) The document is labeled "contract";
 - (3) The document states the duration of employment; and
 - (4) The document is signed by the Board of Selectmen.
- C. The Town, acting exclusively through the Town Administrator, reserves the right to add, change or discontinue any aspect of its personnel policies and benefit programs and to revise or modify provisions of this

bylaw with proper notice provided to the Town's collective bargaining groups.

- D. Conflicting provisions contained in collective bargaining agreements, to the extent required by law, shall supersede these policies. Where collective bargaining agreements are silent, these policies and regulations may be applied. If there is a conflict between language in the Employee Personnel Bylaw and language in an official plan document (such as the group health insurance policy) the official plan document governs.
- E. Subject to the Town Administrator's review and approval, departmental regulations that establish standards of performance, employee conduct, or action shall continue to be applicable. Employees of the Town that are not otherwise covered by a collective bargaining agreement, employment agreement, or state civil service statutes are at-will employees. Either party may terminate the employment relationship at any time with good cause, with or without notice. The term "cause" shall include but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.
- F. This bylaw is intended to be in accordance with all applicable state and federal laws. In the event that these policies are inconsistent with the applicable state or federal law, the applicable law shall apply.

§ 188-2. Personnel Board.

- A. The membership of the Personnel Board (hereafter "the Board") shall be appointed by the Board of Selectmen per the Town Charter and subject to MGL c. 268A as follows: one member to be appointed to serve for one year, two members to be appointed to serve for two years, and two members to serve three years. At the expiration of each term of office, appointments or reappointments thereafter shall be made in the same manner for terms of three years. Each term of office shall expire on June 30. In the event of a vacancy occurring in the membership of the Personnel Board, the position shall be filled within 30 days in the same manner and by the same authority as in the original method of selection and for the remainder of such unexpired term of office. The members of the Personnel Board shall not be employees or elected officials of the Town. It is preferred that members of the Personnel Board have a background in human resources, public administration or a related field. The Board shall elect a Chairperson from its membership who shall have the power to call meetings and who shall preside over such meetings. Any three members shall constitute a quorum for transaction of business. A majority vote of such a Board shall prevail unless there is a bare quorum, in which event there must be a unanimous vote. **[Amended 4-24-2017 ATM by Art. 10]**
- B. The Board is responsible for the review and recommendations of changes to the Town's Personnel Bylaw and the establishment of policies

pertaining to the provision of human resource services to employees covered by the provisions of this bylaw subject to the approval of Town Meeting.

§ 188-3. Administration of classification and compensation plan.

- A. General scope. This section shall apply to all employees in the service of the Town of Marshfield, unless covered by individually negotiated employment agreements or collectively bargained contracts in accordance with MGL c. 41, § 108N, between the Town and certain employees. It is the policy of the Town to develop and maintain a compensation plan that is competitive with the marketplace enabling the Town to recruit and retain a quality workforce. External salary data is collected by the Town Administrator or designee on a regular basis at least every three years from comparable communities as determined from the geographical recruitment area as well as operational and demographic criteria on a position-by-position basis. The Town may make changes to the salary ranges for each grade level as it deems necessary in order to maintain competitiveness with the marketplace.
- B. Administration. The Town Administrator or his/her qualified designee shall be responsible for the administration of the classification and compensation plan.
- C. Job descriptions. The Town Administrator shall maintain written descriptions of the jobs or positions in the plan describing the essential characteristics, requirements and general duties. The descriptions shall not be interpreted as either complete or restrictive and employees shall continue to perform any duties assigned by an employee's superior(s).
- D. Salary and wage review. The Town Administrator shall, from time to time not to exceed three years, review the wage and salary schedules of all positions subject to the plan in order to keep informed as to pay rates and policies outside the service of the Town, and be in a position to recommend to the Town any action deemed desirable to maintain a fair and equitable (competitive) pay level.
- E. Job description review. The Town Administrator shall review the duties of all employees subject to the classification plan on a regular basis. The Town Administrator upon receipt of substantiating data may add a new position tentatively to the classification schedule, or reclassify an existing position to a different group, subject to the subsequent ratification of this action by formal amendment of this bylaw by approval of Town Meeting.
- F. New classifications. The Town Administrator shall establish the classification schedule for all newly created positions in accordance with the classification and compensation plan, as approved at a Special or Annual Town Meeting.

- G. Reports. The Town Administrator shall, when deemed necessary, in advance of each Annual Town Meeting at which recommendations of the Board will be considered, prepare a printed report for the information of Town Meeting and Town employees. The Town Administrator shall make an annual report in writing to the Board of Selectmen on or before January 15 of each year.

§ 188-4. Titles of positions.

- A. The title of each position in the classification plan shall be the official title for all positions and shall be used to designate the position in all Town payrolls, budget estimates and official records and reports, and in every connection involving personnel and fiscal processes, but any abbreviation or code symbol approved by the Town Administrator may be used in lieu of the title to designate the classification in any such connection.
- B. Position titles shall be interpreted to be descriptive only and not restrictive. They shall be construed solely as a means of distinguishing one position from another and not as prescribing what the duties or responsibilities of any position shall be, or as modifying, or in any way affecting, the power of any administrative authority, as otherwise existing, to appoint, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.

§ 188-5. Personnel records.

- A. The Town Administrator shall keep such employment records of all employees of the Town, including the name, age, date of employment, classification, department in which employed, and other information as the Town shall deem necessary. Department heads shall furnish such information as shall be requested for this purpose.
- B. The official employee personnel files are kept in the office of the Board of Selectmen and shall be the official employee personnel files of the Town of Marshfield and shall include all original documentation pertaining to each employee in accordance with applicable state and/or federal regulations. Department heads may maintain files supporting departmental actions. In accordance with the state's Public Records Law,⁷ official employee personnel files are confidential records that are accessible by the Town Administrator, and are not available for public inspection or copying. **[Amended 4-24-2017 ATM by Art. 10]**
- C. Current and/or former Town employees have the right to examine their own personnel files and may, upon written request submitted to the office of the Town Administrator, receive a copy of any records contained in their personnel file. No personnel files may be taken out of the Town Administrator's office without the approval of the Town Administrator.

7. Editor's Note: See MGL c. 66.

- D. The personnel records include all original information pertinent to an employee's employment with the Town including the employment application, payroll deductions, performance appraisals, leave records, special commendations, disciplinary actions, education and training certificates and employee personnel action form. Employee medical records will be kept separate from all other personnel file information. It is the responsibility of employees to inform their department head of changes in name, address, telephone number, marital status and person(s) to be notified in the event of an emergency and to notify the Town Administrator's office and the Treasurer/Collector's office of changes to an employee's personal status to ensure proper insurance coverage.
- E. In accordance with MGL c. 149, § 52C, as amended, the Town will notify an employee within 10 days of placing information in an employee's personnel record that is, has been or may be used to negatively affect an employee's qualification for employment, promotion, transfer, or additional compensation or subject (the employee) to disciplinary action. **[Amended 4-24-2017 ATM by Art. 10]**

§ 188-6. Compensation plan funding. [Amended 4-24-2017 ATM by Art. 10]

Compensation adjustments provided for in this bylaw shall be subject to the availability of funds as appropriated by Town Meeting.

§ 188-7. Civil service. [Amended 4-24-2017 ATM by Art. 10]

No provisions that are contained in this Personnel Bylaw shall be construed to be in conflict with MGL c. 31.

§ 188-8. When effective.

These bylaws shall take effect upon adoption by the Town at the Annual Town Meeting.

§ 188-9. Classification and compensation plan.

- A. Development of the classification plan. It is the policy of the Town to classify positions based on the application of a position rating system that consists of a set of universal position rating criteria. **[Amended 4-24-2017 ATM by Art. 10]**
- B. Annual salary plan adjustments. Annual salary plan guidelines are used to administer individual salaries throughout the fiscal year. Based upon external market data, budget parameters, and the Town's ability to pay, funds are provided for employee compensation purposes throughout the year. It is the general policy of the Town of Marshfield to make salary adjustments at the beginning of each fiscal year as well as during the fiscal year based on an employee's years of service in a position as

well as merit. An employee's movement or growth within a salary range is not and should not be considered an automatic natural progression.

- C. Maintenance of the compensation plan. The Town Administrator is responsible for overseeing the administration of the Town's wage and compensation plan(s) after adoption by the Annual Town Meeting. The Town Administrator may correct individual discrepancies in salaries in compliance with the classification and compensation plan.

D. Salary adjustments.

(1) Starting salary; salary ranges. **[Amended 10-27-2014 STM by Art. 3]**

- (a) Starting salary. It is the policy of the Town of Marshfield to hire new employees between the minimum and mid-point "hiring range" of a salary range in each classification level as described in § 188-11, Schedule A of the Personnel Bylaw. All employees are to be paid within the salary range in each classification level.

[1] It is understood that the Town reserves the right to hire a new employee above the "hiring range" based on the qualifications of an employee as well as the market conditions.

[2] Employees are eligible for annual step increases within the hiring range within each grade level subject to the appropriation of funds. An employee's progression above the fourth step in each grade level is not automatic, but is based on both an employee's performance and years of service in a position.

- (b) Salary ranges. It is the policy of the Town of Marshfield to establish and maintain salary ranges that are competitive within the marketplace on a position-by-position basis. Each salary range is developed in a defined, consistent manner as follows:

[1] Salary range mid-point: the average mid-point of survey data collected for all positions within each grade level.

[2] Salary range minimum: a fixed percentage of the salary range mid-point.

[3] Salary range maximum: a fixed differential greater than the salary range minimum.

(2) Promotion.

- (a) An employee may be promoted in two ways:

- [1] Organizational promotion. An employee may be appointed to a different position that is classified in a higher pay band than the position is currently assigned; or
 - [2] Job revaluation/reclassification. Duties and responsibilities of an employee's job may be expanded and, as a result, the position requires an employee to have additional knowledge, skill, and/or ability, etc. Based on the application of the Town's position rating system, the position is assigned a new classification level. An employee whose position has been assigned to a higher salary range should be treated as having received a promotion at the next common review date.
- (b) A promotional increase for a regular, full-time employee should advance an employee to a pay rate in the new salary range that exceeds an employee's current rate of pay by at least 3%. Factors such as length of service and budget considerations may affect the amount of compensation.
- (3) Step increase. If an employee is eligible for a step increase, he or she shall be paid annually and on the anniversary date of appointment to a position. It is understood that step increases are not automatic but are subject to merit, years of service in a position and the appropriation of funds by Town Meeting.
- (4) Temporary promotion. Employees filling in for a senior person for a period of time greater than two weeks may receive special pay consideration during or after the completion of the assignment. In such instances, consideration should be given to the length of the assignment, level of performance, and job level of the more senior person.
- (5) Demotion. A demotion takes place when a position is permanently reclassified or an employee is assigned to a position in a lower pay band. This action may be either voluntary or involuntary. An individual's salary may or may not be reduced upon demotion or reduction in job classification at the discretion of the Town. An employee's position in the new salary range will affect future salary increases.
- (6) Merit compensation.
- (a) It is the responsibility of the Town Administrator to develop and implement an employee performance management system for department heads that is uniformly applied to those employees covered by this bylaw throughout the organization.
 - (b) Consideration for merit salary increases will be given at least once each year subject to the availability of funds. To be eligible for a merit increase, an employee must have been actively working for the Town (in an active pay status) for at

least 30 of the 52 weeks of the relevant performance review cycle. Merit increases are calculated using the annual employee's salary in effect immediately preceding the effective date of the merit increase. Merit increases are directly linked to the employee's overall performance, provided that the employee's current salary does not exceed the maximum of the position's salary range.

- (c) Merit performance reviews ensure that eligible employees are considered for merit pay increases but does not guarantee that an individual employee will receive an increase. A merit increase is a salary increase earned by an employee whose performance has met or exceeded the requirements of the position. An employee who receives an overall performance rating of unsatisfactory is not eligible for a salary increase until the level of performance is improved.
- (d) Notwithstanding anything contained herein, employees at Step 4 at their respective grades shall be eligible for additional compensation subject to appropriation with 50% of increase based on merit and 50% based on years of service. **[Added 10-27-2014 STM by Art. 3]**
- (7) Managing performance. It is the policy of the Town of Marshfield to compensate employees based on an employee's years of service in a position and performance. It is the principal responsibility of the Town Administrator to manage the performance evaluation process in accordance with the performance management guidelines and performance management cycle as approved by the Board of Selectmen.
- (8) Payment at a listed grade. All employees shall be paid at a wage within the minimum-maximum salary range for the grade level established for each position in accordance with the classification schedule in § 188-11 of this bylaw.
- (9) Pay period/paydays. Normally employees are paid weekly (or biweekly), with the payroll period ending on Saturday and checks available on Friday. In the event that a payday occurs on a holiday, payroll checks will be distributed on the nearest preceding workday. Existing employees may elect to have paychecks deposited by the Town through the ACH system directly to their personal account(s). All new employees hired by the Town shall be required to participate in the Town's payroll direct deposit program. **[Amended 4-24-2017 ATM by Art. 10]**
- (10) Introductory hiring period. All new employees must serve an introductory hiring period of nine months' duration. An employee may be terminated by the Town during the introductory hiring period or at any time with or without cause, with or without notice. **[Amended 4-24-2017 ATM by Art. 10]**

- (11) Payroll deductions. Mandatory payroll deductions are made depending upon the number of exemptions claimed for federal and state income taxes and retirement contributions. Optional payroll deductions are made based on employee authorization for health insurance, life insurance, dental insurance, deferred compensation, and for other contributions consistent with the law and as approved by Town Meeting. Pursuant to the applicable federal or state law or court-ordered wage assignments, the Town may be obliged to retain and pay over to a third party a portion of an employee's earnings.
- (12) Section 125 plan. The Town offers a pre-tax program for employees who work 20 hours or more which excludes from federal income tax purposes expenses for medical, child care or dependent care.
- (13) Unemployment compensation. Commonwealth of Massachusetts law requires the Town to reimburse the State of Massachusetts for unemployment benefits paid to former employees of the Town. It is the responsibility of individuals to file claims with the State Division of Employment and Training. The Town reserves the right to contest claims for unemployment compensation.
- (14) Workers' compensation. To preserve rights under the law, an employee must notify his or her department head immediately or as soon as possible if involved in an on-the-job accident that results in personal injury. Employees injured on the job are protected against loss of income and medical expenses by provisions of the Massachusetts Workers' Compensation Act.⁸ Employees receiving workers' compensation benefits may, upon request, receive vacation, sick or personal leave accrued at the time of injury to supplement workers' compensation benefits up to the amount of base wages the employee received each week before the injury occurred.
- (15) Retirement system. As a condition of employment, all permanent employees who are regularly scheduled to work and earn more than \$5,000 annually are required to join the Plymouth County Retirement System. Retirement applications must be made by an employee in accordance with the rules and regulations of the Plymouth County Retirement System.
- (16) Death benefit. Upon the death of a Town employee who is on the Town's payroll, his or her estate or designated beneficiary is eligible to receive accrued vacation and/or sick leave, in accordance with the provisions of this bylaw.

§ 188-10. Amendments.

8. Editor's Note: See MGL c. 152.

- A. It shall be Town policy to amend the provisions of the Personnel Bylaw and classification plan at either a Special or Annual Town Meeting.
- B. The Board of Selectmen may, from time to time of its own motion, hold a hearing to consider any proposed amendment to this bylaw. In the event said proposed amendment is supported by an affirmative vote of a majority of the members, the Board shall proceed according to the preceding subsection to insert an article in the warrant and to report its recommendations to the Advisory Board.

§ 188-11. Position classes and compensation schedules.

The following schedules constitute the classification and compensation plans of the Town.

Schedule A

General Government Positions

Administrative Assistant	11
Assistant Veterans Agent	11
COA Van Driver	11
Office Manager [Amended 4-24-2017 ATM by Art. 10]	10
Payroll/Benefits Manager	10
Project Coordinator for Volunteers [Amended 4-25-2016 ATM by Art. 9]	8
COA Social Services Coordinator	11
Beach Administrator	8
Project Engineer	14
Assessor/Appraiser	15
Council on Aging Director [Amended 4-25-2016 ATM by Art. 9]	14
Library Director	15
Town Planner	14
Town Engineer	14
Executive Secretary	8
Senior Secretary	8
Finance Director [Added 11-4-2013 STM by Art. 10]	
Assistant Facilities Manager [Added 10-27-2014 STM by Art. 3]	12
Energy Manager [Added 10-27-2014 STM by Art. 3]	10

Schedule A**General Government Positions**

Deputy DPW Superintendent **[Added 15**
4-27-2015 ATM by Art. 9]

Schedule A**Compensation Plan**

FY2016 - 2% - 52.2 weeks

**26.1 Biweekly [Amended 10-27-2014 STM by Art. 3; 4-25-2016 STM
by Art. 15]**

Annual

Grade	Step 1	Step 2	Step 3	Step 4
4	\$28,958	\$30,115	\$31,317	\$32,568
5	\$31,944	\$33,219	\$34,549	\$35,921
6	\$35,237	\$36,645	\$38,114	\$39,639
7	\$38,869	\$40,417	\$42,041	\$43,718
8	\$42,864	\$44,586	\$46,365	\$48,218
9	\$48,218	\$49,175	\$51,139	\$53,193
10	\$52,168	\$54,247	\$56,422	\$58,672
11	\$57,541	\$59,841	\$62,224	\$64,716
12	\$63,473	\$66,005	\$68,640	\$71,395
13	\$69,823	\$72,601	\$75,506	\$78,536
14	\$76,516	\$79,575	\$82,751	\$86,057
15	\$84,163	\$87,529	\$91,026	\$94,664

Schedule B**Part-Time and Seasonal Positions**

Animal Inspector **[Amended 4-25-2016 ATM by Art. 9]** \$2,500 per year

Assistant Animal Control Officer **[Amended 4-25-2016 ATM by Art. 9]** \$11 to \$18 per hour

Senior/First Assistant Harbormaster **[Amended 4-25-2016 ATM by Art. 9]** \$15 to \$20 per hour

Assistant Harbormaster **[Amended 4-25-2016 ATM by Art. 9]** \$10 to \$18 per hour

Assistant Shellfish Officer \$6 to \$7 per hour

Schedule B**Part-Time and Seasonal Positions**

Lifeguard	\$9.50 to \$12 per hour; \$0.25 increase per year returning
Beach Attendant	\$8.50 to \$11.50 per hour; \$0.25 increase per year returning
Beach Supervisor	\$11 to \$16 per hour; \$0.25 increase per year returning
Call Firefighter	\$1,000 per year
Clerical Assistant (COA)	\$12 to \$19 per hour
Custodian (COA)	\$16 to \$19 per hour
Intern [Amended 4-24-2017 ATM by Art. 10]	\$10 to \$15 per hour
Kitchen/Activities Assistant (COA)	\$9 to \$12 per hour
Police Patrolman (intermittent) [Amended 4-25-2016 ATM by Art. 9]	\$15 to \$20 per hour
Police Matron [Amended 4-25-2016 ATM by Art. 9]	\$12.50 to \$15 per hour (3 hour minimum)
Program/Activities Coordinator (COA)	\$13 to \$19 per hour
Recreation Site Coordinator	\$14 to \$24 per hour
Recreation Group Leader	\$8 to \$14 per hour
Recreation Assistant Leader	\$8 to \$9.50 per hour
Recreation Nurse	\$25 to \$26 per hour
Recreation Lead Teacher	\$17 to \$22 per hour
Recreation Sports and Playground Instructor	\$8 to \$11.50 per hour
Recreation After School Sports Instructor	\$26 per hour
Sealer of Weights and Measures	\$5,000 per year
Wiring Inspector	Grade 8
Plumbing Inspector	Grade 8

§ 188-12. Overtime compensation.

- A. It is the policy of the Town of Marshfield that all work be accomplished within the normal workday. On occasion, the Town may determine that overtime is necessary to complete the assigned work beyond the normal workday. Each position authorized as listed in § 188-11 of this bylaw shall be designated as exempt or non-exempt from the payment of overtime in accordance with the provisions of the Fair Labor Standards

Act (FLSA). Vacation days, sick days, and holidays are counted as time worked in the computation of overtime. For further details, please see the FLSA Guidelines in the Addendum Section of this bylaw.⁹

- B. All overtime work must be authorized by the Town Administrator in advance of said employee being required to work beyond the normal workday. A non-exempt employee shall receive a rate of pay for hours worked beyond 40 hours per work week that is equal to 1 1/2 times an employee's normal rate of pay. Documentation of overtime work shall be submitted by the employee's department head to the Treasurer/Collector. Exempt employees may receive compensation in the form of compensatory time off for work required beyond 40 hours in a work week. An employee is required to take compensatory time off by the end of the fiscal year in which time is earned. **[Amended 4-24-2017 ATM by Art. 10]**
- C. Exempt positions under the Fair Labor Standards Act (FLSA) are not eligible for overtime compensation. These positions are expected to work the hours necessary to complete their respective duties. **[Amended 4-24-2017 ATM by Art. 10]**
- D. Non-exempt positions shall be paid overtime for work in excess of 40 hours in a work week in accordance with the provisions of the Fair Labor Standards Act (FLSA).

§ 188-13. Longevity pay.

Years of Service Completed	Earned Longevity Pay
Employed upon completion of 5 years	\$100
Employed 5 years up to 19 years	\$20 for each additional year
Employed 20 years	\$500
Employed more than 20 years	\$100 for each additional year

This sum is to be paid annually within one month of the employee's date of hire. Full-time employees are eligible for longevity. Part-time employees that work the full year (52 weeks) are eligible for longevity on a pro rata basis.

§ 188-14. Paid holidays.

- A. The following 12.5 days or dates, as proclaimed by the Governor or the General Court of the commonwealth, shall be recognized as legal holidays within the meaning of this bylaw on which days employees shall be excused from all duty not required to maintain essential Town services:

9. Editor's Note: The addendum is on file at the office of the Town Administrator.

New Year's Day

Martin Luther King's Birthday

Presidents' Day **[Amended 4-24-2017 ATM by Art. 10]**

Patriots Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans' Day

Thanksgiving Day

Friday after Thanksgiving

Christmas Day

Half day before Christmas (taken on the working day prior to Christmas holiday)

- B. Every employee in full-time or continuous part-time employment shall be entitled to these designated holidays on the following terms:
 - (1) If paid on an hourly basis, an employee shall receive one day's pay at his or her regular rate based on the number of hours regularly worked on the day on which the designated holiday occurs.
 - (2) If paid on a weekly, semi-monthly or annual basis, he or she shall be granted each designated holiday without loss in pay which he or she would have received if worked.
- C. Payment under the provisions of this section shall be made provided the eligible employee shall have worked on the last regularly scheduled working day prior to and the next regularly scheduled working day following such holiday, or was in full pay status on such preceding and following days in accordance with other provisions of this bylaw.
- D. An employee in continuous employment, occupying a position in other than supervisory or administrative position, that performs work on one of the days designated in Subsection A shall be paid at his or her regular rate in addition to the amount to which he or she is entitled under Subsection B.
- E. An employee may be granted compensatory time off at the discretion of the department head in lieu of payment for holidays.
- F. Whenever one of the holidays as set forth in Subsection A falls on a Sunday, the following day shall be the legal holiday. Whenever one of the holidays as set forth in Subsection A falls on a Saturday, the previous day shall be the legal holiday.

- G. Should any holiday fall on an employee's normal day off, Monday through Friday, he or she shall be given holiday pay in accordance with Subsection B(1).

§ 188-15. Vacation leave.

- A. A regular full-time employee in continuous service shall be granted vacation days with pay on the following basis. Part-time employees who work the full year (52 weeks) are eligible for vacation leave on a pro rata basis. **[Amended 4-24-2017 ATM by Art. 10]**

Years of Service Completed	Earned Vacation Time
Employed 6 months through 1 year	5 days
Employed 1 year through 4 years	10 days
Employed 5 years	15 days
Employed 10 years	20 days
Employed 20 years	25 days

- B. Vacations provided under Subsection A shall be requested by employees in advance and scheduled at the discretion of the department head at such a time that will cause the least interference with the performance of the regular work.
- C. On an employee's fifth, 10th, and 20th anniversary he/she will be entitled to a third, fourth, or fifth week (whichever is applicable) of vacation, but only if said anniversary is between July 1 and December 31; otherwise, not until the following July 1 will the employee be entitled to the third, fourth, or fifth week.
- D. Employees may bank up to two weeks of their earned vacation and use it the following fiscal year with prior written approval of the Town Administrator.
- E. Employees who are eligible for vacation under these rules who resign, retire voluntarily or enter into the armed forces who give two weeks' notice of their intention to resign/retire or enter the armed forces shall be paid an amount equal to the vacation allowance as earned as of the date of resignation/retirement and not granted in the vacation year prior to such dismissal, resignation with notice, retirement or entrance into the armed forces. In addition, payment shall be made for that portion of vacation allowance earned in the vacation year during which such dismissal, resignation with notice, retirement, or entrance into the armed forces occurred up to the time of an employee's separation from the payroll, said allowance to be one day for each full month of continuous service completed subsequent to July 1.
- F. Absences on account of sickness in excess of that authorized under the rules therefor or for personal reasons as provided for elsewhere may, at the discretion of the department head, be charged to vacation leave.

- G. An employee shall be granted an additional day of vacation if, while on vacation leave, a designated holiday occurs which falls on or is legally observed in accordance with his or her regularly scheduled work week.
- H. Vacation allowances provided under the terms of this section will be calculated on a twelve-month period commencing on July 1 and ending on June 30 and these allowances must be taken in the twelve-month period that immediately follows. In unusual circumstances, exceptions may be granted by a department head. Such vacation shall attempt to be granted by the department head that will cause the least interference with the performance of the regular work of the Town.
- I. An employee shall not be allowed to work during his or her vacation leave and be compensated with extra pay without the written approval of the Town Administrator.
- J. The Town Administrator may approve up to 15 days of vacation leave for persons hired in positions listed under Schedule A, General Government. The determination for this vacation benefit shall be made at the time the person is hired. The appointing authority shall send a written notice of such determination to the Town Accountant and to the Personnel Board. The future accrual of vacation time shall be in accordance with the schedule as described in Subsection A of this section.

§ 188-16. Sick leave.

- A. An employee in continuous employment who has completed at least 30 weeks of service following his or her date of hire shall be allowed 12 days' leave with pay each calendar year or one day for each month thereof, if in any fiscal year an employee's employment is less than 30 weeks, provided such leave is caused by sickness or injury or by exposure to contagious disease.
- B. An employee in continuous employment shall be credited with the unused portion of leave granted under Subsection A up to 150 days.
- C. An employee with five years of continuous service may, if absent due to a prolonged illness or injury, borrow additional sick leave in an amount equal to that which had been accrued at the outset of the calendar year up to an aggregate total of 120 days. If the amount of sick leave credit provided by the foregoing is about to be exhausted, an employee may make application to the Town Administrator for borrowing additional sick leave time. Such application shall be made to the Town Administrator who is authorized to grant such additional allowance as he or she may determine to be equitable after reviewing all circumstances, including the employee's attendance and performance record prior to conditions supporting a request for the additional allowance. Borrowed leave shall be repaid to the Town at a minimum of 1/2 the rate of accrual outlined in Subsection A.

- D. Sick leave shall be granted to all non-exempt employees following original hire date accrued at the rate of one day for each month. Sick leave shall accumulate to a maximum of 150 days of sick leave eligibility.
- (1) All full-time employees with five years full-time continuous service and 50 accumulative sick days will be eligible for the following:
- | | |
|------------------|-------|
| 0 sick days used | \$300 |
| 1 sick day used | \$250 |
| 2 sick days used | \$200 |
| 3 sick days used | \$150 |
- (2) Sick leave will be determined from July 1 to June 30 and paid the following fiscal year.
- E. Sick leave must be authorized by the department head and must be reported on the Town's payroll forms.
- F. The Town may require a physician's certificate of illness to be submitted by the employee at any time to his or her department head before leave is granted under the provisions of this section. The certificate shall be forwarded to the Town Administrator forthwith upon request.
- G. The Town Administrator may require a medical examination of any employee who reports his or her inability to report for duty because of illness. This examination shall be at the expense of the Town by a physician appointed by the Town.
- H. Any employee hired by the Town prior to January 1, 1983, shall be compensated in cash for all unused sick leave up to a maximum of 150 days when he or she is permanently separated from employment as a result of retirement under the terms of the Plymouth County Retirement Plan, or death. In the event of death, payment is made to the estate of the employee. Payment shall be made for 100% of the accumulated unused sick leave in the employee's account as of June 30, 1984, and for 50% of the accumulated unused sick leave after that up to the maximum 150 days.

§ 188-17. Bereavement leave.

Leave up to three days with pay may be allowed in the event of death in an employee's immediate family (wife, husband, mother, father, child, brother, sister, mother-in-law, father-in-law, and grandparents, grandchild, aunt, uncle, brother-in-law, and sister-in-law, stepparent, stepsister or stepbrother).

§ 188-18. Military leave. [Amended 4-24-2017 ATM by Art. 10]

The Town of Marshfield recognizes the patriotic service rendered by many employees who belong to military reserve units. Therefore, military leave

will be granted to employees in accordance with the provisions of state and/or federal law. Employees are required to provide the Town Administrator with written notice of any leave upon learning of any leave assignment. Upon being released from service with the armed forces, such employee shall be reemployed by the Town in the capacity in which formerly employed at the time of departure, provided that such employee is physically and mentally suited to perform the required duties and if such employee makes an application to the Town Administrator's office for reemployment. Such application must be made within 30 days following termination of armed forces service, and if approved the employee must report for work as instructed by the Town Administrator.

§ 188-19. Jury duty.

- A. Employees required to serve on a jury shall promptly notify their immediate supervisor. An employee called for jury duty shall be paid by the Town for an amount equal to the difference between the compensation paid for a normal working period and the amount paid by the court, excluding allowance for travel. This request will be certified by the Town Accountant upon presentation of a check or proper evidence for monies received for jury duty.
- B. Any compensation received by an employee that is greater than \$75 shall be returned to the Town.

§ 188-20. Personal or emergency leaves of absence.

Personal or emergency leaves of absence with pay for up to three days per year may be granted to full-time permanent employees with more than six months' consecutive employment by an employee's department head. The Town Administrator shall be notified in writing within seven days of such leave. Extended leaves of absence without pay may be granted by the Town Administrator.

§ 188-21. Small necessity leave. [Amended 4-24-2017 ATM by Art. 10]

In accordance with MGL c. 149, § 52D, employees who are eligible employees can take up to 24 hours of unpaid leave during a twelve-month period to participate in school activities directly related to the educational advancement of a son or daughter (such as parent-teacher conferences), accompany a son or daughter of the employee to routine medical or dental appointments, and accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care. The 24 hours of leave provided by this bylaw is in addition to the time provided by the FMLA. As with the FMLA, the leave can be without pay or with use of paid leave if the employee so elects. Unlike the FMLA, the small necessities leave may be taken intermittently or on a reduced leave schedule. If the necessity for leave under this section is foreseeable, the employee shall provide the

Town with not less than seven days' written notice before the date of the leave is to begin. If the leave is not foreseeable, the employee shall provide the department head or immediate supervisor with such notice as is practicable.

§ 188-22. Education reimbursement; mileage reimbursement.

- A. Educational reimbursement. Educational assistance to defray the cost of tuition, up to \$500 per calendar year, may be granted to full-time permanent Town employees with a minimum of one year's service who are under the jurisdiction of the Personnel Classification and Compensation Plan Bylaws. Such grants will be approved for job-oriented, college-level credit (undergraduate/graduate) educational courses or for the maintenance of certifications that are required by the Town. Requests for approval shall be made through the department head prior to enrollment. Reimbursement will be made upon receipt of proof of successful completion of the course or with an academic grade of "B" or higher and presentation of receipted tuition bill. In instances where a "letter" grade is not given, it is acceptable to provide proof of completion of the course or not.
- B. Mileage reimbursement. In accordance with Internal Revenue Service (IRS) regulations, employees will be reimbursed for use of personal vehicles for Town-related business for those employees covered by this bylaw. Reimbursement must be approved by an employee's department head.

§ 188-23. Conflicts of interest.

- A. In accordance with MGL c. 268A, the Town requires its employees to avoid conflicts of interest between their obligations to the Town and an employee's personal affairs. In accordance with state law, an employee is required to successfully complete a conflict of interest test every two years that is administered by the commonwealth, acknowledge receipt of an annual summary and file the appropriate certifications with the Town Clerk's office. No employee of the Town should have an economic interest, position or relationship with any person, firm, or corporation with which the Town does business, as would influence the actions of such employee on behalf of the Town. The holding of an interest in a supplier does not necessarily indicate a conflict of interest. The disclosure of such holding in most instances may be enough to make clear that such conflict exists. The determination of a conflict of interest is the sole responsibility of the Town.
- B. The Town regards good supplier relations and the demonstrated integrity of its employees as indispensable sources of Town goodwill. It is the obligation of the Town and its employees to preserve and protect these values.

- C. The acceptance of tangible or intangible items of value from an organization which seeks or participates in supplying Town requirements is prohibited.
- D. Any violation of these standards of conduct may result in disciplinary action up to and including immediate discharge from employment with the Town.

§ 188-24. Anti-discrimination.

- A. Nondiscrimination and equal opportunity are the policy of the Town of Marshfield in all its decisions, programs and activities. All Town employees shall rigorously take affirmative steps to ensure equality of opportunity in the internal affairs of all departments, as well as in an employee's relations with the public, including those persons, departments and boards having business with any government agency. Each department or board, in discharging its statutory responsibilities, shall consider the likely effects which its decisions, programs and activities shall have in meeting the goal of equality of opportunity.
- B. Affirmative action requires more than vigilance in the elimination of discriminatory barriers in accordance with established protected classes including race, color, religious creed, national origin, ancestry, age 40 or over, criminal record (applications only), handicap, retaliation, sexual harassment, sexual orientation, genetics, military personnel, transgender and sex. It must also entail positive and aggressive measures to ensure equal opportunity in internal personnel practices and in those programs which can affect persons and activities outside the Town government. Affirmative action shall include efforts necessary to remedy the effects of present and past discriminatory patterns and practices and shall invoke any action necessary to guarantee equal opportunity for all people.
- C. Town of Marshfield officials and supervisory employees shall hire, appoint, assign, train, evaluate, compensate and promote personnel on the basis of merit and ability, without regard to race, color, religion, national origin, ancestry, language, age, mental handicap, sex, or sexual preference.

§ 188-25. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ANNIVERSARY DATE — The date of initial employment as an employee of the Town.

BREAK IN SERVICE — Any separation from the classified service of one scheduled workday, or more, whether by resignation, layoff, dismissal, disability, or retirement, or any absence without leave of one work week, or more, when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a break in service.**[Amended 4-24-2017 ATM by Art. 10]**

CLASSIFICATION AND COMPENSATION PLAN — The official or approved system of grouping and compensating positions into appropriate classes consisting of:

- A. A salary range (minimum/maximum) consistent with each classification level;
- B. An index to the class specifications;
- C. The class specifications; and
- D. Rules for administering the classification and compensation plan.

CONTINUOUS SERVICE — Length of employment with the Town of a full-time or regular part-time employee, uninterrupted except for military leave, vacation leave, sick leave, jury duty leave, disability, maternal/paternal leave, or any other authorized leave of absence covered in this bylaw. Service should not be considered continuous if there is a break in service resulting in the employee being in a non-pay status for a period of time exceeding 30 days excepting authorized leave of absence.**[Amended 4-24-2017 ATM by Art. 10]**

EMPLOYEE — An employee of the Town occupying a position in the classification plan.

EXEMPT POSITION — In accordance with the Fair Labor Standards Act (FLSA), an exempt employee is required to perform management or administrative responsibilities or requires specialized, professional qualifications. Exempt employees are paid a salary for all hours worked and are not eligible for overtime compensation.**[Amended 4-24-2017 ATM by Art. 10]**

FULL-TIME EMPLOYEE — An employee scheduled to work no less than 37.5 hours per week and 52 weeks per year, minus legal holidays and authorized vacation leave, sick leave, bereavement leave and other leave of absence. This definition is not intended to include employees classified as part time in the Personnel Classification and Compensation Plan Bylaws.

IMMEDIATE FAMILY — Defined as spouse, mother, father, child including stepchild, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandparents, grandchild, aunt, uncle, stepparent, stepsister, stepbrother or partner.

INTRODUCTORY HIRING PERIOD — All new employees must serve a working test period of nine months' duration or as specified in a collective bargaining agreement or state civil service statute during which an employee is required to demonstrate his or her fitness to perform duties for the position to which assigned. An employee may be terminated by the Town during the introductory hiring period or at any time with or without cause, with or without notice.

MARKET RATE OF PAY — The competitiveness of a salary range or an employee's salary in comparison to the marketplace based on operational and demographic criteria.**[Added 10-27-2014 STM by Art. 3]**

NON-EXEMPT POSITION — In accordance with the Fair Labor Standards Act (FLSA), non-exempt employees will be paid overtime for all hours required to work over 40 in one work week. Police, fire or employees covered by a collective bargaining agreement are paid overtime pursuant to the provisions of an employment agreement or collective bargaining agreement.

PART-TIME INTERMITTENT — A person doing occasional hourly, daily or weekly work 52 weeks per year and less than 20 hours per week; such an employee is not eligible for benefits as described in this Personnel Bylaw.

PERFORMANCE EVALUATION — The evaluation of an employee's performance based on:**[Added 10-27-2014 STM by Art. 3]**

- A. Job duties: essential functions that are ongoing.
- B. Objectives: job duties that are specific, measurable, agreeable, realistic and time bound.
- C. Competencies: skills required to accomplish job duties and objectives.
- D. Development plan: specific, measurable and time bound actions to improve performance.

PERMANENT EMPLOYEE —

- A. Any employee retained on a continuing basis in a permanent position, as defined below.
- B. Any employee holding a permanent appointment under Civil Service Law to a position deemed permanent within the meaning of said law.

PERMANENT PART-TIME — A person required to work at least 1,040 hours of time in a calendar year; such employee is eligible for benefits as described in this Personnel Bylaw on a prorated basis as determined by the number of regularly scheduled hours compared to the normal work week.**[Amended 4-24-2017 ATM by Art. 10]**

PERMANENT POSITION — Any position in the Town service which has required or which is likely to require the services of an incumbent without interruption for a period of more than six calendar months, either on a full-time or part-time employment basis.

POSITION RATING SYSTEM — A system enabling the Town to compare positions to one another consisting of a set of universal rating criteria in order to establish the minimum qualifications required to carry out a position's job duties and to assign positions to a classification level in a consistent manner.

SEASONAL EMPLOYEES — Employees serving in a position for a specified period of time, such as a summer season, are considered seasonal. Seasonal employees are not entitled to Town benefits regardless of the number of hours worked during the specified season.

TEMPORARY EMPLOYEE — An employee retained in a temporary or seasonal position as defined below; any employee holding a temporary appointment under Civil Service Law who does not also have permanent status thereunder. Such employee is not eligible for benefits as described in this Personnel Bylaw.

TEMPORARY POSITION or SEASONAL POSITION — Any position in the Town service which requires or is likely to require the services of one incumbent for a period not to exceed six calendar months; a seasonal position requiring less than the work week of its occupational group shall be considered as part time.

WORK WEEK — A work week is defined as a period consisting of seven consecutive twenty-four-hour days; Sunday to Saturday, 12:01 a.m. to 12:00 p.m.

§ 188-26. Consolidated Omnibus Budget Reconciliation Act (COBRA).

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires employer-sponsored group medical and dental plans to allow covered employees and their dependents to elect to have the current medical coverage continued, at the employee's and dependent's expense, at group rates for up to 36 months following a qualifying loss of coverage.

§ 188-27. Health Insurance Portability and Accountability Act (HIPPA).

- A. Permanent employees regularly required to annually work 20 or more hours per week are covered under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPPA). HIPPA provides employees with certain rights that create a "portability" of health insurance coverage from one employer to the next. This does not mean that an employee can transfer his or her current health plan into a new employment situation. It means that an employee can receive "credit" for prior coverage when joining a new plan provided by the Town that may have waiting periods for preexisting conditions. This requires a transfer of prior coverage information from the old employer to the new employer. The Town will provide to each employee who loses health insurance coverage a full certificate of coverage. The certificate of coverage provides: the date of certification, identifying information including the name of the employee, the employee's health insurance plan identification number, names of dependents to whom the certificate applies, name of group health plan, name of employer, name, address, and phone number of the plan administrator and the first and last day of coverage. A certificate will be issued whenever an individual loses health insurance coverage or would lose coverage except for an election under COBRA.
- B. Group health and dental benefits and premium rates for individuals electing continuation are the same as for active employees and their

dependents plus an administrative charge. Individuals electing continuation must pay the entire monthly premium in advance. Employees will be notified of their COBRA rights upon employment and at the time of a qualifying event as explained above. It is the employee's responsibility to keep the Town informed of any address changes or other pertinent information regarding himself/herself and/or an employee's dependents.

§ 188-28. Town insurance plans. [Amended 4-24-2017 ATM by Art. 10]

The Town of Marshfield makes available to all regular full- or permanent part-time employees group life, accidental death, long-term disability, sickness, group hospitalization and dental insurance programs. Family coverage is also available. Please see the Addendum Section of this bylaw for a list of current premiums and insurance carriers.¹⁰ The level of coverage and respective premium costs are subject to possible change by the Town. The Town will provide proper notice in advance of any proposed changes to an insurance plan(s) in accordance with statutory notification requirements. For information regarding employee insurance, employees should contact the office of the Town Treasurer/Collector.

§ 188-29. Grievance policy and procedure.

- A. A grievance is defined as any complaint by an employee that he/she has been treated unfairly, unlawfully, or in violation of his/her rights under Town policies with regard to any matter pertaining to employment with the Town. This definition includes, but is not limited to, discharge, suspension, involuntary transfer and demotion. Also, if an employee believes that he/she has not received or been credited with or has otherwise lost wages or benefits to which he/she feels entitled, he/she must present a grievance in accordance with the employee grievance procedure that is contained in this bylaw or such wages or benefits may be forfeited.
- B. An employee who feels that he/she has a grievance must follow the following procedure:
 - (1) Step 1. Any employee who feels that he/she has received inequitable treatment because of some condition of employment may discuss the grievance orally with his/her department head for relief from that condition within 10 working days of the occurrence or knowledge of the event. The immediate supervisor or department head shall meet with the aggrieved employee and respond in writing to the employee within 10 working days of the date of the meeting.
 - (2) Step 2. If the grievance is not resolved by the decision of the department head, the employee may file an appeal in writing with

10. Editor's Note: The addendum is on file at the office of the Town Administrator.

the Town Administrator within 10 working days of receipt of the department head's decision in Step 1. The Town Administrator shall, upon request, meet with the employee within a reasonable time after receipt of the employee's appeal. The Town Administrator shall reply in writing to the employee's grievance within 10 working days after a meeting with the employee is held. The Town Administrator will send one copy of the reply to the employee, one copy to the department head and place one copy in the employee's personnel file.

- (3) Step 3. If the grievance is still not settled at Step 2, or within 10 working days of the deadline for the response of the Town Administrator, the employee may submit the grievance in writing to the Board of Selectmen. The Board shall meet with the Town Administrator, department head and the employee at its next regularly scheduled meeting following the date of the receipt of the grievance in the office of the Board of Selectmen. The Board shall render a final decision in writing within 10 working days of the date of the meeting with the Board.
- C. A grievance shall be considered settled at the completion of any step unless it is appealed within the time limits as set forth in this section. The time limits of the grievance procedure may be extended by management due to illness, vacations, business trips or emergency. The employee will be notified in writing by the Town if an extension is required. If the response time limit falls on an employee's scheduled day off, the reply by management will be given to the employee on the employee's scheduled workday immediately following an employee's return to work.

§ 188-30. Engaging in work stoppage, slowdown or strike prohibited.

Since municipal employees provide a service to the public whose interruption in many instances may be detrimental to public safety, no municipal employees shall engage in any work stoppage, slowdown, or strike. Any employee engaging in such work stoppage, slowdown, or strike shall be subject to immediate dismissal without any rights to any of the benefits provided by the Town.

§ 188-31. Workplace violence.

- A. The Town of Marshfield maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the public, or anyone who conducts business with the Town. It is the intent of the Town to provide a workplace that is free from intimidation, threats or violent acts. **[Amended 4-24-2017 ATM by Art. 10]**
- B. Workplace violence includes but is not limited to harassment, threats, physical attack or property damage. A threat is the explicit or implicit

expression of intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future. Physical attack is intentional hostile physical contact with another person such as hitting, fighting, shoving, or throwing objects. Property damage is intentional damage to property that includes property owned by the Town, employees or others.

Chapter 195

PLUMBING AND GAS FITTING

ARTICLE I

Gas Permits

[Adopted as Art. 33 of the General Bylaws]

§ 195-1. Permit required.

Whoever desires in the Town of Marshfield to install or alter any gas-fitting system shall first make application to the Gas Inspector, pay a fee established by the Board of Selectmen, and obtain a permit.

Chapter 201
PROPERTY, SALE OF

ARTICLE I

Sale of Wood and Timber

[Adopted 1931 ATM by Art. 11 (Art. 13 of the General Bylaws)]

§ 201-1. Authority of Selectmen.

The Selectmen shall have authority to cut and sell wood and timber from Town property.

ARTICLE II

**Sale of Surplus or Abandoned Property
[Adopted as Art. 16 of the General Bylaws]**

§ 201-2. Authority of Selectmen. [Amended 10-27-2014 STM by Art. 6]

The Selectmen are hereby authorized to sell surplus and/or abandoned property belonging to the Town valued at less than \$10,000 or less in accordance with MGL c. 40, § 21(11).

ARTICLE III

Sale of Beach and Meadow Lots

[Adopted 1944 ATM by Art. 49 (Art. 17 of the General Bylaws)]

§ 201-3. Authority of Selectmen.

The Selectmen shall have authority to sell Town-owned beach and meadow lots.

ARTICLE IV

Buying or Selling Real Property**[Adopted 10-18-2004 STM by Art. 17 (Art. 81 of the General Bylaws)]****§ 201-4. Notice of proposal.**

Any Town board, committee or officer that receives a written proposal or solicitation to buy or sell real property, including all notices under MGL c. 61A or 61B, shall forward copies of said proposal or solicitation to all Town boards, committees and departments within seven days of receipt. All parties receiving said notice shall respond with an opinion regarding the proposal within 21 days.

Chapter 217**SEAWALLS****§ 217-1. Obstructions prohibited.**

No fences, gates or other structure or obstructions may be constructed, or maintained, on or over seawalls located in the Town without the express written approval of the Board of Selectmen. Those seawalls that are privately owned and maintained will be exempted from the provisions of this bylaw. The Board of Selectmen may, in its sole discretion, rescind said permission if it determines it is in the Town's best interest to do so.

§ 217-2. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

Any person who erects, maintains or suffers to be maintained any such structure without permission to do so shall be punished by a fine of \$50 per day. Each day or portion thereof during which a violation continues shall constitute a separate offense. Such fine may be recovered on complaint in the District Court which sum shall enure to the general use of the Town. This bylaw may also be enforced pursuant to MGL c. 40, § 21D, by a Town police officer or other officer having police powers.

Chapter 223**SEWERS****GENERAL REFERENCES**

Sanitary sewage disposal — See Ch. 645.

§ 223-1. Purpose.

These rules and regulations regulate the use of public sewer drains, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system in the Town of Marshfield, County of Plymouth, State of Massachusetts.

§ 223-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated; "shall" is mandatory; "may" is permissive:

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20° C., expressed in milligrams per liter, under standard laboratory procedure as prescribed in Standard Methods for the Examination of Water and Wastewater. **[Amended 4-24-2017 ATM by Art. 10]**

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 10 linear feet (3.0 meters) along the center line of the pipe, measured from the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal; also called "house connection."

COMBINED SEWER — A sewer intended to receive both wastewater and storm or surface water.

DPW — The Department of Public Works of the Town of Marshfield, State of Massachusetts.

EASEMENT — An acquired legal right for the specific use of land owned by others.

FEDERAL — The United States Environmental Protection Agency.

FLOATABLE OIL — Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free from floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE — The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

INDUSTRIAL WASTES — The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

NATURAL OUTLET — Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON — Any individual, firm, company, association, society, corporation or group.

pH — The logarithm of the reciprocal of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen ion concentration of 10^{-7} . **[Amended 4-24-2017 ATM by Art. 10]**

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER — A sewer in which all owners of abutting property have equal rights, and is controlled by the Town of Marshfield, Department of Public Works.

SANITARY SEWER — A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions

together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

SEWAGE — The spent water of a community. The preferred term is "wastewater" (see definition of "wastewater").

SEWER — A pipe or conduit that carries wastewater or drainage water.

SLUG — Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works. **[Amended 4-24-2017 ATM by Art. 10]**

STORM DRAIN (sometimes termed "storm sewer") — A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

SUSPENDED SOLIDS — Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as that fraction of sewage that is not soluble in water.

TOWN — The Town of Marshfield, County of Plymouth, State of Massachusetts and/or any duly authorized deputy, agent or representative of the Town of Marshfield, Massachusetts.

UNPOLLUTED WATER — The water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of effluent limitations standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

UNSANITARY — Potentially injurious to public health, as determined by the appropriate Town, commonwealth or federal agency.

WASTEWATER — The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water, and stormwater that may be present.

WASTEWATER FACILITIES — The structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of effluent.

WASTEWATER TREATMENT FACILITY — An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "wastewater treatment works" or "water pollution control facility."

WATERCOURSE — A natural or artificial channel for the passage of water either continuously or intermittently.

§ 223-3. Unlawful deposits or discharges.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Marshfield or in any area under the jurisdiction of said Town any human or animal excrement, garbage, or objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the Town of Marshfield, or in any area under the jurisdiction of said Town, any wastewater or other polluted waters, except where suitable treatment has been provided to the satisfaction of the Town.

§ 223-4. Connection to public sewer required.

- A. Where use of public sewer is available, it shall be unlawful to construct, reconstruct, or extend any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, except as otherwise allowed in this regulation.
- B. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, common driveway, or right-of-way in which there is located a public sanitary sewer of the Town, is required at the owner's expense to connect to the public sewer. Said sewer connection shall be in accordance with the provisions of this bylaw, the State Plumbing Code and DPW construction specifications most recently adopted or amended by the Board of Public Works and shall be connected within one year after the sewer is complete and ready to use. **[Amended 1985 ATM by Art. 28]**
- C. Individual requests for extension of the one-year period of time may be granted by the DPW for exceptional circumstances only. Exceptional circumstances can be defined as follows: **[Amended 7-17-1980 STM by Art. 3]**
 - (1) High property owner costs to connect to the public sewer.
 - (2) A financial need under the circumstances.
 - (3) Any other extraordinary circumstances.
- D. The determination of the DPW regarding the sufficiency of such exceptional circumstances may be appealed to and reviewed by the Board of Appeals.
- E. Penalties in accordance with § 223-12 of the Sewer Rules and Regulations relating solely to the failure to connect to the public sewer shall not be imposed from the date written application is submitted to the DPW until 30 days after the administrative appellate process is complete. **[Amended 4-24-2017 ATM by Art. 10]**

§ 223-5. Building sewers and connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the DPW. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the DPW at least 45 days prior to the proposed change or connection.
- B. There shall be two classes of building sewer permits: for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner(s) or his agent shall make application on a special form furnished by the DPW. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the DPW. A permit and inspection fee of \$50 for a residential or commercial building sewer permit shall be paid to the Town at the time the application is filed. The permit and inspection fee for industrial service shall be set by the Board of Public Works and based on the actual cost to the Town but in no event shall said fee be less than \$50. The Board of Public Works shall review and, if it deems appropriate, adjust the fees every three years.
[Amended 4-26-2010 ATM by Art. 19]
- C. All costs and expenses incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner(s). The owner(s) shall hold the Town harmless from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway. In such a case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. However, the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the DPW or its authorized representative, to meet all requirements of this bylaw. All costs of such testing and inspections shall be borne by the owner(s).
- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, and making a gas- and water-tight connection of the building sewer into the public sewer, shall all conform to the standards the DPW set forth in the specifications for

sewerage improvements. Any deviation from the prescribed procedures and materials must be approved by the DPW without installation.

- G. Whenever possible, the building sewer should be brought to the building at elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow from the sanitary facilities to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person(s) shall make connection of roof downspouts, sump pump, foundation drains, areaway drains, or other sources of surface runoff of groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- I. Permits shall only be issued to licensed drain layers or licensed master plumbers or journeymen plumbers for the installation of building sewer connections and they shall notify the DPW when the building sewer is ready for inspection and connection to the public sewer. The drain layer shall be liable for any expense to the Town on account of any imperfect work performed by him or his employees for a period of 12 months. The connection and testing shall be made under the supervision of the Town or its representative. No backfilling shall take place prior to the inspection and approval. **[Amended 1985 ATM by Art. 28]**
- J. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the DPW.
- K. No sewer or drain shall be laid within the layout of any street or sewer easement except by an experienced drain layer licensed and approved by the DPW. Persons may request permission from the DPW to lay building sewers in the layout of any street or sewer easement.
- L. The DPW may issue licenses to drain layers who apply for a permit for making excavation within the limits of any street of the Town for the purpose of laying sewers. Parties so licensed shall execute a bond to the Town in a sum as determined by the Town but in any case not less than the sum of \$1,000 with a surety to be approved by the Town, conditional that he shall comply to the satisfaction of the Town and with the bylaws of the Town and the rules of the Planning Board; that he will cause the excavation to be properly guarded at all times for the protection of the public; that he will properly make all connections and joints in every sewer; and that he will indemnify and hold harmless the Town of Marshfield from any damage or cost for which it may be liable or injuries resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any sewer, or properly fencing or lighting any excavation or obstruction, or in performing any other work connected herewith. Said license(s) shall be good for 12 months unless

sooner revoked for failure to perform in an expeditious or workmanlike manner. The fee for such license shall be established from time to time by the DPW and published at the Town Hall DPW offices. The drain layer shall be held liable for any expense to the Town on account of any imperfect work within the layout of any street or sewer easement done by him or his employees.

- M. For all new houses or buildings being constructed on lots where the public sewer is available and no "y" branch has been installed, the owner shall bear the expense of the installation of a "y" branch and tap in the public sewer at the location specified by the DPW.
- N. Any installation pertaining to sanitary sewers (building sewers, sewer, public sewer) shall conform to the DPW construction specifications most recently adopted or amended by the Board of Public Works.
[Added 1985 ATM by Art. 28]

§ 223-6. Use of public sewer; prohibited discharges.

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, sump pump discharge, roof runoff, subsurface drainage, unpolluted industrial process water, or cooling water to any sanitary sewer.
- B. Stormwater shall be discharged to storm sewers or to a natural outlet approved by the Town or other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Town or other regulatory agencies, to a storm sewer, or natural outlet.
- C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - (2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving water of the wastewater treatment plant.
 - (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater works.
 - (4) Solid or viscous substances in quantities or such size capable of causing obstruction to the flow in the sewers or other interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage,

whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (5) Strong acid pickling waste and concentrated plating solutions whether neutralized or not.
- D. The following described substances, materials, waters, or wastes shall be limited in discharge to the municipal sewerage system to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on any body of water or ocean or will not otherwise endanger life, limb, or public property, or constitute a nuisance. The Town may set more restrictive limitations than those established herein to meet the above objectives. In forming an opinion as to acceptability, the Town will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste by the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Town include but are not limited to the following: **[Amended 4-24-2017 ATM by Art. 10]**
- (1) Wastewater having temperature higher than 103° F.
 - (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F. (0° to 65° C.).
 - (3) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process or constitute a hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides, heavy metals, strong acids and basic wastes, etc.
 - (4) Any garbage that has not been properly shredded (see the definition of "properly shredded garbage" in § 223-2). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. The installation and operation of any garbage grinder equipped with a motor of 3/4 hp (0.76 hp metric) or greater shall be subject to review and approval of the Town.

- (5) Any waters or wastes containing iron, chromium, copper, zinc, arsenic, cadmium, cyanide, lead, mercury, nickel, silver, or similar objectionable or toxic substances or wastes exerting an excess chlorine requirement to such degree that such material received in the composite wastewater at the wastewater treatment works exceeds any limits established by the Town or federal effluent limitations.
- (6) Any water or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Town as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations.
- (8) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
 - (b) Excessive discoloration.
 - (c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (10) Any waters or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (11) Any waters or wastes having a pH in excess of 9.5.
- (12) Any water or waste having a five-day biochemical oxygen demand greater than 300 milligrams per liter.

- (13) Any water or wastes containing more than 350 milligrams per liter of suspended solids.

E. Action by Town.

- (1) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in Subsection D of this section, and which in the judgment of the Town may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Town may:
- (a) Reject the wastes;
 - (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (c) Require control over the quantities and rates of discharge; and/or
 - (d) Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- (2) If the DPW and federal effluent limitations permit pretreatment of waste flows, the design and installation of such facilities shall be subject to the review and approval of the DPW and the Commonwealth of Massachusetts, Division of Water Pollution Control.

- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the DPW, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amount as specified in Subsection D(2) or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the DPW and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas-tight and water-tight. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the DPW. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by properly licensed waste disposal firms.

- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- H. The DPW shall determine the quantity and quality of all industrial wastes which can be properly taken into the sewerage system and treated at the sewage treatment works, in addition to the sanitary sewage from the Town, and the Town may regulate by separate industrial user agreement(s) approved by the DPW the flow of industrial wastes into the sewerage system.
- I. When required by the DPW, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the DPW. The structure shall be installed by the owner(s) at his expense and shall be maintained by him so as to be safe and accessible at all times to authorized persons.
- J. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this bylaw shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas pHs are determined from periodic grab samples. All industries discharging into a public sewer shall perform such monitoring of their discharge as the DPW may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the DPW. Such records shall be made available upon request by the DPW to other agencies having jurisdiction over discharges to the receiving waters. **[Amended 4-24-2017 ATM by Art. 10]**

§ 223-7. Powers and authority of inspectors.

- A. The Superintendent of Public Works and other duly authorized employees shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this bylaw. The duly authorized employees shall have no authority to inquire into any process, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond the point of having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. **[Amended 4-24-2017 ATM by Art. 10]**
- B. Duly authorized employees are authorized to obtain information concerning industrial processes which has a direct bearing on the kind and source of discharge to the wastewater collection system. An industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. Duly authorized employees shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- D. While performing the necessary work on private properties referred to in Subsection A above, the duly authorized employees shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Town employees and the Town shall hold harmless the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in § 223-6I. **[Amended 4-24-2017 ATM by Art. 10]**

§ 223-8. Charges for sewer service.

- A. The funding of the Town's share of Phase I of the Marshfield Wastewater Treatment Project will be by bonding over a twenty-year period. Annual debt retirement shall be apportioned so that 40% is placed on the general tax rate and 60% is charged to the sewer users.
- B. Capital charges. The owner(s) of houses, buildings, or other properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, common driveway, alley or right-of-way in which a public sewer has been installed shall pay to the Town a capital charge. Said capital charge shall be applicable whether the structure or its sanitary disposal system is connected to

the public sewer or not. Said capital charge shall also be applicable to any vacant lot that is potentially a buildable lot. In such cases, the capital charge will be deferred until such time as a habitable structure is constructed on the lot. Said capital charge for Phase I of the Marshfield Wastewater Treatment Project shall be the owner's pro rata share of 60% of the annual debt retirement on the net cost to the Town for the construction of the Wastewater Treatment Project.

C. Betterment charges.

- (1) Sewer systems installed in streets, after the completion of Phase I of the Marshfield Wastewater Treatment Project, shall be constructed wholly or partially under betterments as determined by majority vote of the Town Meeting. Whether a street will be done under betterments shall be contingent upon an affirmative vote by a majority of the Board of Public Works and funds being made available to construct said betterments. The amounts of the betterment charges shall be as established by the DPW from time to time. Said betterment charges shall be determined so that the total of such charges will not be greater than the actual net cost to the Town of the sewerage collection system constructed by the Town including the portion of the building sewers in public streets and right-of-way, the collecting sewers, pumping stations, treatment plant and ocean outfall. Costs associated with the capacity of such facilities provided for expansion of the system to presently unsewered areas will be excluded from the current betterment charges.
- (2) Betterments shall be assessed upon the owner(s) of all properties situated within the Town and abutting on any street, common driveway, alley or right-of-way in which a public sewer has been installed under the provisions of this Subsection C. Betterment assessments shall be based upon a uniform unit method as provided by MGL c. 83, § 15. The Board of Public Works shall, with respect to those portions of the Wastewater Treatment Project constructed pursuant to the provisions of this subsection, calculate separately the cost of general benefit facilities from that of special benefit facilities. A proportionate share of the construction costs of the general benefit facilities shall be paid by all users, served by those portions of the sewer system constructed under this subsection, who receive benefit from such facilities.

- D. Sewer user charges. The owner(s) of houses, buildings or other properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, common driveway, alley or right-of-way in which a public sewer has been installed shall each pay a non-capital sewer charge; provided, however, that such charge shall not be assessed to owners who have been granted an extension of time to connect, pursuant to § 223-4C of these rules and regulations, during the time such extension is in effect. The non-capital charge shall be as established by the Department of Public

Works from time to time. The calculation of the non-capital charge under Phase I of the Marshfield Wastewater Treatment Project shall be the pro rata share of the summation of all the facilities' operating and maintenance costs for a given year plus the capital cost as defined under Subsection B. The normal non-capital charges shall be based on water use wherever possible. If records of metered use are not available or do not properly reflect the quantity of waste discharged, the non-capital charge shall be based upon estimated water use or on actual measurement of the volume of waste discharged into the sewerage system. Sewer surcharges may be levied on users whose waste characteristics are above normal strength. **[Amended 10-19-1981 STM by Art. 2]**

- E. Industrial cost recovery. Industrial users connected to the sewerage system shall make repayments to the Town of Marshfield for that portion of the federal grants under Public Law 92-500 allocable to the construction of wastewater facilities used for the collection and treatment of industrial wastes as defined in 40 CFR Part 35, Subpart E. The amounts and terms of the industrial cost recovery payments shall be as established by the Board of Public Works in accordance with 40 CFR Part 35, Subpart E, and subject to the approval of the United States Environmental Protection Agency.
- F. Sewer connection fee. For residential and commercial services a sewer connection fee shall be paid to the Town at the time the application to connect to the Town sewer system is filed. The sewer connection fee shall be determined by the Board of Public Works and based on the net value of the sewer system, capacity of the wastewater facility, capital improvements, calculated fee per residential unit and average daily flow for proposed connection. Said fee shall be no less than \$1,000. The Board of Public Works shall review and, if it deems appropriate, adjust the fee every three years. The sewer connection fee or portion thereof may be waived at the discretion of the Board of Public Works for applicants paying sewer betterments in sewered areas developed subsequent to Phase I. **[Amended 4-26-2010 ATM by Art. 19]**

§ 223-9. Conflicting provisions; severability. [Amended 4-24-2017 ATM by Art. 10]

If a provision of this bylaw is found to be in conflict with any provision of any zoning, building, safety or health or other bylaw or regulation of the Town of Marshfield, the State of Massachusetts or the federal government existing on or subsequent to the effective date of this bylaw, that provision which in the judgment of the Town establishes the higher standard of safety and protection of health shall prevail, and that provision which sets the lower standard is hereby declared invalid to the extent that it is found to be in conflict with the provision which sets the higher standard and is hereby repealed. The invalidity of any section, clause, sentence, or provision of this bylaw shall not affect the validity of any other part of this bylaw which can be given effect without such invalid part or parts.

§ 223-10. Notice of violation.

Any person, firm, partnership or corporation found to be violating or in violation of any provision of this bylaw, except § 223-11, shall be served by the Town of Marshfield with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the Town, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations.

§ 223-11. Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

§ 223-12. Violations and penalties. [Amended 1988 STM by Art. 21]

- A. Any person, firm, partnership or corporation who or which shall continue any violation beyond the time limit provided for in § 223-10 hereof shall be subject to a civil penalty in an amount not to exceed \$5,000 for each violation.
- B. Each day in which any such violation shall continue beyond said time limit shall be considered a separate violation.

§ 223-13. Liability.

Any person, firm, partnership or corporation violating any of the provisions of this bylaw shall become liable to the Town of Marshfield for any expense, loss or damage occasioned by the Town by reason of such violation.

§ 223-14. Wetland protection.

No person, firm, partnership or corporation shall discharge wastewater into any collection line, lateral sewer, interceptor or other means of conveying wastewater to the treatment facilities or other manner of construction which is hereafter erected or otherwise placed, in whole or in part, upon land which is defined as a wetland area within the meaning of the Massachusetts Wetland Protection Act, MGL c. 131, § 40.

Chapter 226**SHELLFISH****§ 226-1. Authority of Selectmen.**

The Selectmen are instructed and authorized to control, regulate or prohibit the taking of eels and any or all kinds of shellfish and sea worms within the Town of Marshfield, in accordance with MGL c. 130, § 52.

Chapter 232**SMOKING****GENERAL REFERENCES**

Tobacco and smoking — See Ch. 670.

§ 232-1. Findings and purpose. [Amended 4-24-2017 ATM by Art. 10]

There exists conclusive evidence that tobacco smoke causes cancer, respiratory diseases, various cardiac diseases, negative birth outcomes, allergies and irritations to the eyes, nose and throat to both the smoker and nonsmoker exposed to secondhand smoke. Environmental tobacco smoke (hereinafter ETS) causes the death of 53,000 Americans each year, and in 2000 the Public Health Service's National Toxicology Program listed environmental tobacco smoke as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997). Therefore, the Town of Marshfield recognizes the right of those who wish to breathe smoke-free air and establishes this bylaw to protect and improve the public health and welfare by prohibiting smoking in public places effective September 1, 2001.

§ 232-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

BOARD OF HEALTH — The Marshfield Board of Health.

EMPLOYEE — Any natural person who performs services for an employer.

EMPLOYER — A natural person, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Marshfield or any agency thereof, which utilizes the services of one or more individuals.

HEALTH CARE FACILITY — Any office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions, including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, or dentist and all specialists within these professions.

INDOOR SPORTS ARENA — Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar enclosed recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

LOUNGE/BAR AREA — An area primarily dedicated to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind, including but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing.

PRIVATE CLUB — A not-for-profit establishment with a defined membership.

PUBLIC PLACE — Any building owned, leased, operated or occupied by the municipality, any enclosed area open to the general public, including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas and/or recreational facilities, inns, hotels and motels, educational facilities, shopping malls, public rest rooms, lobbies, staircases, halls, exits, entrances, and elevators accessible to the public, and licensed child care locations. **[Amended 4-24-2017 ATM by Art. 10]**

PUBLIC TRANSPORTATION — Buses, taxis and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the Town, including indoor platforms by which such means of transportation may be accessed.

RESTAURANT — Any coffee shop, cafeteria, sandwich stand, private and public cafeteria, and other eating establishment which gives or offers food for sale to the public, guests or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

RETAIL FOOD STORE — Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

SMOKING — The inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

WORKPLACE — Any area of a structure or portion thereof at which one or more employees perform services for their employer.

§ 232-3. Posting notice of prohibition.

Every person having control of premises upon which smoking is prohibited by and under the authority of this regulation shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Marshfield Board of Health or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Marshfield Board of Health.

§ 232-4. Smoking prohibited. [Amended April 2009 ATM by Art. 10/26]

No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this regulation, or the agent or designee of such person, permit a person to smoke in any of the following places as defined herein: health care facilities, enclosed public places, and within 25 feet of any enclosed public building, public transportation, restaurants, retail stores, public beaches, Town property, Town vehicles and workplaces except as otherwise provided in § 232-5 of this bylaw.

§ 232-5. Exceptions.

Notwithstanding the provisions of § 232-4 of this bylaw, smoking may be permitted in the following places and/or circumstances:

- A. Private residences except those portions used as a licensed child care or health care office when operating as such.
- B. Hotel and motel rooms rented to guests that are designated as smoking rooms.
- C. Hotel and motel conference/meeting rooms and private and public assembly rooms while these places are being used for private functions.
- D. Private or semi-private rooms of nursing homes and long-term care facilities, occupied by one or more patients, which are separately ventilated and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.
- E. Retail tobacco stores, which are primarily for the sale of tobacco products and paraphernalia, in which the sale of other products is merely incidental and minors are prohibited from entering the establishment, and which are not required to possess a retail food permit. **[Amended 4-24-2017 ATM by Art. 10]**
- F. Outdoor seating, or sidewalk portions of a food service establishment, provided that such outdoor section may be covered but not otherwise enclosed except for the one side which adjoins the food service establishment.
- G. Private clubs, except when the private club is open to the public.
- H. Bars and restaurants providing physical barriers separating smoking and nonsmoking sections as well as separate systems of ventilation for each. Ventilation systems must be approved by the Board of Health.

§ 232-6. Conflicts with other laws or regulations.

Notwithstanding the provisions of the foregoing § 232-5 of this bylaw, nothing in this regulation shall be deemed to amend or repeal applicable

fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.

§ 232-7. Violations and penalties.

Any person who violates this regulation shall be subject to a fine of \$50 for a first offense, \$100 for a second offense within one year of the first offense and \$150 for a third or subsequent offense within one year of the date of the first offense.

§ 232-8. Enforcement.

- A. As an alternative to initiating criminal proceedings, violations of this regulation may be enforced in the manner provided in MGL c. 40, § 21D, by the Board or its agents. Any fines imposed under the provisions of this regulation shall enure to the Town of Marshfield for such use as the Town may direct.
- B. One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation.
- C. Any citizen who desires to register a complaint under this regulation may request that the Board of Health initiate enforcement.

§ 232-9. Noncriminal disposition.

Whoever violates any provision of this regulation, the violation of which is subject to a specific penalty, may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, or by the filing of a criminal complaint at the appropriate venue. Each day on which any violation exists shall be deemed to be a separate offense.

- A. Penalty.
 - (1) For first offense: \$50.
 - (2) For second offense: \$100.
 - (3) For third offense: \$150.
 - (4) For smoking on public beaches: \$25.
- B. Enforcing persons.
 - (1) Marshfield Board of Health and its designees.
 - (2) Marshfield Police Department.

§ 232-10. Severability.

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

Chapter 238
SOLID WASTE

GENERAL REFERENCES

Junk — See Ch. 134.

Solid waste and recycling — See Ch. 652.

ARTICLE I

Trash Disposal**[Adopted 9-18-1990 STM by Art. 8 (Art. 55 of the General Bylaws)]****§ 238-1. Responsibility of owners. [Amended 4-24-2017 ATM by Art. 10]**

The owner(s) of every parcel of land upon which there exists a structure which is occupied by human beings, or which is susceptible of such occupancy, or which for any other reason generates solid waste of any nature, shall make arrangements satisfactory to the Board of Public Works for the removal and lawful disposal of the waste generated from such parcel.

§ 238-2. Payment of trash disposal fee.

Owners who pay in full any trash disposal fee assessed by the Department of Public Works of the Town of Marshfield for the privilege of access to the municipal sanitary landfill, or for curbside waste pickup and disposal, shall be presumed to have made satisfactory arrangements for waste removal as required in § 238-1 of this bylaw.

§ 238-3. Alternative arrangements. [Amended 1999 ATM by Art. 18]

Owners who fail to pay in full, when due, the trash disposal fee described in § 238-2 of this bylaw with respect to any parcel of land subject to this bylaw shall be required to provide to the Board of Public Works, on or before the date when such fee is due, written evidence that alternative arrangements satisfactory to that Board have been made for the removal and lawful disposal of waste from such parcel.

§ 238-4. Violations and penalties.

Persons violating the provisions of this bylaw shall be subject to a fine of \$300 for each offense.

ARTICLE II

Restricted Material**[Adopted 4-28-1992 ATM by Art. 34 (Art. 68 of the General Bylaws)]****§ 238-5. Adoption of state restrictions. [Amended 4-24-2017 ATM by Art. 10]**

In accordance with 310 CMR 19.017, Waste Bans, the Town of Marshfield adopts the general and specific restrictions of said regulation as it pertains to the ban on disposal of the restricted material or the contracting for the disposal of the restricted material.

§ 238-6. Determinations by Department of Environmental Protection.

For the purpose of this bylaw the Department of Environmental Protection (Department) may restrict or prohibit the disposal of certain components of the solid waste stream when it determines that:

- A. Disposal of the material presents a potential adverse impact to public health, safety or the environment;
- B. A restriction or prohibition will result in the extension of the useful life or capacity of a facility or class of facilities; or
- C. A specific facility or class of facilities is not approved for the disposal of particular types of material and may not contract for the disposal of particular types of material.

§ 238-7. Restrictions on disposal of material.

For the purpose of this bylaw, effective on the dates specified in the table below, restrictions on the disposal of the materials listed therein shall apply as specified. No person shall dispose or contract for disposal of the restricted material except in accordance with the restriction established in the table. No landfill shall accept the restricted material except to handle, recycle or compost the material in accordance with a plan submitted pursuant to 310 CMR 19.017(3) and approved by the Department.

Table 310 CMR 19.017(3)

Restricted Material	Effective Date of Restriction	Restriction on Disposal
Lead batteries	December 31, 1990	Ban on disposal
Leaves	December 31, 1991	Ban on disposal
Tires	December 31, 1991	Ban on disposal of whole tires only at landfills; tires must be shredded prior to disposal in landfills

Table 310 CMR 19.017(3)

Restricted Material	Effective Date of Restriction	Restriction on Disposal
White goods	December 31, 1991	Ban on disposal
Other yard waste	December 31, 1992	Ban on disposal
Post-consumer recyclables		
Aluminum containers	December 31, 1992	Ban on disposal
Metal or glass containers	December 31, 1992	Ban on disposal
Single polymer plastics	December 31, 1994	Ban on disposal
Recyclable paper	December 31, 1994	Ban on disposal

ARTICLE III

Dumping into Waterways**[Adopted 1993 ATM by Art. 37 (Art. 70 of the General Bylaws)]****§ 238-8. Unlawful deposits.**

No person shall throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, yard trash, concrete, earthen fill, garbage containers, or litter or other debris in any ditch, stream, river, or retention basin that regularly or periodically carries surface water runoff. Any person(s) who deposits any of the above shall remove it or cause it to be removed immediately.

§ 238-9. Violations and penalties.

Persons violating this bylaw shall be subject to a fine of \$300. Each day any violation of this bylaw continues shall be regarded as a new and separate offense. The penalties by the bylaw shall be cumulative and not exclusive.

ARTICLE IV

Dumpsters

**[Adopted 4-23-2007 ATM by Art. 21 (Art. 84 of the General Bylaws);
amended 4-25-2016 ATM by Art. 20]**

§ 238-10. Purpose; applicability.

This bylaw is enacted for the following reasons: to regulate solid waste refuse and storage containers, reduce the amount of litter in areas surrounding dumpsters, properly secure solid waste storage areas from animals and children, to deter unauthorized use of dumpsters and minimize the visual blight of dumpsters. This bylaw shall apply to all dumpsters located within the Town of Marshfield.

§ 238-11. Dumpster requirements.

- A. As of January 1, 2008, all dumpsters and solid waste recycling facilities visible to the general public from public streets and parking lots open to the public, located within the Town of Marshfield, shall be screened from view within an enclosure with the approval of the Fire Department. Dumpsters shall be visually screened from view by one of the following methods: six-foot-high solid fence, six-foot-high solid wall or six-foot-high evergreen landscaped buffer that conceals the view of the dumpster. The enclosure shall be maintained in good condition. **[Amended 4-24-2017 ATM by Art. 10]**
- B. Dumpsters shall be of sufficient size and capacity to prevent overflow. The business or residence authorized to use the dumpster shall take appropriate action to empty dumpsters when they are filled to capacity.
- C. The property owner, tenant or business owner that contracts for the dumpster service shall be responsible for keeping the dumpster area free of litter, trash, debris and odor. The enclosure shall be kept closed at all times except when the dumpster is being used or emptied.
- D. The dumpster service contractor shall have its name and business telephone number displayed on the dumpster.
- E. Dumpsters shall comply with all other applicable state and local sanitary code requirements.

§ 238-12. Exemptions.

The following types of dumpsters are exempt from this bylaw:

- A. Temporary dumpsters in use for less than 30 days.
- B. Construction dumpsters for which there is an active building permit shall be removed within 30 days of project completion.

§ 238-13. Violations and penalties.

There shall be a fifty-dollar fine from the Board of Health for each violation of this bylaw. Each day of a violation will be considered a separate offense until the dumpster is in compliance with this bylaw.

Chapter 246**STORMWATER MANAGEMENT****§ 246-1. Purpose and objectives.**

Increased stormwater runoff and contaminated stormwater runoff are the two major causes of impairment of lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this bylaw are:

- A. To help prevent pollutants from entering the Town's municipal storm drain system;
- B. To prohibit illicit connections and unauthorized discharges to the Town's municipal storm drain system, a requirement of NPDES Phase II General Permit (MS4);
- C. To require the removal of all such illicit connections;
- D. To comply with state 314 CMR 3.0 and 314 CMR 5.0 and other state and federal statutes and regulations relating to the quantity and quality of stormwater discharges;
- E. To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement; and
- F. To establish the legal authority to allow connections to the Town's municipal storm drain system through regulation adopted by the Board of Public Works.

§ 246-2. Definitions.

For the purposes of this bylaw, the following words or terms shall mean:

AUTHORIZED ENFORCEMENT AGENCY — The Board of Public Works (hereafter the Board), its employees or agents designated to enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS — The discharge from any source of any pollutant or combination of pollutants into the municipal storm drain system

or into the waters or wetlands of the United States or commonwealth or waters of the Town from any source.

GROUNDWATER — Water beneath the surface of the ground.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance which allows an unauthorized illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, wash water or any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 246-8. The term does not include a discharge in compliance with a National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit or a surface water discharge permit, or discharge resulting from fire-fighting activities exempted pursuant to § 246-8Q of this bylaw.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Marshfield.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency (EPA) or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;

- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues;
- K. Medical and bio-wastes; and
- L. Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE — The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER DISCHARGE — A discharge of stormwater runoff by a system of conveyances (including pipes, conduits, ditches and channels) used for collecting and conveying stormwater and as further defined by 314 CMR 5.04(2).

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorize the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material which because of its quantity, concentration, or chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

WASTEWATER — Any sanitary waste, sludge, or overflow of contents from septic tank or cesspool, and water that during manufacturing, cleaning or

processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WATERS OF THE TOWN — All waters within the Town outside the jurisdiction of the commonwealth defined for the purpose of this bylaw.

§ 246-3. Applicability.

This bylaw shall apply to all flows entering the municipally owned storm drainage system.

§ 246-4. Authority.

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act,¹¹ and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

§ 246-5. Administration.

The Board of Public Works shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board. Copies of all orders of enforcement and correspondence shall be given to the Board of Public Works for maintenance of records.

§ 246-6. Rules and regulations.

The Board of Public Works may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 246-7. Prohibited activities.

- A. Illicit discharges. No person shall dump, discharge, or cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the commonwealth, or waters of the Town.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system,

11. Editor's Note: See MGL c. 43B.

regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board of Public Works.

§ 246-8. Exemptions.

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- A. Waterline flushing;
- B. Flow from potable water sources;
- C. Springs;
- D. Natural flow from riparian habitats and wetlands;
- E. Diverted stream flow;
- F. Rising groundwater;
- G. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b)(20), or uncontaminated pumped groundwater regulated and permitted in accordance with the Marshfield Department of Public Works Policy for Connection into the Town's Storm Drain System; **[Amended 4-24-2017 ATM by Art. 10]**
- H. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation regulated and permitted in accordance with the Marshfield Department of Public Works Policy for Connection into the Town's Storm Drain System;
- I. Discharge from landscape irrigation or lawn watering;
- J. Water from individual residential car washing;
- K. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- L. Discharge from street sweeping;
- M. Dye testing, provided verbal notification is given to the Board of Public Works prior to the time of the test;
- N. Non-stormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order

administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;

- O. Discharge for which advanced written approval is received from the Board of Public Works as necessary to protect public health, safety, welfare or the environment;
- P. Exemptions as defined under 314 CMR 3.05; and
- Q. Discharge of flow resulting from fire-fighting activities.

§ 246-9. Emergency suspension of storm drainage system access.

The Board of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 246-10. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, or waters of the Town, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Town's Fire and Police Departments, Conservation Agent and the Town's Health Agent and Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Conservation Agent, the Town's Health Agent and Department of Public Works no later than the next business day. The reporting person shall provide to the Conservation Agent and Department of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 246-11. Enforcement; violations and penalties.

- A. The Board of Public Works or an authorized agent of the Board of Public Works including the Conservation Agent and the Town's Health

Agent shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- B. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board of Public Works or Conservation Agent or the Town's Health Agent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Board of Public Works or an authorized agent of the Board of Public Works, Conservation Agent, or the Town's Health Agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
 - (1) Elimination of illicit connections or discharges to the municipal storm drain system;
 - (2) Performance of monitoring, analyses, and reporting;
 - (3) That unlawful discharges, practices, or operations shall cease and desist; and
 - (4) Remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Public Works within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.
- F. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a

fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- G. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town's enforcing officer may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and adopted by the Town and set forth in Chapter 161, Article I, of the Town of Marshfield General Bylaws. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, employees authorized by the Board of Public Works, Conservation Agent or Board of Health Agent may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Public Works or Conservation Agent or Town Health Agent deems reasonably necessary.
- I. Appeals. The decisions or orders of the Board of Public Works or its agents, the Conservation Agent, or the Town's Health Agent shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 246-12. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

§ 246-13. Transitional provisions.

- A. Existing connections. Property owners with existing connections shall notify the DPW and provide detail of the connection to the Town's municipal storm drainage system to obtain license or permit. Modifications may be required due to concern with water quality, water quantity or health and safety issues.
- B. Residential property owners shall have 365 days from the effective date of the bylaw to comply with its provisions unless good cause is shown for the failure to comply with the bylaw during that period. **[Amended 4-24-2017 ATM by Art. 10]**

- C. Commercial property owners shall have 180 days from the effective date of the bylaw to comply with its provisions unless good cause is shown for the failure to comply with the bylaw during that period.
[Amended 4-24-2017 ATM by Art. 10]

§ 246-14. Indemnification.

Permit or license holders allowed to connect to the system shall hold the Town harmless and the Town of Marshfield shall not be held liable for illicit discharges to the stormwater system and receiving areas and receiving waters caused by others.

Chapter 250

STREETS AND SIDEWALKS

GENERAL REFERENCES

Moving of buildings — See Ch. 40.

Peddling and soliciting — See Ch. 184.

Numbering of buildings — See Ch. 43.

Vehicles and traffic — See Ch. 275.

Coasting — See Ch. 180, Art. III.

ARTICLE I

**New Driveway Connections
[Adopted as Art. 36 of the General Bylaws]****§ 250-1. Authorization required.**

No new driveway may be connected to an existing public way or any alteration made to an existing shoulder or sidewalk on Town-owned land without an authorization from the Board of Public Works.

§ 250-2. Application.

An application form must be submitted and if added information is deemed necessary by the Board of Public Works, the applicant may be required to submit a plan showing the necessary existing and proposed detail.

§ 250-3. Review and decision; performance bond.

The application and plan will be reviewed by the Board of Public Works and the Police Safety Officer. The decision may result in approval, approval with stipulations, or a request for a new plan with suggested revisions. Action by the Department of Public Works must be taken within 15 working days of the receipt of the application. The permit shall be valid for 12 months from date of issue. A performance bond may be required in the amount necessary to cover damage which might be incurred within the layout of the way.

ARTICLE II

Temporary Repair of Private Ways

[Adopted as Art. 52 of the General Bylaws; amended 1981 ATM by Art. 8]

§ 250-4. Repairs by Department of Public Works.

The Department of Public Works may, subject to appropriation at the Annual Town Meeting, make temporary repairs on private ways subject to the following:

- A. The extent of repairs shall be to fill holes or mend other damage with materials similar to those used in the original construction. The intent of repair is to maintain the private way of present quality permitting safe passage when due caution is exercised.
- B. Drainage structures may be repaired or constructed to correct a poor drainage or serious flowing problem which results in excessive maintenance work.
- C. Repairs required by public necessity shall be performed without the requirement for petition by abutters.
- D. The liability of the Town for damage caused while making the repairs shall be limited to and inclusive of that recoverable against the Town as provided for under Ch. 512, Acts of 1978.¹²
- E. Temporary repair of private ways will be limited to those ways which have been continuously open to public use for six years and which remain open for their future existence. Private ways posted as restricted in use to owners and/or their guests will not be maintained.

12. Editor's Note: See MGL c. 258.

ARTICLE III

**Digging in or Obstructing Public Ways
[Adopted 1968 ATM by Art. 81 (Art. 35 of the General Bylaws)]****§ 250-5. Permit required.**

No person, except the Board of Public Works and persons acting under the Board's orders in the lawful performance of their duties, shall break up or dig up the ground or any stones in any sidewalk or other part of any public way, nor place thereon any staging or other temporary structure without a written permit from the Board of Public Works. Any permit issued therefor shall be in force for such time only as the Board may specify and shall be subject to such conditions as it may prescribe, and in every case shall be upon the condition that during the whole of every night, from twilight in the evening to sunrise in the morning, lighted lanterns and proper barriers shall be so placed as to secure travelers from danger, and upon further condition that the permittee shall indemnify the Town against the claims of all persons who may be injured in their persons and property by reason of the exercise of the privileges conferred by the permit.

§ 250-6. Restoration of public way; revocation of permit; bond.

A person having a permit under § 250-5 of this article shall restore the public way to its original condition or to a condition satisfactory to the Board of Public Works. The Board shall have the right to revoke such permit at any time and may require a bond, either before the work is commenced or during its progress, to assure the proper performance of the work, the restoration required herein, and/or the indemnification provided for in § 250-5 of this article.

ARTICLE IV

Acceptance of Streets

[Adopted 1970 ATM by Arts. 49, 51 and 52 (Art. 45 of the General Bylaws)]

§ 250-7. Planning Board certification required.

No private way shall be accepted by the Town unless and until the Planning Board shall have certified in writing to the Selectmen that such way is well built and so constructed that it is at least equal to the average construction of existing highways of the Town, with the proper grades in relation to abutting land and connected streets, and that it conforms with the Planning Board's rules and regulations; provided, however, that this section shall not apply to the ways laid out subject to any provisions of law relating to the assessments of betterments.

§ 250-8. Claims for damages.

No private way shall be accepted for the purpose of construction or alterations nor any way laid out or altered by the Selectmen until all claims for damages have been estimated.

§ 250-9. Petitions.

Each petition for the layout of a street or way for acceptance at any Town Meeting shall be presented to the Selectmen at least four months before such meeting.

ARTICLE V

No Salt Zone**[Adopted 1971 ATM by Art. 79 (Art. 41 of the General Bylaws)]****§ 250-10. Zones established.**

No sodium chloride, calcium chloride or other chemicals, except sand, shall be used on the following Town-owned and/or Town-maintained streets for winter road protection:

- A. Old Ocean Street.
- B. Mount Skirgo Street.
- C. Old Mount Skirgo Street.
- D. Parsonage Street (from Webster Street to Ocean Street).
- E. School Street (from Forest Street to Old Main Street Extension).
- F. Old Main Street Extension.
- G. Forest Street (from Furnace Street to School Street).
- H. Furnace Street (from Forest Street to Ferry Street). The Town voted to amend its present bylaws to allow the limited use of a sand-salt mixture (approximately eight parts sand to one part salt) in the present "No Salt Zone" on Furnace Street extending from the intersection of Furnace and Forest Streets to the intersection of Furnace and Ferry Streets.
[Amended 1973 ATM by Art. 38]
- I. Proctor Street.

ARTICLE VI

Deposit of Water**[Adopted 1982 ATM by Art. 27 (Art. 39 of the General Bylaws)]****§ 250-11. Prohibited acts.**

No person shall pipe, or otherwise deposit, in or upon any public street, public place, or private way open to the public, any water or substance which may freeze or otherwise create a hazardous condition.

§ 250-12. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

If, after notice from the Department of Public Works to correct the hazardous condition, such person shall fail to do so, a fine of \$50 per day for every day the violation continues shall be imposed. This may be recovered on complaint in the District Court, which sum shall enure to the use of the Town.

ARTICLE VII

Scenic Roads

**[Adopted 1996 ATM by Art. 33; amended 2005 ATM by Art. 22;
4-27-2015 ATM by Art. 18 (Art. 73 of the General Bylaws)]**

§ 250-13. Purpose.

The purpose of this bylaw is to ensure that streets and roads which have been designated as scenic roads are not altered, repaired, reconstructed, or paved in such a manner as to involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, except with the prior written consent of the Planning Board, and to establish proper procedures, standards and conditions for obtaining approval from the Planning Board and, when appropriate, the Tree Warden.

§ 250-14. Authority.

This bylaw is enacted pursuant to authority vested in the Town by MGL c. 40, §§ 21 and 15C, and c. 87, § 2.

§ 250-15. Designated streets and roads.

The following streets and roads have been designated by the Town as scenic roads pursuant to MGL c. 40, § 15C (listed by name and date of designation):

Acorn Street (1976)
Bow Street (1977)
Canal Street (1976)
Canoe Tree Street (1977)
Church Street (1974)
Cornhill Lane (1977)
Cross Street (1997)
Dog Lane (1977)
Elm Street (1997)
Ferry Street (1974)
Forest Street (1976)
Highland Street (1974)
Marginal Street (1977)
Maryland Street (1997)
New Street (1977)
Old Main Street (1976)
Old Main Street Extension (1976)
Old Mount Skirgo (1977)

Old Ocean Street (1996)
Old Plain Street (1976)
Parsonage Street (1974)
Pine Street (1974)
Pleasant Street (1976)
Prospect Street (1977)
Pudding Hill Lane (1976)
School Street (1974)
South River Street (1974)
Spring Street (1974)
Summer Street (1974)
Union Street (1974)
Webster Street (1976)
Willow Street (1977)
Winslow Cemetery Road (1974)
Winslow Street (1976)

§ 250-16. Procedure to designate scenic road.

The Planning Board, the Board of Selectmen, the Conservation Commission, or the Historical Commission, or by petition of citizens of the Town (consistent with petition requirements to place an article on the warrant), may propose that a street or way in the Town be designated as a scenic road within the meaning of MGL c. 40, § 15C, other than a street or way with a numbered route or that which is considered to be a state highway.

- A. In order to be eligible for such a designation, streets or ways must also meet the following minimum criteria:
- (1) The street or way must be bordered by trees of exceptional quality; and/or
 - (2) The street or way must be bordered by stone walls; and/or
 - (3) The street or way must be bordered by other natural or man-made features of aesthetic or historic value.
- B. The Planning Board shall hold a public hearing on the petition, after notifying the Selectmen, the Tree Warden, the DPW Superintendent, the Conservation Commission and the Historical Commission of the time, date, place and purpose of the hearing, and advertising the time, date, place and purpose of the hearing twice in a newspaper of general circulation in the area, the first advertisement at least 14 days prior to the date of the public hearing and the last publication to occur at least seven days prior to such hearing.

- C. Based on the information presented at the public hearing, the Planning Board shall make a recommendation to the Town Meeting on the merits of designation of the proposed road as a scenic way. A majority vote of Town Meeting is required for designation. Such designation shall be effective as of the date of Town Meeting action.

§ 250-17. Definitions.

In the absence of contrary meaning established through legislation or judicial action pursuant to MGL c. 40, § 15C, these terms contained in that statute shall be construed as follows:

CUTTING OR REMOVAL OF TREES — Shall not be construed to include routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots or whole trees as determined by the Tree Warden, or sound limbs, trunks or roots of a tree with a diameter six inches or larger measured one foot above ground level, that hinder a public way as determined by the Tree Warden.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK — Any work done within the right-of-way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is also included to the extent that such work takes place within the right-of-way.

ROAD RIGHT-OF-WAY — The entire right-of-way including, but not limited to, a vehicular traveled way, plus its necessary appurtenances within the right-of-way, including bridge structures, drainage systems, retaining walls, traffic control devices, pedestrian facilities and the air space above them, but not intersecting streets or driveways. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stone walls are within the right-of-way, the boundary shall be determined in accordance with MGL c. 86.

STONE WALLS — Shall not be construed to include assemblages of stone involving less than one cubic foot of wall material per linear foot (above the existing grade) nor totaling less than five feet in length.

TEARING DOWN OR DESTRUCTION OF STONE WALLS — Shall not be construed to include temporary removal and replacement within 30 days at the same location with the same materials.

TREES — Any woody plants with a trunk two inches or greater diameter providing visual or noise screen or aesthetic value or having a trunk diameter with a diameter of six inches or larger, one foot above the ground.

§ 250-18. Design standards.

A scenic road application shall conform to the following design standards:

- A. Where stone walls exist, the maximum amount of stone wall to be removed shall be limited to a maximum of 24 feet width.
- (1) Removed stone shall be used to repair other sections of the wall along the road.

- (2) No wall shall be cut without construction of tapered ends turning back onto the lot along the drive (see attached drawing).¹³
- B. No tree with a trunk exceeding eight inches in diameter four feet above the ground level shall be cut for a driveway unless the curb cut cannot be safely located otherwise; clusters of trees located within six feet of each other with individual trunks of six inches in diameter, one foot above ground level, shall not be cut for a driveway unless the curb cut cannot be safely located otherwise.
- C. For each tree exceeding six inches in diameter, one foot above ground level, removed, a tree in a species and location suitable to the Planning Board and Tree Warden shall be planted or the amount for the planting of a tree shall be donated to the Tree Fund to be used at the discretion of the Tree Warden.

§ 250-19. Procedure to obtain approval for work on scenic roads.

Any person or organization seeking consent of the Planning Board under MGL c. 40, § 15C (the Scenic Road Act), regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, in connection with the repair, maintenance, reconstruction or paving work on scenic roads, shall submit a written request to the Planning Board by filing such request with the Town Clerk, with a copy to the Tree Warden, together with the following:

- A. A completed application form.
- B. A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls. Two copies of the plan showing the proposed changes are required.
- C. A statement of the purpose(s) for the changes.
- D. Notice of the public hearing, which shall include the size, type and location of the trees(s) and/or stone wall to be cut or removed shall be given by publication in a newspaper of general circulation in the Town of Marshfield once in each of two successive weeks, the last publication of said notice to occur at least seven days before the day of the hearing.
- E. Any tree(s) proposed to be removed shall be flagged (with red tape) a minimum of 14 days before the day of the hearing.
- F. Portions of any stone wall to be removed shall be staked and flagged (with red tape) a minimum of 14 days before the day of the hearing.
- G. Except in the case of Town agencies, a filing fee of \$200 shall be paid.
- H. Photograph(s) of the existing site showing the area to be affected by work on the scenic road in question. All photographs must be signed and dated by the applicant.

13. Editor's Note: The drawing is on file at the office of the Town Clerk.

- I. Any further explanatory material useful to adequately inform the Tree Warden and/or Planning Board prior to the public hearing.

§ 250-20. Public hearing. [Amended 4-24-2017 ATM by Art. 10]

The Planning Board and Tree Warden shall hold a joint public hearing within 45 days from the date on which notice of submittal is received by the Town Clerk. The decision of the Planning Board shall be filed within 14 days of the close of the public hearing with the Town Clerk. Copies of the decision shall also be sent to the applicant, the Tree Warden, the Building Commissioner, the Conservation Commission, the Historical Commission and those persons who have requested a copy of the decision.

§ 250-21. Considerations.

In acting in regard to a scenic road, the Planning Board and Tree Warden shall consider the following:

- A. Preservation of scenic and aesthetic characteristics;
- B. Preservation of natural resources and environmental and historical values;
- C. Public safety, traffic volume and congestion;
- D. Compensatory actions proposed, such as replacement of trees or walls;
- E. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls;
- F. Other site-specific factors.

§ 250-22. Violations and penalties.

Any person violating the provisions of the second paragraph of the Massachusetts Scenic Roads Act (MGL c. 40, § 15C) shall be punished by a fine of \$300 per day. For the purpose of this section, fines may be assessed by the Zoning Enforcement Officer and/or a police officer of the Town of Marshfield. Each day during which such a person continues to be in violation of the provisions of said Act shall be considered to be a separate violation for the purpose of the assessment of fines under this bylaw. Violations of the bylaw may be handled by noncriminal disposition in accordance with MGL c, 40, § 21D.

ARTICLE VIII

Street Opening Permits**[Adopted 1997 ATM by Art. 43 (Art. 75 of the General Bylaws)]****§ 250-23. Permit required; indemnification; conditions.**

No person, except a duly authorized officer of the Town, shall, without a permit from the Board of Public Works, dig up any portion of a public way. Every permit granted shall specify the length of time it shall continue in force. Every person receiving such permit shall execute a written agreement to indemnify and save harmless the Town against all damages, attorneys' fees or costs by reason of any claim for damages arising out of the existence of such excavation. The Board of Public Works may impose such conditions, terms and limitations as it shall see fit in respect to erecting barricades, maintaining lights, and taking other precautions for the safety of travelers.

§ 250-24. Notice of street improvements. [Amended 4-24-2017 ATM by Art. 10]

Whenever the Town has developed plans to apply an asphalt overlay (1 1/2 inches or greater in thickness) or to perform any other kind of substantial repair or reconstruction of a publicly maintained street, the Board of Public Works, or its representative, will give written notice to the Town departments and to all public utilities which it knows to have pipes, wires or other facilities in or under the street proposed for repair. Notice shall also be given by publishing the same once in a newspaper of general circulation in the Town. Such notices shall be given at least 60 days prior to the date upon which construction is to begin.

§ 250-25. Installation of facilities prior to improvement.

Any person or utility wishing to install pipes, wires or other facilities under the street proposed for repairs shall have 60 days from the date such notice is published in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or utility shall make a written application to the Board of Public Works explaining fully the reasons for requesting such an extension of time. In making its decision, the Board shall weigh the public interest in expeditious completion of the proposed street improvements against any hardship which may be suffered by the applicant if an extension is not granted. The decision of the Board shall be final as to any requested extension.

§ 250-26. No permit granted after construction; exceptions. [Amended 4-24-2017 ATM by Art. 10]

At the expiration of the time period and after such street has been reconstructed, no permit shall be granted to open such street for a period of three years after conclusion of construction, unless in the judgment of

the Board of Public Works an emergency condition exists or the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. If a permit is granted during such three-year period, the Town may impose extraordinary conditions on the permittee as necessary to preserve the structural condition of the pavement to the same extent as if the street had not been opened, and to blend the patch necessitated by the street opening with the existing pavement.

§ 250-27. Violations and penalties.

Any person or entity found having opened the public right-of-way without the proper authority or permit shall be assessed the appropriate fee plus a fine of \$300.

Chapter 253**STRETCH ENERGY CODE****§ 253-1. Adoption of provisions.**

The Town of Marshfield has accepted and adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the "Stretch Energy Code"), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.¹⁴

§ 253-2. Purpose.

The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

Chapter 275**VEHICLES AND TRAFFIC****GENERAL REFERENCES**

Vehicles for hire — See Ch. 278.

14. Editor's Note: The Stretch Energy Code is now 780 CMR 115.AA.

ARTICLE I

Removal of Vehicles for Snow Removal**[Adopted 1964 ATM by Art. 48 (Art. 34 of the General Bylaws)]****§ 275-1. Authority of Department of Public Works. [Amended 4-24-2017 ATM by Art. 10]**

The Department of Public Works may, for the removal or plowing of snow or removal of ice from any public way, remove or cause to be removed to some convenient place, including any public garage, any vehicle which interferes with the removal or the plowing of such snow or such ice.

§ 275-2. Vehicle owner liable for costs.

In the event that such vehicle is so removed, the owner of said vehicle shall be liable for the cost of such removal and of the storage charges, if any, resulting therefrom, charges to be set and published by the Selectmen.

§ 275-3. Violations and penalties.

Failure to pay the aforesaid costs within 60 days after billing shall subject the owner of any vehicle so involved to a fine of \$50 for each offense enforceable in the Third District Court of Plymouth, any such fines to enure to the Town.

ARTICLE II

Motor Vehicles on Bridle Path

[Adopted 1974 ATM by Art. 87; amended 2006 ATM by Art. 17 (Art. 40 of the General Bylaws)]

§ 275-4. Use prohibited; exceptions.

No person shall operate any motor-powered vehicle on the Bridle Path (as designated by Article 6 of the 1951 Special Town Meeting) except for emergency use or use by Town vehicles.

§ 275-5. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

The penalty for violations of the foregoing shall be \$300 for each offense and may be recovered on complaint in the District Court, which sum shall enure to the use of the Town.

ARTICLE III

Handicapped Parking**[Adopted 1997 ATM by Art. 31 (Art. 74 of the General Bylaws)]****§ 275-6. Number of spaces to be provided.**

Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates or placards authorized by MGL c. 90, § 2, shall be provided in public and private off-street parking areas as follows:

- A. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or for any other place where the public has a right of access as invitees or licensees shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or placard authorized by MGL c. 90, § 2, according to following formula:

- (1) If the number of parking spaces in any such area is more than 15 but not more than 25, one parking space; more than 25 but not more than 40, 5% of such spaces but not less than two; more than 40 but not more than 100, 4% of such spaces but not less than three; more than 100 but not more than 200, 3% of such spaces but not less than four; more than 200 but not more than 500, 2% of such spaces but not less than six; more than 500 but not more than 1,000, 1 1/2% of such spaces but not less than 10; more than 1,000 but not more than 2,000, 1% of such spaces but not less than 15; more than 2,000 but less than 5,000, 3/4 of 1% of such spaces but not less than 20; and more than 5,000, 1/2 of 1% of such spaces but not less than 30.

§ 275-7. Identification of designated spaces.

Parking spaces designated as reserved under the provisions of § 275-6A shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate or Placard Required. Unauthorized Vehicles May be Removed at Owner's Expense" and shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be 12 feet wide or two eight-foot-wide areas with four feet of cross hatch between them. Such spaces shall be identified by a sign at each space. This sign shall be located at a height of not less than five feet nor more than eight feet to the top of the sign.

§ 275-8. Prohibited parking.

The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons pursuant to this bylaw or in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way is prohibited.

§ 275-9. Violations and penalties. [Amended 4-24-2017 ATM by Art. 10]

The penalty for violations of the provisions of this bylaw shall be \$100. The illegally parked vehicle may be removed according to the provisions of MGL c. 40, § 22D.

Chapter 278**VEHICLES FOR HIRE****§ 278-1. License required.**

No person shall set up, use or drive within the limits of the Town any vehicle, however propelled, for hire for the conveyance of passengers without a license from the Selectmen.

§ 278-2. Grant and revocation of licenses; records.

The Selectmen will from time to time grant licenses to such persons, and upon such terms as they shall deem expedient, and they may revoke such license at their discretion, and a record of all licenses so granted shall be kept by the Town Clerk.

§ 278-3. Expiration of license; fee; transfer of license.

All licenses granted as aforesaid, for which a uniform fee shall be established by the Selectmen, shall expire on December 31, after the date thereof, and no license shall be sold or transferred without the consent of the Selectmen endorsed thereon.

Chapter 285**WATER****GENERAL REFERENCES**

Water Resource Protection District — See Ch. 417.

ARTICLE I

Water Pipes**[Adopted 1959 ATM by Art. 38 (Art. 26 of the General Bylaws)]****§ 285-1. Special assessments.**

The Department of Public Works may levy special assessments to meet the whole or part of the cost hereafter incurred of laying water pipes in public or private ways for the conveyance or distribution of water to the inhabitants of the Town. An owner of land which receives benefit from the laying of water pipes in public or private ways upon which his land abuts, or which by more remote means receives benefit through the supply of water to his land or buildings, shall pay a proportionate part of the cost not already assessed of extending such water supply to his land.

- A. The Department of Public Works shall ascertain, assess and certify the amount to be charged against each parcel of land receiving such benefit and such amount shall include the cost of the pipes and other material and labor in laying such pipes, and any other expenses incidental thereto.
- B. Such assessment for the cost of providing and laying water pipes in public and private ways shall be made upon the several parcels of land receiving benefit from the laying of said pipes by a fixed uniform rate based upon the estimated average cost of all the water pipes and appurtenances and the laying thereof, according to the frontage of such land on any way in which a water pipe is laid, or according to the area of such land within a fixed depth of 100 feet from such way.
- C. A lien for such assessments shall run with the land so assessed.

ARTICLE II

Water Conservation**[Adopted 1989 ATM by Art. 26 (Art. 66 of the General Bylaws)]****§ 285-2. Findings, purpose and intent.**

- A. The Marshfield Municipal Water System is overburdened due to unanticipated excessive and expanded water usage, degradation of the system material condition, and loss of water sources due to chemical contamination. This bylaw will reduce the effect on public health and safety resulting from the material deficiencies and minimize future strain on the system.
- B. It is the intent of this bylaw to conserve the valuable water supply of the Town, to minimize wastewater disposal, and to protect the health, safety, and general welfare of the public.

§ 285-3. Definitions.

For the purposes of this bylaw, the following terms shall have the meanings indicated:

WATER SAVINGS COST ESTIMATE — The estimated cost of procuring, financing, installing, maintaining, and replacing of a water use system including the cost savings in consumption of water by use of mitigating measures and alternative solutions covered by water savings initiatives.

WATER SAVINGS INITIATIVES — Actions that will be taken by the applicant for a water connection permit to demonstrate water savings to the Municipal Water System equivalent to the increased demand caused by the new service(s) by use of mitigating measures and alternative solutions, including but not necessarily limited to use of ultra low flow devices, recycling and reuse systems, use of nonpotable water, and/or backfit of current water use fixtures in the Town with low flow devices.

§ 285-4. Conditions for new water connections.

- A. The Superintendent of Public Works shall not issue a permit to connect to the Marshfield Municipal Water System unless the following are submitted with the application for such permit:
 - (1) A water savings cost estimate to demonstrate the methodology and cost necessary to reduce water consumed in the Municipal Water System equivalent to the increased demand for water caused by the new service connection(s).
 - (2) A written commitment to a water savings initiative that would reduce water usage in the Municipal Water System equivalent to the increased demand caused by the requested new water service(s), using methods set forth in § 285-3 of this bylaw. Water savings initiatives offered shall not be duplicative of initiatives on

file unless the Superintendent of Public Works agrees that such duplication is appropriate under the circumstances.

- B. The Superintendent of Public Works shall condition new water connections upon conformity to this bylaw regarding the implementation of measures to effectively conserve, recycle, and/or reuse water.
- C. The Board of Health shall review and approve the water conservation, recycling, or reuse initiatives and commitments to ensure that applicable public health rules and regulations are not violated.
- D. The Board of Public Works will consult with the Board of Health, the Building Commissioner, the Planning Board, and/or Conservation Commission respecting the implementation of this bylaw and shall promulgate further rules and regulations as deemed necessary or prudent to reduce the demands on the Marshfield Municipal Water System. **[Amended 4-24-2017 ATM by Art. 10]**
- E. Water service shall not actually be provided until the Department of Public Works verifies that the water savings initiatives committed to by the applicant have been fully and effectively implemented.

§ 285-5. Applicability; when effective.

- A. This bylaw shall apply in all use districts of the Town of Marshfield Municipal Water System to applications for water connections intended to serve any new commercial, industrial, or multifamily residential use, or any new single-family residential use located in a subdivision shown on a plan approved by the Planning Board which subdivision contains two or more lots not yet built upon. This bylaw shall also apply to any change in a use served by an existing water connection where such use will substantially increase the demand for water at such connection.
- B. All practical measures to conserve, recycle, and reuse water as indicated in the applicant's water savings initiative must be conformable with applicable federal, state, and local laws, rules and regulations.
- C. This bylaw shall become effective upon approval by the Attorney General of the Commonwealth of Massachusetts.

§ 285-6. Costs.

The applicant shall assume all costs that may be incurred to comply with this bylaw.

§ 285-7. Appeals.

- A. Persons aggrieved by a decision of the Superintendent of Public Works as to the denial of water service connections based on this bylaw may appeal to the Board of Public Works.

- B. A public hearing shall be held by the Board of Public Works prior to sustaining or overruling the refusal of the Superintendent of Public Works to allow a water service connection.

§ 285-8. Variances.

The Board of Public Works may, at its discretion, grant variances from provisions of this bylaw, upon appeal, or impose reasonable conditions in lieu of full compliance therewith, if the majority determines that any of the following conditions exist:

- A. The requirements herein would cause an unnecessary and undue hardship upon the owner or purchaser of the facility or the public. Guidelines generally illustrating such potential exemptions to this bylaw shall be proposed by the Superintendent of Public Works and adopted by the Board of Public Works; or
- B. The requirements of this bylaw would create an emergency condition affecting the health, sanitation, fire protection, or safety of the facility owner or the public; or
- C. The granting of the exemption or imposition of reasonable conditions in lieu of compliance with the requirements herein would not increase the quantity of water consumed by the facility or otherwise adversely affect service to other existing water consumers of the Town.

§ 285-9. Declaration of public nuisance; abatement; violations and penalties.

- A. Any building or structure constructed, altered or maintained contrary to the provisions of this bylaw and/or any use of any land, building, or premises established or maintained contrary to this bylaw shall be declared in violation of this bylaw and a public nuisance.
- B. The Board of Public Works may summarily abate the public nuisance and bring action to enjoin or abate the nuisance. The Board may also:
 - (1) Impose a water service surcharge of up to \$50 for each day that any unlawful connection continues.
 - (2) Terminate the water service for a period of time up to and including permanent disconnection.
- C. The amount of the surcharge imposed by the Board of Public Works shall be based on the nature, circumstances, extent, or gravity of the violation, and with respect to the violator, on the ability to pay, prior history of violations, degree of culpability, or such other factors as may be appropriate under the circumstances. **[Amended 4-24-2017 ATM by Art. 10]**
- D. Persons violating this bylaw shall be subject to a fine of \$300. Each day any violation of this bylaw continues shall be regarded as a new

and separate offense. The penalties provided by this bylaw shall be cumulative and not exclusive.

- E. Should any person, firm, or corporation violate the terms of this bylaw and any action is authorized or commenced by the Board of Public Works, then no further action shall be taken on any application for a water hookup permit filed by or on behalf of the violators until the action regarding the violation has been concluded or resolved.
[Amended 4-24-2017 ATM by Art. 10]

§ 285-10. Conflicting provisions.

A conflict of one part or provision of this bylaw with any law, rule, or regulation of competent authority shall not affect the validity or applicability of any other part or provision of this bylaw.

ARTICLE III

Water Restrictions**[Adopted 10-24-2005 STM by Art. 5 (Art. 82 of the General Bylaws)]****§ 285-11. Intent and applicability.**

- A. The adoption of this water restriction bylaw enables the Marshfield Board of Public Works to control and mitigate periods of high demand, with an associated stressed water supply, typically occurring during the summer months as outlined below in accordance with the Massachusetts Department of Environmental Protection (DEP). **[Amended 4-24-2017 ATM by Art. 10]**
- B. The restrictions are applicable to persons connected to the Town's public water system and include odd/even day outdoor watering, limited outdoor watering hours, outdoor watering bans, and prohibitions on filling swimming pools and the use of automatic irrigation sprinkler systems. Persons violating the bylaw's restrictions are subject to civil fines.

§ 285-12. Authority.

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq. The Town's authority to implement and regulate water use is authorized pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, and is conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

§ 285-13. Purpose. [Amended 4-24-2017 ATM by Art. 10]

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water emergency. This bylaw provides for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§ 285-14. Definitions.

For the purposes of this bylaw, the following terms shall have the meanings indicated:

PERSON — Any individual, corporation, trust, partnership or association, or other entity.

STATE OF WATER EMERGENCY — An emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 to 17.

STATE OF WATER SUPPLY CONSERVATION — Restrictions of water use as declared pursuant to § 285-15 of this bylaw.

WATER USERS or WATER CONSUMERS — All users of the Town's public water supply system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

**§ 285-15. Declaration of state of water supply conservation.
[Amended 4-24-2017 ATM by Art. 10]**

The Town, through the Board of Public Works, may after a public hearing declare a state of water supply conservation upon a determination by a majority vote of the Board of Public Works that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water supply conservation shall be given under § 285-17 of this bylaw before it may be enforced.

§ 285-16. Restricted water uses. [Amended 4-24-2017 ATM by Art. 10]

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice under § 285-17.

- A. Odd/even day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- B. Outdoor watering ban. Outdoor watering is prohibited.
- C. Outdoor watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- D. Filling of swimming pool. Filling of swimming pools is prohibited, unless otherwise specified by the Board of Public Works.
- E. Automatic irrigation sprinkler system use. The use of automatic irrigation sprinkler system is prohibited.

§ 285-17. Notice of state of water supply conservation.

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a state of water supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction imposed under § 285-16 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the Department of Environmental Protection.

§ 285-18. Termination of state of water supply conservation.

A state of water supply conservation may be terminated by a majority vote of the Board of Public Works, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a state of water supply conservation shall be given in the same manner as required in § 285-17 and shall also be simultaneously provided to the Department of Environmental Protection.

§ 285-19. State of water emergency. [Amended 4-24-2017 ATM by Art. 10]

Upon notification to the public that a declaration of a state of water emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the DEP intended to bring about an end to the state of water emergency.

§ 285-20. Violations and penalties.

Any person violating this bylaw shall receive a written warning for the first offense. Any person shall then be liable to the Town in the amount of \$50 for the second violation and \$100 for each subsequent violation thereafter which shall enure to the Town. Notwithstanding the provisions of any special law to the contrary, fines shall be recovered by indictment or on complaint before a district court, or by noncriminal disposition in accordance with MGL c. 40, § 21D. Each day of violation shall constitute a separate offense. Repeated violations of this bylaw will also be grounds for termination of water service by the Board of Public Works for a period of time up to and including permanent disconnection.

§ 285-21. Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

§ 285-22. Enforcement.

The Board of Public Works is authorized to utilize the Town Counsel to file suit seeking injunction enforcement of this bylaw.

Chapter 290**WEIGHTS AND MEASURES****§ 290-1. Fees. [Amended 4-24-2017 ATM by Art. 10]**

The Sealer of Weights and Measures, and any deputy appointed pursuant to the provisions of MGL c. 98, § 34, shall receive the following fees for sealing the following weighing or measuring devices:

Scales and Balances

Over 10,000 pounds	\$50
5,000 to 10,000 pounds	\$35
1,000 to 5,000 pounds	\$25
100 to 1,000 pounds	\$12
10 to 1,000 pounds	\$8
Under 10 pounds	\$6

Weights

Avoirdupois	\$0.60
Apothecary	\$0.60
Metric	\$0.60
Troy	\$0.60

Capacity Measures

Vehicle Tanks

Each indicator	\$5
Each 100 gallons or fraction thereof	\$3

Liquid

1 gallon or less	\$1
More than 1 gallon	\$2

Liquid measuring meters

Inlet 1/2 inch or less, oil, grease	\$5
Inlet more than 1/2 to 1 inch, gas or diesel fuel	\$10
Inlet more than 1 inch	

Vehicle tank pump	\$20
Vehicle tank gravity	\$25
Bulk storage	\$50
Company supplies prover	\$25
Pumps	

Each stop on pump	\$2
Other devices	
Taxi meters	\$10
Odometer - hubodometer	\$10
Leather measuring (semiannual)	\$6
Fabric measuring	\$6
Wire-rope-cordage	\$6
Container redemption machines	\$10
Linear measures	
Yard sticks	\$1
Metal rules	\$1
Tapes	\$3
Milk jars (per gross)	\$10

Chapter 294

WETLANDS PROTECTION

GENERAL REFERENCES

Wetlands Protection Regulations – See Ch. 505.

§ 294-1. Purpose.

- A. The purpose of this bylaw is to further protect and preserve the shores, ponds, rivers and wetlands and adjoining land areas in the Town of Marshfield by controlling activities deemed to have a significant impact upon wetland values. The interests protected by this bylaw include but are not limited to the following: public water supply, private water supply, groundwater, flood control, erosion control, sedimentation control, recreation, public safety, aquaculture, agriculture, fish, shellfish, wildlife (and related habitats of wildlife, fish and shellfish), and prevention of storm damage and water pollution.
- B. This bylaw seeks to protect wetlands values by furthering the legislative purpose embodied in the Wetlands Protection Act through more stringent controls than those promulgated by the Department of Environmental Protection under MGL c. 131, § 40. **[Amended 4-24-2017 ATM by Art. 10]**

§ 294-2. Jurisdiction.

No person shall remove, fill, dredge or alter any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, meadow, bog, swamp, or lands adjoining the ocean or any estuary, creek, river, stream, pond or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding, without filing written notice of his intention so to remove, fill, dredge or alter and without receiving and complying with an order of conditions.

§ 294-3. Procedure.

- A. A notice of intent (hereinafter referred to as notice) shall be sent by certified mail or delivered in hand to the Marshfield Conservation Commission (hereinafter referred to as the Commission), including such plans as may be necessary to describe such proposed activity, the ultimate use of the land and its effect on the environment. The Commission may require data, information and plans under this bylaw in addition to the information required of a notice of intent filed pursuant to the Wetlands Protection Act, MGL c. 131, § 40.
- B. At the time of filing the notice, the applicant shall pay a filing fee specified in regulations of the Commission. In addition, the applicant shall agree in writing to pay the costs and expense of any expert consultant deemed necessary by the Commission to review the applications.
- C. The Commission shall conduct a public hearing on any notice, with written notification of the hearing given at the expense of the applicant five working days prior to the hearing, in a newspaper of general circulation in the Town of Marshfield. A copy of the written notification of the hearing shall be mailed by certified mail at the expense of the applicant seven days prior to the hearing to all abutters according to the then current Assessors' records. A list of abutters shall be submitted with the aforementioned notice.
- D. The Commission shall commence the public hearing on any notice within 21 days from receipt of a complete notice and verification of the list of abutters by the Board of Assessors.
- E. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40. **[Amended 4-24-2017 ATM by Art. 10]**
- F. For reasons announced by the Commission at the hearing, the Commission shall have authority to continue or postpone the hearing to a date certain announced at the hearing, either for receipt of additional information offered by the applicant or others, or for information required of the applicant, deemed necessary by the Commission in its discretion.

- G. The Commission shall issue its decision in writing within 21 days of the close of the public hearing thereon.
- H. The Commission is empowered to deny permission for any removal, dredging, filling, or altering of subject lands within the Town if, in its judgment, such denial is necessary to preserve the health, welfare, and safety of individuals or the community or protect subject lands in accordance with the purposes of this bylaw. Due consideration shall be given to possible effects of the proposal on all values to be protected under this bylaw and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.
- I. The Commission, its agent, officers and employees, may enter upon the land upon which the proposed work is to be done or for the purpose of carrying out its duties under this bylaw and may make or cause to be made such examination or survey as deemed necessary.
- J. The applicant shall have the burden of providing by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this bylaw. Failure to provide evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this bylaw shall be sufficient cause for the Commission to issue a denial.

§ 294-4. Definitions and regulations.

- A. The term "person," as used in this bylaw, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents or assigns.
- B. Definitions shall be set forth in regulations promulgated pursuant to this bylaw. If regulations are not promulgated or definitions are not set forth in said regulations, then the definitions set forth in MGL c. 131, § 40, and the regulations promulgated thereunder shall be incorporated as part of this bylaw for the sole purpose of providing definitions not otherwise provided by the regulations promulgated under this bylaw.
- C. After due notice and public hearing, the Commission may promulgate rules and regulations to further effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.¹⁵

§ 294-5. Violations and penalties.

15. Editor's Note: See Ch. 505, Wetlands Protection Regulations.

- A. Any person who violates any provision of this bylaw or any condition of a permit issued pursuant to it shall be punished by a fine of \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This bylaw may be enforced pursuant to MGL c. 40, § 21D, by a Town police officer or other officer having police powers. **[Amended 4-24-2017 ATM by Art. 10]**
- B. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this bylaw or in violation of any permit issued pursuant to this bylaw shall be subject to this bylaw and shall forthwith comply with any order to restore said land to its condition prior to such violation.

§ 294-6. Emergency projects.

The notice required by § 294-2 of this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of Marshfield and to be performed or ordered to be performed by an administrative agency of the commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Conservation Commission if only this bylaw is applicable. In no case shall any removal, filling, dredging or alteration authorized by such certification extend beyond the time necessary to abate the emergency.

§ 294-7. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

Division 3: Zoning Bylaw

Chapter 305

ZONING

GENERAL REFERENCES

Right to farm — See Ch. 89, Art. I.

Historic preservation — See Ch. 118.

Wetlands protection — See Ch. 294 and Ch. 505.

Subdivision of land — See Ch. 405.

Age-restricted adult village — See Ch. 408.

Open space residential development — See Ch. 411.

Planned Mixed-Use Development Overlay District — See Ch. 414.

Water Resource Protection District — See Ch. 417.

ARTICLE I

Title, Authority and Purpose**§ 305-1.01. Short title.**

This bylaw shall be known and may be cited as the "Zoning Bylaw of the Town of Marshfield, Massachusetts," hereinafter referred to as "this bylaw."

§ 305-1.02. Authority.

This bylaw is adopted pursuant to the authority granted by MGL c. 40A and amendments thereto, herein called "the Zoning Act."

§ 305-1.03. Purpose. [Amended 4-24-2017 ATM by Art. 12]

This bylaw is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fires, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the Town; to preserve the historical character of the Town; to prevent contamination of and preserve the quantity and quality of ground and surface water which provides existing or potential water supplies for the Town's residents, institutions and businesses; and to preserve and increase its amenities. It is made with reasonable consideration as to the character of each district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Planning Board, including the making of Marshfield a more viable and more pleasing place to live, work and play.

ARTICLE II

Definitions

**[Amended April 2007 ATM by Art. 19; 5-1-2008 ATM by Art. 23;
April 2010 ATM by Art. 21; April 2011 ATM]**

§ 305-2.01. Word usage and definitions.

For the purpose of this bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "used" or "occupied" includes the words "designed," "arranged," "intended," or "offered" to be used or occupied; the word "building" or "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Subdivision Regulations¹⁶ shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of Census.¹⁷

ABANDONMENT — The discontinuance or non-use by an owner of a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishing used in the nonconforming use, without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or building by a conforming use or building.

ADMINISTRATIVE OFFICER — The Building Commissioner/Zoning Enforcement Officer, Town of Marshfield, Massachusetts.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines and other matter which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT ENTERTAINMENT — Shall refer to the following uses as defined in this bylaw: "adult bookstore," "adult motion-picture theater," "adult paraphernalia store," "adult video store" and "establishments which display live nudity."

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL c. 272, § 31.

16.Editor's Note: See Ch. 405, Subdivision of Land.

17.Editor's Note: The Table of Use Regulations is included as an attachment to this bylaw.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies or other film material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL c. 272, § 31.

AFFORDABLE — When applied to housing or housing units means housing or housing units constituting low- or moderate-income housing.

AGE-RESTRICTED ADULT VILLAGE — A building, group of buildings or unit(s) occupied by or used exclusively for either:

- A. The residence of persons age 55 or older. Guests under age 55 are allowed, not to exceed six months in any consecutive nine-month period.
- B. The residence of handicapped persons as defined in MGL c. 121B. In the case of a handicapped individual, one live-in personal care attendant with some shared facilities and services is permitted.

ALTERATION — Any construction, reconstruction or other action resulting in a change in the structural parts, height, number of stories or exits, size, use or location of a building or other structure.

ALTERATION OF TOPOGRAPHY — All filling, excavation, or other changes in the landform (except after a storm or other natural disaster for the limited purpose of restoring the topography to its preexisting condition).

AMBIENT SOUND LEVEL — The background A-weighted sound level that is exceeded 90% of the time, measured during operation of equipment.

ANIMAL FEEDLOT — A plot of land on which 10 livestock or more per acre are fed on a regular basis.

ANNUAL COMPLIANCE REPORT — An annual report of the auditing agency regarding the compliance of each applicant and development with the requirements of the affordable housing conditions set forth in the special permit or the LIP Regulations, homeowner/association agreements, deed riders, regulatory agreement and the use restrictions applicable to such development.

APPLICANT — The individual or legal entity making application to the Planning Board for a special permit.

AQUIFER — Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

AREA OF SPECIAL FLOOD HAZARD — The land within the floodplain within the Town of Marshfield subject to a one-percent or greater chance of flooding in any given year. This area may be designated as an A or V Zone.

AUDITING AGENCY — The Marshfield Housing Authority or its designee.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — A portion of a building, partly below grade, which has more than 1/2 of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six feet or more above the average finished grade.

BOARD — The Board of Appeals of the Town of Marshfield, Massachusetts, unless where specifically another board is so empowered.

BOARDINGHOUSE — A lodging house where meals are served to lodgers on a regular basis, on the premises, by, or with the permission of, the operator of such lodging house.

BOARD OF SELECTMEN — The Board of Selectmen of the Town of Marshfield or its successors.

BUILDING — A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property. For the purposes of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING, ACCESSORY — A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING AREA — The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, but exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces.

BUILDING, ATTACHED — A building having any portion of one or more walls in common with adjoining buildings.

BUILDING COVERAGE — The building area expressed as a percentage of the total lot area.

BUILDING, DETACHED — A building having open space on all sides.

BUILDING HEIGHT — The vertical distance from the average finished grade, measured six feet horizontally from the foundation of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of a hip, pitch or sloped roof. In connection with floodproofing a structure above the base flood elevation as determined by the National Flood Insurance Rate Maps, the maximum building height listed in § 305-6.02, Table of Dimensional and Density Regulations, may increase by the difference between the base flood elevation as determined by the July 17, 2012, Flood Insurance Rate Maps and the current Flood Insurance Rate Maps as adopted by the Town. **[Added 4-29-2014 ATM by Art. 16; amended 10-27-2014 STM by Art. 20]**

BUILDING LINE — The line, parallel to the street line, which passes through the point of the principal building nearest to the front lot line.

BUILDING-MOUNTED WECF — A device that is mounted on a building that converts kinetic wind energy into rotational energy that drives an electrical generator.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

CELLAR — A portion of a building, partly or entirely below grade, which has more than 1/2 of its height, measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story.

CMR — Code of Massachusetts Regulations.

COMPREHENSIVE PERMIT — A permit for the development of low- or moderate-income housing pursuant to MGL c. 40B, §§ 20 through 23, as amended, or successor law, and its implementing regulations in 760 CMR 56.00 et seq. or successor regulations. **[Amended 4-24-2017 ATM by Art. 12]**

CONSERVATION RESTRICTION — A permanent restriction that meets the requirements of MGL c. 184, §§ 31 to 33. Conservation restrictions shall be held by the Town or by a nonprofit conservation organization approved by the Planning Board or Conservation Commission and shall require that the property be maintained in an open or natural state and shall prohibit development of the subject property. The conservation restriction shall convey to the Town or the nonprofit organization the right to monitor the property and enforce the terms of the restriction.

CONVERSION — The changing of an existing non-affordable housing unit to an affordable housing unit.

DENSITY BONUS — An increase in the number of market-rate units on the site in order to provide an incentive for the provision of affordable housing pursuant to this bylaw.

DEP — Massachusetts Department of Environmental Protection.

DHCD — The Massachusetts Department of Housing and Community Development or its successors.

DISTRICT — A zoning district as established by Article III of this bylaw.

DRIVE-IN ESTABLISHMENT — A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term "drive-in" includes drive-in eating establishments where the food is purchased from a building on the lot but is consumed in the vehicle; drive-in service establishments such as banks, cleaners, and the like; and automotive service stations, gasoline stations, or the like. Drive-in movies are excluded from this definition.

DRIVEWAY — A space, located on a lot, which is not more than 24 feet in width built for access to a garage, or off-street parking or loading space.

DWELLING — A privately or publicly owned, permanently fixed structure containing a dwelling unit or dwelling units. The term "one-family," "two-family," or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer or dormitory.

DWELLING, MIXED-USE — A building in the Planned Mixed-Use Development (PMUD) Overlay District that has a commercial use(s) on the first floor and two stories of residential above. **[Added 10-27-2014 STM by Art. 16]**

DWELLING, MULTIFAMILY — A building containing three or more dwelling units.

DWELLING, TWO-FAMILY — A building containing two dwelling units constructed on a single lot.

DWELLING UNIT — One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

DWELLING UNITS, AFFORDABLE TO LOW TO MODERATE INCOME — Dwelling units that meet the state's affordable housing requirements for low to moderate income. These affordable units shall be marketed through the Marshfield Housing Authority, South Shore Housing Development Corporation, or other housing organization approved by the Board, with resale restrictions to assure continued affordability in perpetuity. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market-rate or larger dwelling units in the development in which they are proposed.

ESSENTIAL SERVICES — Services provided by public utility or governmental agencies through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

ESTABLISHMENTS WHICH DISPLAY LIVE NUDITY — Any establishment which provides live entertainment for its patrons, which includes the display of nudity as defined in MGL c. 272, § 31.

FAMILY —

- A. An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three lodgers or roomers taken for hire.

- B. A group of individuals not related by blood or marriage, but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of 10 individuals shall constitute a single family. Residents of rooming, boarding or lodging houses shall not be considered a family as defined in this subsection.

FILLING OF LAND OR WATER AREA — The filling of natural or man-made depressions in the earth with soil, loam, sand, gravel or other similar earthen materials. The construction, operation, or maintenance of a sanitary landfill or other refuse facility shall not be deemed to be the filling of land or water area for purposes of this bylaw.

FIXTURE — An electrical device which is secured to a wall, ceiling, pole or post and is used to hold lamps.

FLOOD LINE — The limits of flooding from a particular body of water caused by lunar tides, a storm, or other natural phenomena whose frequency of occurrence is one in 20 years as determined and certified by a registered professional engineer qualified in drainage.

FLOODWAY — The area subject to periodic flooding, the limits of which are determined by the flood line.

FLOOR AREA, GROSS — The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

FLOOR AREA RATIO — The ratio of the gross floor area to the total lot area.

FLOOR DRAIN — An intended drainage point on a floor constructed to be otherwise impervious, which serves as a point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

FOOTCANDLE (FC) — A unit of measuring the amount of illumination equal to one lumen per square foot on a surface.

GROUNDWATER — All the water found beneath the surface of the ground. In this bylaw the term refers to the slowly moving subsurface water present in aquifers and recharge areas.¹⁸

HAZARDOUS MATERIAL OR WASTE, HOUSEHOLD QUANTITY OF — Any or all of the following:

- A. Six hundred and sixty gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; and/or

18.Editor's Note: The definition of "hazardous material" which immediately followed this definition was deleted 4-24-2017 ATM by Art. 12. See the definition of "toxic or hazardous material."

- B. Quantities of propane used for standard household or commercial heating or cooking purposes; and/or
- C. The total bulk storage of 25 gallons (or the dry weight equivalent) or less of other toxic or hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and/or
- D. A quantity of hazardous waste at the "very small quantity generator" level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically 310 CMR 30.353.

HAZARDOUS WASTE — A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed or as further defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.010.¹⁹

HOME OCCUPATION — An accessory use which customarily is carried on entirely within a dwelling unit and is incidental and subordinate to the dwelling use and which shall not occupy more than 25% or 400 square feet, whichever is less, at the dwelling unit used. (See § 305-11.07.)

HORIZONTAL FOOTCANDLES — The amount of illumination equal to one lumen per square foot on a horizontal surface.

HOSPITAL — A building providing medical service including twenty-four-hour in-patient services for the diagnosis, treatment or other care of human ailments and may include a sanitarium, sanatorium, clinic, rest home, nursing home, and convalescent home.

HOTEL — A building or any part of a building for transient occupancy containing rooming units which may have cooking facilities only in connection with central dining facilities, which may have either a common entrance or individual entrances and which includes an inn, motel, motor inn, and tourist court, but not including an apartment house, a boardinghouse, lodging house, or rooming house.

HOUSEHOLD — Two or more persons who will live regularly in a housing unit as their principal residence and who are related by blood, marriage, or law or who have otherwise evidenced a stable interdependent relationship, or an individual.

HOUSING PARTNERSHIP — The Marshfield Housing Partnership or its successors.

HUD — The United States Department of Housing and Urban Development or its successors.

19. Editor's Note: The definition of "height" which immediately followed this definition was deleted 4-24-2017 ATM by Art. 12. See the definition of "building height."

IMPERVIOUS SURFACE — Material covering the ground, including but not limited to macadam, cement, concrete, pavement and buildings, that does not allow surface water to penetrate into the soil.

INITIAL FOOTCANDLE — The amount of illumination (measured by footcandles) given off by a luminaire at the point of installation.

INITIAL SALES DATA — The data with respect to the original selling price of a specific affordable housing unit and how such price was determined.

JUNK — Any worn out, cast off or discarded articles or materials which are ready for destruction or disposal or have been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged or without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

KENNEL — Every pack or collection of more than three dogs over six months old owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

LANDFILL — A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

LEACHABLE WASTES — Waste materials including solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.

LIP — The Local Initiative Program.

LIP GUIDELINES — Rules, standards and policies explaining and detailing regulatory provisions established by DHCD with respect to the Local Initiative Program, as amended from time to time.

LIP REGULATIONS — The regulations with respect to the Local Initiative Program.

LIVESTOCK — Domestic animal such as cattle, horses, sheep, hogs, or goats raised for home use or for profit.

LOADING SPACE — An off-street space used for loading or unloading, not less than 14 feet in width, 50 feet in length, and 14 feet in height, and containing not less than 1,300 square feet including both access and maneuvering space.

LOCAL ACTION PROJECT — A Local Initiative Program housing development permitted without a comprehensive permit.

LOCAL ACTION UNIT — A unit of low- or moderate-income housing which has been developed without a comprehensive permit and which meets the requirements set out in 760 CMR 56.00 et seq. and which has been approved as a local action unit by the DHCD singly or as part of a local action project.**[Amended 4-24-2017 ATM by Art. 12]**

LOCAL INITIATIVE PROGRAM — The DHCD Local Initiative Program described in 760 CMR 56.00 et seq. or successor regulations.**[Amended 4-24-2017 ATM by Art. 12]**

LOCAL PREFERENCE — A preference given to local residents in accordance with LIP Regulations and LIP Guidelines in the selection of eligible applicants for the affordable housing units within a development.

LOCAL RESIDENT —

- A. A household which at the time of application and at the time of final determination of eligibility and qualification for an affordable unit includes one or more members who:
 - (1) Have his, her or their principal residence in the Town;
 - (2) Are the parents or stepparents or the children or stepchildren of someone who has his or her principal residence in the Town; or
 - (3) Are employees of the Town, such as teachers, firefighters, police officers, librarians, or employees of businesses located in the Town.
- B. The Town and a developer may negotiate other reasonable preference categories or variations of the above categories subject to approval by the DHCD.

LODGING HOUSE — A building or any part thereof containing two or more living or sleeping rooms which do not contain cooking facilities, and which rooms are separately leased to more than four individuals unrelated by blood or marriage.

LODGING UNIT — One or more rooms for the use by one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boardinghouses, tourist houses, or rooming houses.

LOT — An area or parcel of land in common ownership, designated by its owner or owners as a separate lot on a plan filed with the administrator of this bylaw and recorded in the Plymouth County Registry of Deeds.

LOT, CORNER — A lot at the point of intersection of, and abutting on, two or more intersecting streets, or on a continuous street, a lot having an interior angle of not more than 100° at the point of intersection of extended street line tangents. **[Amended 4-24-2017 ATM by Art. 12]**

LOT DEPTH — The shortest distance between the front lot line and the rear lot line within a width at least equal to the required lot width.

LOT FRONTAGE — The total distance along a street line from one front lot corner to the other. On a corner lot the frontage on either street is the distance along the street line from a lot corner to the point of intersection of the two street lines, or that of their extensions in the case of their being connected by a rounded corner. It is required therefore that such frontage be a continuous uninterrupted line over an area of upland of at least 60% of the minimum required number of feet, and be contiguous to the minimum lot area (upland portion of the lot) as provided under § 305-6.02 so as to provide opportunity for physical access to every lot.

LOT LINE, FRONT — The property line between a lot and a street or the line defining the limit of a right-of-way set aside for road purposes. On a corner lot the owner shall designate one street line as the front lot line for the purpose of determining what line will be designated as the rear line.

LOT LINE, REAR — The lot line most nearly parallel to, opposite, and farthest from the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line or street line.

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this bylaw or any subsequent amendment thereto which is not in accordance with all provisions of this bylaw.

LOT, THROUGH — An interior lot, the front and rear lot lines of which abut streets, or a corner lot, two opposite lines of which abut streets.

LOT WIDTH — The distance between the side lot lines as measured parallel to the front lot line, at the rear building line and at all points between. No dwelling may be erected or placed unless within a circle of diameter equal to the required frontage under § 305-6.02 which can be inscribed within the lot lines at some point between the front and rear lot lines.

LOTTERY AGENT — The Marshfield Housing Authority or its designee.

LOTTERY AGREEMENT — A contractual agreement between the lottery agent and a developer which authorizes and defines the lottery process for households to be selected for an affordable unit.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

LOW OR MODERATE INCOME — Household income, computed pursuant to LIP Guidelines, which does not exceed 80% of median income for a comparable household size as determined by HUD for the area in which the household is located.

LOW- OR MODERATE-INCOME HOUSING — Decent, safe and sanitary housing created through and subsidized by LIP or other state or federal housing production programs which is restricted to occupancy by persons or families of low or moderate income and which qualifies for inclusion on the Subsidized Housing Inventory.

MAINTAINED FOOTCANDLES — The amount of illumination (measured by footcandles) given off by a luminaire after being adjusted for light loss factors.

MARIJUANA — All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. 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, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes marijuana-infused products except where the context clearly indicates otherwise.**[Added 4-29-2014 ATM by Art. 15]**

MARIJUANA FOR MEDICAL USE — Marijuana that is designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions as set forth in the Citizens Initiative Petition No. 11-11 (Question No. 3 on the November 2012 state ballot).**[Added 4-29-2014 ATM by Art. 15]**

MARSHFIELD HOUSING AUTHORITY — The Marshfield Housing Authority or its successors.

MARSHFIELD HOUSING PARTNERSHIP — The Marshfield Housing Partnership or its successors, or in the event the Marshfield Housing Partnership or its successors should no longer exist, an advisory group established and appointed by the Board of Selectmen with the responsibility for encouraging low- and moderate-income housing which has been recognized as a local housing partnership by the Massachusetts Housing Partnership Fund (or which has been recognized, certified or otherwise approved as may at the applicable time be required by applicable regulations of DHCD).

MASSACHUSETTS ARCHITECTURAL ACCESS BOARD — The Massachusetts Architectural Access Board or its successors.

MAXIMUM GROUNDWATER ELEVATION — The seasonal high level of the groundwater table. This level shall be the same as the maximum groundwater elevation defined and determined in 310 CMR 15.00 (Title 5, State Environmental Code).

MEDICAL MARIJUANA FACILITY — A "medical marijuana facility" shall mean a not-for-profit entity, as defined by Massachusetts law, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.**[Added 4-29-2014 ATM by Art. 15]**

MEMBERSHIP CLUB — A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

MGL — Massachusetts General Laws.

MICRO-BREWERY — A small-scale business located in a building where the primary use is for a restaurant, retail or tasting room and which specializes in producing a maximum of 15,000 barrels (465,000 U.S. gallons) of

specialty beer, malt liquor, or ale annually and sold for consumption either on or off premises.**[Added 4-27-2015 ATM by Art. 14]**

MINING OF LAND — The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

MINORITY — A member of any of the following groups of people:

- A. ASIAN AMERICAN — A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent or Pacific Islands, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Samoa, Thailand, and Vietnam;
- B. BLACK — A person with origins in any of the black racial groups of Africa;
- C. HISPANIC — A person of Mexican, Puerto Rican, Cuban, Dominican, or Central or South American origin;
- D. CAPE VERDEANS — A person with origins in the Cape Verde Islands;
- E. NORTH AMERICAN INDIAN — A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment with origins in any of the original peoples of North America, with cultural identification through tribal affiliation.

MIXED-USE BUILDING — A building that includes both commercial and residential uses within a single building.**[Added 5-5-2014 ATM by Art. 17]**

MIXED-USE DISTRICT — A zoning district where the location of more than one permitted principal use in one building may be allowed by special permit. Mixed-use districts include the B-1 Business - Mixed-Use Zoning District and the Planned Mixed-Use Development Overlay District.

MUNICIPAL WIND ENERGY CONVERSION FACILITY — A wind energy conversion facility constructed by the Town. The primary purpose of the municipal wind energy conversion facility is to provide power for municipal uses or to sell electricity to wholesale markets.

NONCOMMERCIAL KENNEL — A collection of more than three dogs more than six months old kept at, in, or adjoining a private residence for the hobby of the householder in connection with hunting, tracking, exhibition in dog shows, or field or obedience trials, provided the householder does not regularly engage in the purchase and sale of dogs for profit.

NON-SANITARY WASTEWATER — Discharges from commercial and industrial facilities as specified in the industry category list in 310 CMR 15.004(5).**[Amended 4-24-2017 ATM by Art. 12]**

NON-SANITARY WASTEWATER TREATMENT FACILITIES — Commercial and industrial facilities which treat or dispose of wastewater on site and require a groundwater discharge permit per 310 CMR 5.00.

OPEN DUMP — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), as amended, or the regulations and criteria promulgated thereunder relative to solid waste disposal, pursuant to 310 CMR 19.006.**[Amended 4-24-2017 ATM by Art. 12]**

OPEN SPACE — The space on a lot unoccupied by buildings, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage of total lot area.

OUTDOOR LIGHTING FIXTURES — Outdoor artificial illuminating devices, installed or portable, used for flood lighting, general illumination or advertisement of commercial or industrial developments.

OWNER — The duly authorized agent, attorney, purchasee, devisee, trustee, lessee or any person having legal or equitable interest in the use, structure or lot in question.

PARKING SPACE — An off-street space at least 10 feet in width and 18 feet in length, having an area of not less than 180 square feet, plus 100 square feet of access and maneuvering space, whether inside or outside a structure, for exclusive use as a parking stall for one motor vehicle.

PETROLEUM PRODUCT — Petroleum or petroleum by-product, including but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. "Petroleum product" shall not include liquefied petroleum gas, including, but not limited to, liquefied natural gas, propane or butane.

PLANNED DEVELOPMENT — A development involving the construction of two or more principal buildings on the same lot for any permitted use.

PLANNING BOARD — The Marshfield Planning Board or its successors.

POTABLE WATER — Suitable for drinking.

PRINCIPAL RESIDENCE — The principal home (domicile) occupied by all members of a household.

PRIVATE SWIMMING POOL — Any accessory structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a principal use structure and which is available only to the family and guests of the householder. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

RECHARGE AREAS — Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include DEP approved Zone I, Zone II, or Zone III areas.

REFLECTOR — A method (in combination with the refractor) of controlling the distribution of light on the surface.

REGULATORY AGREEMENT — Has the meaning set forth in 760 CMR 56.00 et seq. or successor regulations.**[Amended 4-24-2017 ATM by Art. 12]**

RESEARCH OFFICES/LABORATORY — Any office and/or laboratory engaged exclusively in the pursuit of scientific research and development, including the research and development of manufactured, processed or compounded products, and classified as either Biosafety Level 1 or 2.**[Added 10-27-2014 STM by Art. 16]**

- A. Biosafety Level 1. Biosafety Level 1 is suitable for work involving well-characterized agents not known to consistently cause disease in immunocompetent adult humans, and present minimal potential hazard to laboratory personnel and the environment. BSL-1 laboratories are not necessarily separated from the general traffic patterns in the building. Work is typically conducted on open bench tops using standard microbiological practices. Special containment equipment or facility design is not required, but may be used as determined by appropriate risk assessment. Laboratory personnel must have specific training in the procedures conducted in the laboratory and must be supervised by a scientist with training in microbiology or a related science.
- B. Biosafety Level 2. Biosafety Level 2 builds upon BSL-1. BSL-2 is suitable for work involving agents that pose moderate hazards to personnel and the environment. It differs from BSL-1 in that:
 - (1) Laboratory personnel have specific training in handling pathogenic agents and are supervised by scientists competent in handling infectious agents and associated procedures;
 - (2) Access to the laboratory is restricted when work is being conducted; and
 - (3) All procedures in which infectious aerosols or splashes may be created are conducted in BSCs or other physical containment equipment.

RESIDENTIAL ACCESSORY APARTMENT — An accessory apartment in an owner-occupied dwelling is a second dwelling unit located within a single-family home. Such accessory apartment shall be subordinate in size to the principal dwelling unit in a manner that maintains the appearance of the structure as a detached single-family home.

RESIDENTIAL BUSINESS — A structure in the RB Zone consisting of business uses on the ground floor with a single accessory residential unit within the structure, with sufficient on-site parking for both uses.

ROOFLINE — The surface of a horizontal roof; the highest horizontal line of a sloped roof. An ornamental roof structure not enclosing occupied space within a building shall not be used in the determination of the roofline of a building. A roof covering less than 25% of the building area shall not be used in the determination of the roofline of a building.

ROOMING HOUSE — See "lodging house," above.

SANITARY LANDFILL — Facility, place or site for disposal of solid waste on land in accordance with all federal, state, and local regulations and requirements, including but not limited to rubbish, garbage, refuse, demolition waste, stumps, special waste such as pathogenic or infectious wastes, explosive materials, high- and low-level radioactive waste, chemical waste, asbestos, and other materials of a toxic or hazardous nature or materials requiring special handling procedures for disposal.

SEPTAGE — The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.

SEWAGE TREATMENT FACILITY — Facilities which dispose of wastewater effluent into the ground or waters of the Town. This shall include the construction of facilities serving commercial, industrial, multifamily residential and multiple lot residential developments. This shall exclude individual residential septic systems and the replacement of existing systems.

SIGN — Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction or is designed to attract the eye by any means including intermittent or repeated motion or illumination.

SIGN, BUSINESS — A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

SIGN, GENERAL ADVERTISING — Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within 200 feet of the building or other structure at which the products or services advertised thereon are available.

SIGN, IDENTIFICATION — A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

SIGN, ROOF — A sign erected on or affixed to the roof of a building.

SIGN, STANDING — A sign erected on or affixed to the land including any exterior sign not attached to a building.

SIGN, SURFACE AREA OF — For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall or window the area shall be

considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols.

SIGN, WALL — A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom. A sign attached to a roof (or ornamental roof) with a roof slope (vertical dimension divided by horizontal dimension) of not less than 3:1 shall be considered to be a wall sign.

SINGLE HOUSEKEEPING UNIT — One or more persons living together and sharing in common all of one or more rooms which contain sleeping, sanitary and cooking facilities.

SLUDGE — The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility.

SMALL-SCALE GROUND-MOUNTED WIND ENERGY CONVERSION FACILITY — A device that is mounted on the ground, supported by a monopole-type tower, that converts kinetic wind energy into rotational energy, which drives an electrical generator. Small-scale ground-mounted WECF are not intended for commercial sale of electricity. Energy generated from a small-scale ground-mounted WECF is primarily for the principal use structure on the same property. Any surplus electricity not used on the property can be sold back to the electric utility. Small-scale ground-mounted wind energy conversion facilities are accessory uses and are limited in height to a maximum of 150 feet above the existing ground elevation.

SOLID WASTE — Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

SPECIAL PERMIT GRANTING AUTHORITY — The special permit granting authority shall be the Board of Appeals as designated by the Zoning Bylaw for the issuance of special permits and site plan approval for the construction and operation of all wind energy conversion facilities.

STORY — That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six or more feet above the average finished grade.

STORY, HALF — A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed 2/3 of the floor immediately below when measured where the vertical distance between the floor and ceiling is four feet or more.

STREET — A way, over 24 feet in right-of-way width, which:

- A. Is a public way laid out by a governmental entity or public authority pursuant to Massachusetts General Laws or is shown as a public way on an official map adopted by the Town pursuant to MGL c. 41, § 81E, or has been accepted by the Town as a public way; or

- B. Is shown on a plan approved and endorsed in accordance with the Subdivision Rules and Regulations of Marshfield²⁰ and MGL c. 41, §§ 81K to 81GG; or
- C. Has, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and buildings erected or to be erected thereon.

STREET LINE — The line between a street and an adjoining piece of property defines the limits of the street.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, including, but not limited to, a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, windmill, solar devices or the like.

STRUCTURE (Article XV only) — A walled and roofed building or mobile home that is principally above ground, and includes gas or liquid storage tanks.

STRUCTURE, NONCONFORMING — A structure lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which does not conform to one or more provisions of this bylaw.

SUBDIVISION — A subdivision as defined in the State Subdivision Control Law, MGL c. 41, §§ 81K to 81GG, as amended.

SUBSIDIZED HOUSING INVENTORY — The list compiled by DHCD containing the count of low- and moderate-income housing units in the Town.

SUBSIDIZED HOUSING UNITS — Housing units qualifying for the Subsidized Housing Inventory including local action units.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL EVIDENCE — Such evidence as a reasonable mind might accept as adequate to support a conclusion.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, repair, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

TERM OF AFFORDABILITY — The period of time that the unit shall remain affordable is in perpetuity.

20. Editor's Note: See Ch. 405, Subdivision of Land.

TOTAL CUTOFF — The point at which all light rays are completely shielded.

TOWN — The Town of Marshfield, Massachusetts.

TOXIC OR HAZARDOUS MATERIAL — Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies and to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive materials, virulent infectious wastes, pesticides, herbicides, acids and alkalis, solvents, thinners and all substances defined as hazardous or toxic under MGL c. 21C and c. 21E and 310 CMR 30.00 and other materials which are listed as U.S. Environmental Protection Agency priority pollutants. **[Amended 4-24-2017 ATM by Art. 12]**

UPLAND — Any land area not defined under the terms of MGL c. 131 or Chapter 294, Wetlands Protection, of the Town of Marshfield Bylaws or regulations issued thereunder as "wetland."

USE — The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

USE, ACCESSORY — A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot or in the same structure as the principal use. No use may be considered an accessory use unless it is listed in § 305-5.04 of this bylaw as an accessory use, and any such use shall not exceed 40% of the total area of the structure(s) and/or lot in which such use is located.

USE, NONCONFORMING — A use lawfully existing at the time of adoption by this bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this bylaw.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use shall be considered an accessory use. Only one principal use shall be allowed for each structure or lot except where permitted within a mixed-use district. If more than one use is made of a structure or the lot and where it is not clear which use is the principal use, the Building Commissioner/Zoning Enforcement Officer shall designate one such use as the principal use. **[Amended 4-24-2017 ATM by Art. 12]**

USE RESTRICTION —

- A. A deed restriction or other legal instrument approved by the DHCD and recorded with the relevant registry of deeds or land court registry district which effectively restricts occupancy of a low- and moderate-income housing unit to households of low or moderate income during the term of affordability.

- B. For homeownership units the model deed rider specified in the LIP Guidelines shall be used as the use restriction.
- C. All references in this bylaw to federal or state regulations shall include any amendments to such regulations, any successor regulations, and any guidelines issued pursuant to any such regulations, as amended from time to time, whether or not expressly so stated.
- D. All references to dwelling units or units (when the reference is to units of housing) in this bylaw shall include assisted living units or living units within facilities providing continuing care as defined in MGL c. 93, § 76, as amended, whether or not explicitly so stated.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

UTILITY-SCALE WIND ENERGY CONVERSION FACILITY — A device that is mounted on a monopole structure that converts kinetic wind energy into rotational energy that drives an electrical generator. Utility-scale wind energy conversion facilities are for commercial electricity production, where the primary use of the facility is electricity generation to be sold to the wholesale electricity markets.

VARIANCE — Such departure from the terms of this bylaw as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Article X.

VERY SMALL QUANTITY GENERATOR — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

WASTE OIL RETENTION FACILITY — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c. 21, § 52A.

WIND ENERGY CONVERSION FACILITY OR FACILITIES (WECF) — A device that converts kinetic wind energy into rotational energy that drives an electrical generator. Wind energy conversion facilities include all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to: transmission, storage, collection and supply equipment, substations, transformers, service and access roads.

WIND MONITORING OR METEOROLOGICAL TOWER — A temporary tower equipped with devices to measure wind speeds and direction, used to predict the amount of electricity a site can be expected to generate through wind energy production.

WIRELESS COMMUNICATION FACILITY — An antenna, satellite dish, or other communications device for commercial or public safety

communications purposes located on an existing or proposed communications tower or nonresidential structure. This definition shall not apply to private residential facilities or noncommercial facilities used by an individual business.

YARD — A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein, and having at least two sides open to lot lines.

YARD, FRONT — A yard extending for the full width of the lot from a street line to the nearest point of a building.

YARD, REAR — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE — Yard extended for the full length of a building between the nearest building wall and the side lot line.

ZONE II — The DEP approved area of an aquifer which would contribute water to a public water supply well if such a well were pumped continuously for a period of 180 days at its maximum safe yield without any natural recharge to the aquifer occurring, as defined in 310 CMR 22.00.

ARTICLE III
Establishment of Zoning Districts

§ 305-3.01. Division into districts.

- A. The Town of Marshfield, Massachusetts, is hereby divided into 11 zoning districts to be designated as follows: **[Amended 4-24-2017 ATM by Art. 12]**

Full Name	Class	Short Name
Residential - Rural	Residential	R-1
Residential - Suburban	Residential	R-2
Residential - Waterfront	Residential	R-3
Residential Business	Business	RB
Business - Mixed-Use	Business	B-1
Business - Highway	Business	B-2
Business - Neighborhood	Business	B-3
Business - Waterfront	Business	B-4
Office Park	Business	OP
Industrial	Industrial	I-1
Airport	Industrial	A

- B. Zoning districts shall include the land within any lake, pond, stream, or other water body, lying therein, and shall include land under navigable waters as far as the ownership thereof and the jurisdiction of the Town of Marshfield extend under any other provisions of the law.

§ 305-3.02. Superimposed zoning districts. [Amended April 2006 ATM; 4-24-2017 ATM by Art. 12]

An Inland Wetlands Zoning District, a Coastal Wetlands Zoning District, a Water Resource Protection District, a Planned Mixed-Use Development District, a Stormwater Management Overlay District, a Floodplain Zone and a Brant Rock Village Overlay District are considered to be superimposed over the other districts shown on the Zoning Map, as a recognition of the special conditions which exist in such areas. See Article XI, Article XIII and Article XV for applicable regulations.

§ 305-3.03. Zoning Map. [Amended 5-5-2008 ATM; 4-24-2012 ATM]

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Marshfield, Massachusetts" dated April 24, 2012, with revisions through April 24, 2012, which accompanies and is hereby declared to be part of this bylaw. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk and the imprinted Seal of the Town under the following words: "This is to certify that this is the Zoning Map of the Town of Marshfield,

Massachusetts, referred to in the Zoning Bylaw of the Town of Marshfield, Massachusetts, which was approved by the Town on April 24, 2012, with revisions through April 24, 2012."

§ 305-3.04. Map amendments; copies of map. [Amended 4-24-2012 ATM]

Any change in the location of boundaries of a zoning district hereafter made through the amendments of this bylaw shall be indicated by the alteration of such map, such changes to be dated and authenticated as prescribed in § 305-3.03. The map thus altered is declared to be part of this bylaw thus amended. The Town Clerk shall be responsible for certifying all changes to the Zoning Map. Such changes shall be made within 14 days of the final approval of the Attorney General's Office. An official copy of the Zoning Map shall be located in the office of the Town Clerk. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

§ 305-3.05. Boundaries of districts.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map the following rules apply:

- A. Where a boundary is indicated as a street, railroad, power line, watercourse or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, power line, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensioned boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the center line of a street, railroad, power line, watercourse or other water body, it shall be construed to intersect at right angles to said center line, or in the case of a curved center line, at right angles to the tangent to the curve at the point of intersection.
- E. The boundary limits of the Coastal and Inland Wetlands Districts are not described by dimensions. Distance shall be determined by the use of the scale shown on the Zoning Map. If simple scaling cannot ascertain whether or not the parcel of land in question falls within the boundaries of the Coastal and Inland Wetlands Districts, the Building Commissioner/Zoning Enforcement Officer will determine by field inspection the location of the parcel with respect to the district. In such determination, the Building Commissioner/Zoning Enforcement Officer shall be guided by the Conservation Administrator; if he is not available

then a Conservation Commissioner, and where such guidance is given, it shall become part of the record.

- (1) If the Building Commissioner/Zoning Enforcement Officer fails to accept the guidance of said Administrator or Commissioner, he shall state in the record, in writing, his reasons for such action.
 - (2) Notwithstanding the foregoing, the Planning Board shall make determinations of boundaries with respect to Floodplain Zones pursuant to Article XV.
- F. The abbreviation "PL" means property line as shown on the Town Assessor's Maps as in effect at the effective date of this bylaw. The abbreviation "PL" when used in conjunction with a subsequent amendment to this bylaw shall mean a property line as shown on the Town Assessor's Maps as in effect at the effective date of such amendment.
- G. The abbreviation "CL" means center line and "CI" means center of intersection.²¹

21. Editor's Note: Original § 3.05(8), which immediately followed this subsection, was repealed 4-24-2011 ATM.

ARTICLE IV

Interpretation and Application**§ 305-4.01. Interpretation.**

The provisions of this bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the Town of Marshfield, Massachusetts, and except for the Zoning Bylaw of the Town of Marshfield dated 1959 and all amendments thereto, the provisions of this bylaw are not intended to repeal or in any way impair or interfere with any lawfully adopted bylaw, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any bylaw or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

§ 305-4.02. Applicability.

Except as herein provided, or as specifically exempted by the Zoning Enabling Act,²² the provisions of this bylaw shall apply to the erection, construction, reconstruction, alteration or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.

§ 305-4.03. Existing buildings and land.

Except as herein provided, this bylaw shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is legally used at the time of adoption of this bylaw, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent.

§ 305-4.04. Mixed uses. [Amended 4-24-2017 ATM by Art. 12]

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Allowable residential densities and nonresidential square footage requirements shall apply to each use individually per lot; provided, however, that building bulk, height, setbacks and other dimensional characteristics shall comply with the standards set forth in § 305-6.02, Table of Dimensional and Density Regulations.

22. Editor's Note: See MGL c. 40A.

ARTICLE V
Use Regulations

§ 305-5.01. Applicability of use regulations.

Except as provided in the Zoning Enabling Act²³ or in this bylaw, no building, structure, or land shall be used except for the purposes permitted in the district as described in this article. Any use not listed shall be construed to be prohibited.

§ 305-5.02. Permitted uses.

- A. In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with Article X, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district.
- B. Notwithstanding any other provision of this bylaw, the following lots owned by the Town may be used for beach parking, for residents and nonresidents, during the months of May, June, July, August and September of each year: Marshfield Assessor's Map Lots M05-05-86 Beach Street and M07-03-01 Dyke Road. Any provisions of this bylaw which may be deemed to require that such lots be paved prior to such use shall not apply thereto. The provisions of Article VIII of this bylaw shall not apply to such use.

§ 305-5.03. Uses subject to other regulations.

- A. Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this bylaw.
- B. There shall not be any business operation for vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.
- C. Notwithstanding any other provisions of this bylaw, the following uses shall be prohibited in the recharge areas of surface water drinking supplies as defined by the Massachusetts Department of Environmental Protection and as shown on the Marshfield Zoning Map, as amended, and in areas within the zone of contribution of existing or potential public supply wells as defined by said Department:
 - (1) Sewage treatment facility.
 - (2) Sanitary landfill.
 - (3) Incinerator.

(4) Application and storage of sludge and/or septage.

- D. The B-1 Zoning District shall be considered a mixed-use district as defined within this bylaw. Allowable uses within a mixed-use district are as shown in the underlying zoning districts in which the use is proposed as shown in the Table of Use Regulations unless otherwise specified herein.

§ 305-5.04. Table of Use Regulations.

See table attached to this bylaw which is declared to be a part of this bylaw. In addition, uses are subject to Articles XI, XIII and XV where appropriate.²⁴

24. Editor's Note: Original § 5.05, Temporary moratorium on medical marijuana treatment centers, which immediately followed this section and was added 4-22-2013 STM by Art. 11, has been removed as the moratorium expired on 5-30-2014.

ARTICLE VI

Dimensional and Density Regulations**§ 305-6.01. Applicability of dimensional and density regulations.**

The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, and minimum open space shall be specified in this article and set forth in the Table of Dimensional and Density Regulations and subject to the further provisions of this bylaw.

§ 305-6.02. Table of Dimensional and Density Regulations.

See table attached to this bylaw plus attached notes, which is declared to be a part of this bylaw.

§ 305-6.03. Reduction of lot areas.

The lot, yard areas or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this bylaw, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

§ 305-6.04. Separation of lots.

Lots shall not be so separated or transferred in ownership as not to comply with the provisions of this bylaw.

§ 305-6.05. Screening and buffers in industrial and business districts.

- A. Screening and buffers shall be required in any industrial or business district which adjoins a residential district as follows: this strip shall be at least 35 feet in width; it shall contain a screen of plantings in the center of the strip. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round.
- B. At least 50% of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip by special permit. The strip may be part of the yard area.

- C. Where an "I" or "B" District abuts an "R" District, no building within the "I" or "B" District shall be within 25 feet of the boundary line of the "R" District.

§ 305-6.06. Route 139 grandfathering. [Added April 2012 ATM]

Where any interest in a lot of land adjacent to the existing public way of Plain Street (State Route 139), between School Street and Furnace Street, is taken by eminent domain by the Town or the commonwealth in connection with the widening of Plain Street, the remainder of the lot outside of the area subject to the taking shall be treated for purposes of dimensional and density requirements as though the portion of the lot acquired by eminent domain were still included as part of the original lot.

§ 305-6.07. Accessory buildings.

In the "R" District a detached accessory building shall conform to the following provisions: it shall not occupy more than 25% of the required rear yard; it shall not be less than 20 feet from the front street line, or less than 10 feet from any other lot line or from any principal building; and it shall not exceed 20 feet in height. An accessory building attached to a principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building. An accessory outdoor private swimming pool in any district shall comply with the State Board of Building Regulations and Standards, 780 CMR 421.0, Swimming Pools. No permanent swimming pool shall be located within any required front yard nor within 10 feet from any side or rear lot line. The height of an accessory barn may be increased to 35 feet if the minimum front setback is increased to 50 feet and the other lot line setbacks are increased to 30 feet.

§ 305-6.08. Other general dimensional and density provisions.

In addition to the regulations in §§ 305-6.01 through 305-6.07, the following regulations shall apply:

- A. Existing and permitted residential uses in the "B" or "I" District shall be subject to the dimensional density regulations of the nearest residential district as determined by the Building Commissioner/Zoning Enforcement Officer or, in the case of an age-restricted adult village as authorized under § 305-11.08, shall be governed by the dimensional density regulations set forward therein and as approved by the SPGA.
- B. Except for planned developments, community facilities, and public utilities, only one principal structure shall be permitted on a lot. In the case of planned developments, the minimum distance between the walls of such principal buildings which contain windows shall be twice the minimum side yard or side setback required in the district.
- C. A corner lot shall have minimum street yards which shall be the same as the required front yard depths for the adjoining lots.

- D. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- E. Projections into required yards or other required open spaces are permitted only as follows:
 - (1) Balcony or bay window, limited in total length to 1/2 the length of the building, but not projecting more than two feet.
 - (2) Open decks, terraces, steps or stoops under four feet in height, up to 1/2 the required yard setback.
 - (3) Open decks, steps, or stoops over four feet in height, windowsills, chimneys, roof eaves, fire escapes, fire towers, storm enclosures or similar architectural features, not more than two feet.
 - (4) Corner boards, sheathing and the normal construction practice of squaring the structure, not more than four inches.
- F. The provisions of this bylaw governing the height of buildings shall not apply to chimneys, elevator bulkheads, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof; nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures which do not occupy more than 20% of the lot area; nor to churches or public, agricultural or institutional buildings or buildings of private schools not conducted for profit that are primarily used for school purposes; provided, however, that the height of all structures exempted by this subsection shall not be more than four times the distance between the nearest lot line and the point directly below the specific structure and further provided the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Administration regulations. Any proposed communications tower that exceeds the height requirements set forth in § 305-6.02 must file for a special permit with the SPGA. **[Amended 4-24-2017 ATM by Art. 12]**
- G. The maximum gross floor area for a commercial establishment in the Neighborhood Business District shall be 8,000 square feet.
- H. Where the existing development along a block amounts to more than 50% of the block frontage, and where said development has an average setback less than that required by this bylaw, then any vacant lot setback may be reduced to said average of the existing development.
- I. In all districts the lot width shall not be less than that prescribed in the Table of Dimensional and Density Regulations as measured at any point between the front lot line and the rear building line.

- J. At no street intersection in any district shall any obstruction to vision exceeding three feet in height above the plane established by the intersecting streets be placed or permitted to grow on any lot within the triangle formed by the lot lines abutting the intersecting streets and a line connected points on these lot lines at a distance of 25 feet from the point of intersection of the lot lines.
- K. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over three feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such structure or vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the streets.
- L. In all residential areas where buildings other than single-family dwellings are constructed, a buffer zone of 35 feet must be provided as described in § 305-6.05.
- M. When floodproofing an existing home on a preexisting nonconforming residential lot, one single-story thirty-two-square-foot utility addition (bump out) located on the first floor may project into the side or rear setback. The utility addition is only for utilities such as furnaces, water heaters and/or HVAC systems and shall be above the minimum flood elevation. The owner shall provide the Building Department with proof of recording of a restrictive covenant on said utility addition prior to the issuance of the building permit. A minimum setback of five feet shall be maintained from the property line. **[Added 10-26-2015 STM by Art. 8]**
- N. Projections into required yards or other required open spaces for residential lots under 5,000 square feet in size shall be covered through the issuance of a special permit or variance.²⁵ **[Added 10-26-2015 STM by Art. 8]**

25. Editor's Note: Original § 6.09, Lot width, which immediately followed this section, was deleted 4-24-2017 ATM by Art. 12. See the definition of "lot width" in Art. II.

ARTICLE VII

Signs**§ 305-7.01. Applicability.**

Except as shall be exempt under the jurisdiction of the State Billboard Act, Chapter 584, Section 4, of the Acts of 1955,²⁶ and as amended, and except for signs of less than two square feet in surface area identifying occupancy of a residence, no signs shall be attached, erected or otherwise installed on any property without first obtaining a sign permit from the Building Commissioner/Zoning Enforcement Officer, such permit to be granted only in accordance with the following regulations.

§ 305-7.02. General sign regulations.

- A. No sign shall extend above the roofline of the building to which it is attached. Roof signs are not allowed.
- B. Any traffic, directional, trespass or ownership sign owned or installed by a governmental agency shall be permitted.
 - (1) Public interest signs; Adopt a Street Program. Informational standing signs, not including general advertising signs, owned or installed by the Board of Public Works, may be erected on public ways and traffic islands by said Board, after receiving a permit therefor from the Building Commissioner/Zoning Enforcement Officer. Such signs shall not exceed 12 square feet in surface area per side and shall be erected so that no portion of the sign is over five feet above the ground level beneath the sign. Such signs shall contain no more than two colors and shall not be illuminated. The Board may place on such signs the name(s) of persons or businesses who or which are participating in the so-called Adopt a Street Program operated by the Department of Public Works. The Board of Public Works shall adopt and publish written policies and procedures consistent with this section governing the Adopt a Street Program.
 - (2) Community service announcements. Standing signs containing community service announcements, not including general advertising signs, may be erected on public ways and traffic islands with the approval of the Board of Selectmen, after receiving a permit therefor from the Building Commissioner/Zoning Enforcement Officer. Such signs shall not exceed 12 square feet in surface area per side and shall be erected so that no portion of the sign is over five feet above the ground level beneath the sign. Such signs shall not be illuminated. Provided however that so-called banner-type signs may be erected in the air space over public ways without complying with the height and size limitations contained herein.

26. Editor's Note: See MGL c. 93, § 29.

- (3) Welcome to Marshfield signs. Signs which welcome travelers to the Town of Marshfield and which are owned or installed by the Board of Public Works may be erected on public ways and traffic islands at the entrances to the Town by said Board, with the approval of the Board of Selectmen, after receiving a permit therefor from the Building Commissioner/Zoning Enforcement Officer. Such signs shall not exceed 24 square feet in surface area per side and shall be erected so that no portion of the sign is over eight feet above the ground level beneath the sign. Such signs shall contain no more than three colors and shall not be illuminated.
- C. Temporary interior window displays or temporary banners for drive-in establishments or automotive establishments shall be permitted except as provided in Subsection D below. "Temporary" shall be construed to mean any period not exceeding 30 consecutive days. Temporary political signs are permitted in any district, for a period of one month before election to three days after. Not more than one sign per candidate per lot, with permission of the owners, shall be allowed. They shall be subject to all provisions of this bylaw unless such provision be specifically superseded by this section.
- (1) Each political sign shall be freestanding and secured to a post or a stake driven into the ground. Such signs shall not be attached to public property, trees, fences, utility poles or rocks. Whenever the Building Commissioner/Zoning Enforcement Officer determines that any political sign has been erected in violation of the provisions of this subsection, he shall so notify the candidate whose name appears on such sign, and/or any committee formed to advocate the candidacy of such person, of the violation. If the illegal signs are not removed within 24 hours from the time of such notice, then the candidate and committee shall both be liable for the penalties provided under § 305-10.08 of this bylaw.
 - (2) The maximum size of a political sign shall not exceed six square feet. A permit must be obtained from the Building Department before any political sign can be erected or displayed. A permit fee of \$10 shall be paid plus a deposit of \$50 as a security for all signs erected for any one candidate. Removal shall be within three days after election day. The deposit shall be refunded upon the timely removal of the signs and verification of the enforcement officer. Signs not so removed at the end of that period shall be removed by order of the enforcement officer and the fifty-dollar security deposit shall be used for such purposes of removal and any excess amount of said deposit shall be forfeited to the Town.
- D. A sign (including temporary interior window displays or banner) or its illuminator shall not by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs are not permitted and red, yellow or green colored lights shall not be permitted.

- E. No more than two signs shall be allowed for any one business or industrial establishment in the "B" and "I" Districts.
- F. No more than two permanent signs shall be allowed for any one premises in the "R" Districts.
- G. The limitation as to the number of signs permitted does not apply to traffic or directional signs, or posting of trespassing or warning signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, of any business, industry or residence. **[Amended 4-24-2017 ATM by Art. 12]**
- H. The supporting members of any pole sign, projecting sign, or any other sign shall be in acceptable proportion to the size of the sign.
- I. No sign shall be erected so as to obstruct any door, window, or fire escape on a building.
- J. At the boundary line of the Town and within a street right-of-way, a sign not exceeding five square feet in area indicating the meetings of any Marshfield civic organization may be erected only after the granting of a special permit by the Board.
- K. If lighting is provided, the source of light shall be shielded as to prevent direct glare from the light source onto any public street or onto adjacent property.
- L. In any district one unlighted sign offering premises for sale or lease for each parcel in one ownership shall be permitted provided it shall not exceed six square feet in surface area and it shall be set back at least 10 feet from the street lot line.
- M. In any residential class district, one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted provided it shall not exceed four square feet in surface area and it shall be set back at least 10 feet from the street lot line.
- N. In business and industrial districts one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted provided it shall not exceed 32 square feet in surface area and it shall be set back at least 10 feet from the street lot line.
- O. In the business, airport, office park and industrial zones, site plan approval from the Board of Appeals may include recommendations from the Beautification Committee; the Board shall transmit one copy to the Beautification Committee which shall have 30 days to make recommendations to the Board in regard to the signs.

§ 305-7.03. Signs permitted in any "R" District. [Amended 4-24-2017 ATM by Art. 12]

The following signs shall be permitted in any residential district:

- A. One professional nameplate for each medical doctor, dental practitioner, lawyer, engineer, optometrist or home occupation, provided such sign shall not exceed two square feet in surface area.
- B. One identification sign for each dwelling unit, provided such sign shall not exceed two square feet in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall not be used other than for identifying the occupancy.
- C. One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility or public utility use, provided the sign shall not exceed 10 square feet in surface area, and if lighted, it shall be illuminated with white light by indirect method only. Such sign shall be set back at least 1/2 of the required depth of the front yard.
- D. One unlighted sign relating to a new residential subdivision during the actual period of construction, provided it shall not exceed 20 square feet in surface area and it shall be set back at least 10 feet from any street lot line.

§ 305-7.04. Signs permitted in any "B" District. [Amended 4-24-2017 ATM by Art. 12]

The following signs shall be permitted in any business district:

- A. Signs permitted in § 305-7.03, subject to the same regulations, and business signs. General advertising signs shall be prohibited. Projecting signs not more than 10 square feet in area in lieu of a permitted pole sign or standing sign may be permitted by special permit from the Board of Appeals. Such permit may be granted under the conditions of Article X, § 305-10.10, Special permits. Upon receipt of such application, the Board shall transmit a copy of such plan to the Beautification Committee which may make recommendations. No recommendation within 30 days shall be deemed approval.
- B. One wall sign for each lot street frontage of each establishment, provided it shall be attached and parallel to the main wall of a building; the surface area of the sign shall not aggregate more than 10% of the area of the wall on which it is displayed, or 40 square feet, whichever is lesser; and if lighted, it shall be illuminated internally or by indirect method only.
- C. One pole sign for each street frontage lot held in single ownership regardless of the number of businesses on that lot; it may be double-faced, but shall not exceed 40 square feet in surface area per side; no portion of it shall be set back less than 10 feet from any street lot line;

it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalks; and if lighted, it shall be illuminated internally or by indirect method with white light only.

- D. One standing sign for each lot street frontage of a business establishment in the Highway Business District, provided it shall not exceed 40 square feet in surface area, on any one side; no portion of it shall be set back less than 10 feet from any street lot line; it shall not rise to more than 12 feet from the ground or sidewalk; and it shall be illuminated internally or by indirect method with white or blue light only. Where a single lot is occupied by more than one business, whether in the same structure or not, there shall not be more than one standing sign.
- E. Businesses or civic institutions located within the area known as Library Plaza within the B-1 Zoning District, said area including Assessor's Parcels H7-05-07 and H7-05-02, said businesses not having legal frontage on a street but accessible from both Ocean Street and Webster Street, may be permitted to construct a total of two shared signs subject to the following conditions:
 - (1) One pole sign at the intersection of both Ocean Street and Webster Streets with the primary access road to Library Plaza, with said sign located on Town-owned land and held in ownership by the Town regardless of the number of businesses referenced on the sign; it may be double-faced, but shall not exceed 40 square feet in surface area per side; no portion of it shall be set back less than 10 feet from any street lot line; it shall not be erected so that any portion of it is over 12 feet above the ground or sidewalks; and if lighted, it shall be illuminated by indirect method with white light only.
 - (2) Such permit may be granted under the conditions of Article X, § 305-10.10, Special permits. Upon receipt of such application, the Board shall transmit a copy of such plan at least to the Planning Board, the Safety Officer and the Beautification Committee, if applicable, which may make recommendations. No recommendation within 30 days shall be deemed approval.
 - (3) Any site plan review permit issued for new construction, redevelopment or reuse within Library Plaza shall be conditioned upon approval of an amended sign design reflecting the addition of the new business to the shared sign or signs.
 - (4) The commercial tenant(s) located on Assessor's Parcel H7-05-01 may elect to be included on the two signs authorized herein provided that any reference on said sign(s) shall serve as the primary and only signage for said tenant(s) visible from either Ocean Street or Webster Street, and shall disallow, for the duration of the reference to said tenant(s) on the shared sign(s), the

presence on any other sign on the parcel's frontage on Ocean Street.

**§ 305-7.05. Signs permitted in "I" District. [Amended 4-24-2017
ATM by Art. 12]**

The following signs shall be permitted in the Industrial District:

- A. Wall signs permitted in § 305-7.04, subject to the same regulations.
- B. One standing sign for each lot street frontage, provided it shall be set back at least 15 feet from any street lot line; it shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally or by indirect method with white light only.
- C. In the Industrial Zone, a sign or assembly of signs which are similar in size and appearances, and which serve as a directory of occupants, is/are permitted, provided the aggregate area of such sign or signs does not exceed 40 square feet. Not more than one such directory sign may be located at each entrance roadway to the Industrial Zone within 250 feet of the boundary of the zone and not closer than 15 feet to the edge of the roadway. Illumination, if any, will be by indirect white light only.

ARTICLE VIII

Off-Street Parking and Loading and Lighting Regulations**§ 305-8.01. Minimum off-street parking requirements. [Amended 4-24-2017 ATM by Art. 12]**

After the effective date of this bylaw, off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use or any change in an existing use in its entirety in accordance with the Table of Off-Street Parking Regulations and the other requirements contained herein.

Table of Off-Street Parking Regulations

Uses	Minimum Number of Off-Street Parking Spaces per Unit
Dwelling, single- and two-family units	2 per unit
Lodging house, dormitory, fraternity, sorority, YMCA, YWCA and similar types of group quarters	1 per rental or sleeping unit; any bedroom or group of 2 beds in a single room constitutes a sleeping unit
Theater, restaurant, gymnasium, auditorium, church, or similar place of public assembly with seating facilities	1 for each 4 seats of total seating capacity
Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor, which are unusually extensive in relation to customer traffic	1 per 1,000 square feet of gross floor space; in the case of outdoor display areas, 1 for each 1,000 square feet of lot area in such use
Hotel, motel, tourist court	1 for each sleeping room, plus 1 for each 400 square feet of public meeting area and restaurant space
Other retail, service, finance, insurance, or real estate establishment, medical/dental office building	1 per each 500 square feet of gross floor space
Wholesale establishment, warehouse, or storage establishment	1 per each 1,000 square feet of gross floor space
Manufacturing or industrial establishment	1 per each 600 square feet of gross floor space or 0.75 per each employee of the combined employment of the 2 largest successive shifts, whichever is larger

Table of Off-Street Parking Regulations

Uses	Minimum Number of Off-Street Parking Spaces per Unit
Hospital	2 per bed at design capacity
Nursing home	1 per bed at design capacity
Business, trade or industrial school or college, country clubs	1 per each 200 square feet of gross floor area in classrooms and other teaching stations, plus space for gymnasium or auditorium, whichever has the larger capacity
Other school	2 per classroom in an elementary and junior high school; 4 per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger capacity
Community facility (Town building, recreation, etc.)	1 per each 400 square feet of gross floor space
Public utility	1 for each 400 square feet of gross floor space devoted to office space; 1 for each 800 square feet of gross floor area per other use
Transportation terminal establishment; home occupation	1 for each 600 square feet of gross floor area
Any use permitted by this bylaw not interpreted to be covered by this schedule	Closest similar use as shall be determined by the Building Commissioner/Zoning Enforcement Officer

§ 305-8.02. Minimum off-street loading and unloading requirements. [Amended 4-24-2017 ATM by Art. 12]

For every building hereafter erected for retail and service, wholesale, transportation and industrial, and community facility use as specified in the Table of Use Regulations and for every such use hereinafter established in an existing building or area, the off-street loading and unloading requirements presented in the Table of Off-Street Loading Regulations shall apply.

Table of Off-Street Loading Regulations

Use	Number of Loading Spaces Per Unit
Retail trade, manufacturing and hospital establishment with over 5,000 square feet floor area	1 per 20,000 square feet or fraction thereof of gross floor area up to 2 spaces; 1 additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements
Business services, other services, community facility (school, church, Town building, recreation, etc.) or public utility establishment with over 5,000 square feet of gross floor area	1 per every 75,000 square feet of gross floor area

§ 305-8.03. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this bylaw, or any spaces subsequently provided in accordance with this bylaw, shall not be decreased or in any way removed from service to the use originally intended to be served so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this article, provided this regulation shall not require the maintenance of more parking or loading spaces than are required according to the tables.

§ 305-8.04. Computation of spaces.

When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of 1/2 or more shall require one space.

§ 305-8.05. Combined facilities.

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots subject to approval by the Building Commissioner/Zoning Enforcement Officer where it is evident that such facilities will continue to be available for the several buildings or uses. Recognizing that parking requirements in the underlying zoning district may hamper development of village-style land use and development, the Board may, by way of special permit, permit the reduction of the parking space requirements to 80% of that required in the Table of Off-Street Parking Regulations where uses on adjacent lots generate substantially different peak-hour parking lot use patterns. In determining the appropriate

reduction, if any, the Board may give consideration to the hours of usage of the proposed use/structure, hours of usage of other uses/structures within the district, amount of shared parking with other uses, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use/structure, as well as other relevant information to assist the Board in determining the need for additional parking for motor vehicles.

§ 305-8.06. Location and design of parking spaces. [Amended 4-24-2017 ATM by Art. 12]

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or, when practical difficulties as determined by the Board prevent their establishment upon the same lot, they shall be established no further than 300 feet from the premises to which they are appurtenant. The Board may permit parking spaces to be located greater than 300 feet but in no case further than 500 feet from the premises to which they are appurtenant where the applicant provides pedestrian improvements in addition to those required by this bylaw, including but not limited to benches, lighting, bicycle racks and street trees, to the corridor between the parking spaces and the premises to which they are appurtenant.

- A. Parking facilities and appurtenant driveways shall be designed to the extent feasible so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.
- B. Pedestrian walkways shall be:
 - (1) Integrated, to the extent feasible, into the interior and/or perimeter landscaping of parking lots;
 - (2) Constructed with a paved or similarly firm surface, at least five feet in width; and
 - (3) Separated, to the extent feasible, from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.
- C. To the extent possible, parking areas within the B-1 Zoning District shall be located to the side and rear of the structure and shall include provisions for the parking of bicycles in locations that are safely segregated from automobile traffic and parking. No parking area shall be designed such that parking is within the required or authorized front yard setback.
- D. To the extent possible, parking areas shall be shared with adjacent businesses in common ownership or where a written agreement to share parking exists between adjacent landowners.

- E. Parking areas shall include adequate provisions for on-site retention and treatment of stormwater except where the Board determines that the overall site drainage plans are adequate.

§ 305-8.07. Location of loading spaces.

The loading spaces required for the uses listed in the Table of Off-Street Loading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this bylaw.

§ 305-8.08. Parking and loading space standards.

All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures or subject to the following:

- A. The area shall be effectively screened with suitable planting or fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any "R" District.
- B. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices. The location of spaces shall be suitably marked by painted lines or other appropriate markings.
- C. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks and screening materials.
- D. The layout of the parking area shall allow sufficient space for the storage of plowed snow unless removal by some other means is assured.
- E. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
- F. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.
- G. Parking shall not be located within the required front yard area between the front lot line and the required setback in any district except residential.
- H. Parking and loading spaces other than those required for single-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.

- I. Parking and loading spaces serving new residential uses shall be surfaced with a durable pavement.
- J. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curbline of an intersecting street except where subject to the provisions of Article XI, § 305-11.11, in which case the minimum distance shall be 75 feet.
- K. Any two driveways leading to or from a street, to or from a single lot, shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.
- L. Any entrance or exit driveway shall not exceed 30 feet in width at the street line except for fire stations, in which case the widths may be increased to 40 feet. **[Amended 4-24-2017 ATM by Art. 12]**
- M. The Board may, by way of special permit, permit the reduction of the parking space requirements to 80% of that required in the Table of Off-Street Parking Regulations where conditions unique to the use will reasonably justify such a reduction.
- N. The Board may, by way of special permit, permit the reduction of the size of the loading space where such reduced size is consistent with the dimensions of the commercial vehicle serving the premises.
- O. The Board may, by way of special permit, permit the reduction of the size of the parking space to no less than nine feet in width and 18 feet in length, plus 100 square feet of access and maneuvering space, for properties located within the B-1 Zoning District where such reduced size allows for increased landscaping.
- P. The Board may, by way of special permit, permit the reduction of the parking space requirements to 80% of that required in the Table of Off-Street Parking Regulations where there is adequate capacity to meet the standards set forth in the Table of Off-Street Parking Regulations within a Town-owned parking lot within 500 feet of the premises to which they are appurtenant.

§ 305-8.09. General exterior lighting design standards.

- A. The provisions of this bylaw shall apply to business and industrial uses only. The luminaires should be the shoebox type or decorative in nature (with interior directional shielded), consistent with the architectural theme of the development.
- B. Flood and area lighting is unacceptable. All luminaires shall have a total cutoff of all light at less than 90° from vertical.
- C. Reflectors of proper distribution shall be selected for maximum efficiency. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.

- D. The light fixture shall not exceed 20 feet in height. Light fixtures utilized for walkway lighting shall not exceed 12 feet in height.
- E. Where wall pack type luminaires are utilized for outdoor lighting fixtures, the fixture shall be equipped with a prismatic lens to reduce glare. Wall pack lighting should be designed to a maximum cutoff of 70° from vertical. The location of wall pack luminaires shall not exceed 20 feet in height.
- F. The following footcandle levels shall be adhered to:
 - (1) The maximum horizontal footcandle level (initial) as measured directly below the luminaires at grade: 8.0 footcandles.
 - (2) The minimum horizontal footcandle level (maintained) measured at the point of least illumination of grades: 1.0 footcandle.

ARTICLE IX

Nonconforming Uses, Structures and Lots**§ 305-9.01. Nonconformity by initial enactment or amendment.**

The provisions of this article apply to nonconforming uses, structures, and lots as created by the initial enactment of this bylaw or by any subsequent amendment.

§ 305-9.02. Extension and alteration.

- A. Except where used primarily for agriculture, including marine agriculture and the catching and taking of marine flora and fauna and the seeding of catchment area, horticulture or floriculture, any nonconforming use of any structure or of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be altered or extended except in accordance with this Article IX.
- B. Certain nonconforming principal or accessory uses or structures may be extended or altered by special permit from the Board of Appeals in accordance with the procedures established by Article X.²⁷
- C. Any nonconforming one- or two-family residential structure may be altered, extended, or reconstructed and the use extended throughout the extended, altered, or reconstructed portion provided that any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located. Nonconforming structures may be altered or relocated on the same lot if it makes the altered or relocated structure more conforming with respect to the current building and yard regulations.
[Amended April 2007 ATM]
- D. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

§ 305-9.03. Residential lot of record.

Any lot lawfully laid out by deed duly recorded, or any lot shown on a recorded plan endorsed by the Planning Board pursuant to MGL c. 41, § 81P or 81U, which complies at the time of such recording with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaws then in effect, may be built upon for residential use provided it has a minimum area of 5,000 square feet with frontage of at least 50 feet and is otherwise in accordance with the provisions of Section 6 of the Zoning Enabling Act.²⁸

27. Editor's Note: See § 305-10.12, Permit for extension or alteration of nonconforming use or structure.

28. Editor's Note: See MGL c. 40A, § 6.

§ 305-9.04. Reduction or increase. [Amended 4-24-2017 ATM by Art. 17]

- A. Any nonconforming lot shall not be changed in any way that would reduce any dimensional requirements in § 305-6.02, Table of Dimensional and Density Regulations.
- B. Any required open space shall not be reduced as to make it nonconforming.
- C. No building area or floor already nonconforming shall be changed so as to be in greater nonconformity.

§ 305-9.05. Change.

- A. Any nonconforming use of a structure may be changed to another nonconforming use, provided the changed use is not a substantially different use, determined by the Building Commissioner/Zoning Enforcement Officer.
- B. Any nonconforming use which has been once changed to a permitted use shall not again be changed to a nonconforming use.
- C. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

§ 305-9.06. Restoration.

- A. Any nonconforming structure or any structure occupied by a nonconforming use which is totally destroyed by fire or other natural cause may be rebuilt on its original foundation according to original floor area limitations and used for its original use. Otherwise, it shall not be rebuilt, except in accordance with the use, dimensional, and density regulations of this bylaw. Historical buildings may be exempt by special exception of the Board.
- B. Any nonconforming structure or any structure occupied by a nonconforming use which is damaged by fire or other natural cause may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original use or a conforming use.
- C. Restoration under this section shall be completed within two years of the fire or natural disaster.
- D. This time frame may be extended by one year in the case of natural disasters when the Building Commissioner/Zoning Enforcement Officer makes a finding that the property owner has made a good faith effort to complete reconstruction within the said two-year period. The provisions of this amendment shall be effective as of August 1, 1991.

§ 305-9.07. Abandonment.

Any nonconforming use of a structure or lot which has been abandoned for a continuous period of two years or more shall not be used again except for conforming use. For agricultural, horticultural, or floricultural uses, the abandonment period shall be five years. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of 90 consecutive days. The abandonment of the use of a lot where such use was for removal of soil, loam, sand, gravel, quarry or other earth materials shall be governed by § 305-11.02.

§ 305-9.08. Moving.

Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of the structure, the use thereof, and the lot shall be conforming. Nonconforming historical structures may be moved by special exception of the Board.

§ 305-9.09. Unsafe structure.

Any structure determined to be unsafe and not subject to § 305-9.06 may be restored to a safe condition provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, except for historic buildings, if the cost to restore any structure shall exceed 50% of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

§ 305-9.10. Nonconforming signs.

Any sign which is nonconforming at the date of adoption of this bylaw by reason of its size, type, or lighting shall be altered so as to become conforming within five years of the date of adoption of this bylaw or shall be removed within five years.

ARTICLE X

Administration and Enforcement**§ 305-10.01. Administrative official.**

It shall be the duty of the Building Commissioner/Zoning Enforcement Officer to administer and enforce the provisions of this bylaw. If the Building Commissioner/Zoning Enforcement Officer receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Building Commissioner/Zoning Enforcement Officer shall notify in writing the party requesting action of his refusal to act and the reasons therefor within 14 days of receipt of such request.

§ 305-10.02. Permit required.

Except for the erection of a structure enclosing an area of 64 square feet or less and except for the erection of signs of less than two square feet in surface area identifying occupancy of a residence, it shall be unlawful for any person to erect, construct, reconstruct, or alter a structure, or change the use or lot coverage, increase the intensity of use, or extend or displace the use of any building, structure, or lot, without applying for and receiving from the Building Commissioner/Zoning Enforcement Officer a building permit. It shall also be unlawful for any person to attach, erect, or otherwise install any sign without applying for and receiving from the Building Commissioner/Zoning Enforcement Officer a sign permit.

§ 305-10.03. Previously approved permit.

The status of previously approved permits shall be as determined by the Zoning Act.²⁹

§ 305-10.04. Certificate of occupancy required.

- A. It shall be unlawful to occupy any structure or lot for which a building permit is required herein without the owner applying for and receiving from the Building Commissioner/Zoning Enforcement Officer a certificate of occupancy specifying thereon the use to which the structure or lot may be put. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning Bylaw and the Building Code in effect at the time of issuance. No such certificate shall be issued unless the building and its accessory uses and the uses of all premises are in conformity with the provisions of this bylaw and of the Building Code at the time of issuance. A certificate of occupancy shall be conditional on the provision of adequate parking space and other facilities as required by this bylaw and shall lapse if such areas and facilities are used for other purposes.

29. Editor's Note: See MGL c. 40A.

- B. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this bylaw:
- (1) Occupancy and use of a building hereafter erected or structurally altered.
 - (2) Change in use of an existing building or the use of land to a use of a different classification.
- C. Certificates of occupancy shall be applied for coincidentally with the application for a building permit and shall be acted upon within 10 days after receipt by the Building Commissioner/Zoning Enforcement Officer of approved inspection certificates and/or provisions of all governmental bodies so lawfully designated as required by the applicable laws, bylaws, and codes. Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than 10 days after issuance.

§ 305-10.05. Permit and certificate fees.

Fees shall be as established by the Selectmen.

§ 305-10.06. Permit time limits.

Any work for which a permit has been issued by the Building Commissioner/Zoning Enforcement Officer shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Commissioner/Zoning Enforcement Officer.

§ 305-10.07. Notice of violation and order.

The Building Commissioner/Zoning Enforcement Officer shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion, or alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

§ 305-10.08. Violations and penalties. [Amended 4-24-2017 ATM by Art. 12]

If the notice of violation and order is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or

in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this bylaw shall for each violation, upon conviction thereof, pay a fine of \$300. Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense. Penalties for violations in connection with the removal of soil, loam, sand, gravel, quarry, or other earth materials shall be as set forth in the Earth Removal Bylaw.³⁰

§ 305-10.09. Board of Appeals.

- A. Membership. There shall be a Board of Appeals of five members and two associate members.
- B. Appointment. Members of the Board in office at the effective date of this bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.³¹
- C. Powers. The Board shall have those powers granted under the Zoning Act.
- D. Adoption of rules. The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act.
- E. Plans.
 - (1) Whenever a plan is required to be submitted under any provision of this bylaw, for good cause shown, the Board may waive the submission, or modify the requirements, of such plans, according to its judgment; provided, however, that the Board shall not waive such submission if any other Town official or agency required or requested to pass on such plan objects to such waiver.
 - (2) All plans required to be submitted to the Board of Appeals shall be drawn to the largest practicable scale which in no case shall be smaller than one inch equals 40 feet. They shall contain a locus map, shall show sufficient contour information to enable the Board to determine drainage flow, and shall contain all engineering information necessary for any proposed construction. All elevations provided must be relative to mean sea level as determined by the U.S. Geological Survey.
- F. Appeals. Any appeal to the Board shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal specifying the grounds thereof with the Town Clerk who shall transmit copies to the officer whose decision is being appealed and the permit granting authority. No appeal, application or petition to the Board of Appeals with respect to a particular parcel of land or with

30.Editor's Note: See Ch. 70, Earth Removal.

31.Editor's Note: See MGL c. 40A.

respect to any structure which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years after the date of such unfavorable action, except in accordance with MGL c. 40A, § 16.

§ 305-10.10. Special permits.

Certain uses, structures or conditions are designated as allowed by special permit in Article V, Table of Use Regulations, and elsewhere in this bylaw. Upon written application duly made to the Board, the Board may, in appropriate cases subject to the applicable conditions set forth in Articles XI and XII of this bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures and conditions. When site plan approval is required, the granting authority shall be the Board of Appeals except in the Planned Mixed-Use District where a special permit is also required and that special permit granting authority is the Planning Board. In that case, the special permit granting authority for the site plan approval shall be the Planning Board.

- A. Before granting an application for a special permit, the Board, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - (1) The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this bylaw.
 - (2) The requested use is essential or desirable to the public convenience or welfare.
 - (3) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
 - (4) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
 - (5) Any special regulations for the use, set forth in Article XI, are fulfilled.
 - (6) The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.
- B. The Board shall also impose in addition to any applicable conditions specified in this bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this

bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

- C. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan shall be submitted, in quadruplicate, to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.
- (1) The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.
- (2) The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.
- D. The special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown, and provided further that such construction once begun shall be actively and continuously pursued to completion within a reasonable time.
- E. The Board shall hold a public hearing within 65 days after the filing by the applicant of the appropriate forms and plans with the Town Clerk who shall forthwith transmit said application to the Board. It shall act within 90 days of the hearing on the petition; failure to do so shall be deemed approval.
- F. The Planning Board may appoint an associate member. The term of office of such associate member shall be two years. The Chairperson of the Planning Board may designate the associate member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any members of the Planning Board or in the event of a vacancy on the Board. **[Amended 4-24-2017 ATM by Art. 12]**

§ 305-10.11. Variances.

- A. The Board may authorize a variance for a particular use of a parcel of land or to an existing building thereon from the terms of this bylaw where, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such parcel or such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw. The Board may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance they shall lapse and may be reestablished only after notice and a new hearing pursuant to this section.
- B. Before any variance is granted, the Board must find all of the following conditions to be present:
- (1) Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.
 - (2) Strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same district. **[Amended 4-24-2017 ATM by Art. 12]**
 - (3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this bylaw.
 - (4) Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw.
 - (5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

§ 305-10.12. Permit for extension or alteration of nonconforming use or structure.

Upon written application duly made to the Board and subsequent public hearing duly advertised by the Board, the Board may, in appropriate cases, subject to the applicable conditions set forth in Articles XI, XII, XIII, and XV of this bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for an extension or alteration of

a nonconforming use or structure. The Board may, subject to the same conditions, grant a special permit for expansion of parking and other accessory uses appropriate to said nonconforming use or structure or expanded nonconforming use or structure.

A. Before granting a special permit for extension or alteration of such nonconforming use or structure, the Board, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

- (1) The use requested for extension or alteration is listed in the Table of Use Regulations as permitted, or permitted by special permit, in at least one district within the Town.
- (2) The requested extension or alteration of the use or structure is essential or desirable to the public convenience or welfare.
- (3) The requested extension or alteration of the use or structure will not further create undue traffic congestion or unduly impair pedestrian safety.
- (4) The requested extension or alteration of the use or structure will not further overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
- (5) Any special regulations for the use or structure as set forth in Article XII are fulfilled.
- (6) The requested extension or alteration of the use or structure will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.
- (7) The requested extension or alteration of the use or structure will not bring the use or structure into violation of, or further violation of, the regulations set forth in Article VI, Table of Dimensional and Density Regulations, unless a variance is also granted subject to the provisions of § 305-10.11 of this bylaw.
- (8) The extended or altered use or structure will not be substantially different in character.
- (9) The extended or altered use or structure will not be more detrimental or objectionable to the neighborhood.
- (10) The extended or altered use or structure does not cause violation or further violation of Article VIII of this bylaw.

B. The Board shall also impose in addition to any applicable conditions specified in this bylaw such applicable conditions as it finds reasonably

appropriate to safeguard the neighborhood, or otherwise serve the purpose of this bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearances of the structures; limitation upon the size, number of occupants, method or time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required by the bylaw. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

- C. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan prepared by a registered land surveyor or registered professional civil engineer shall be submitted with six copies to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal, and for surface water drainage, wetlands, and all landscape features, such as fences, walls, planting areas and walks. **[Amended 4-24-2017 ATM by Art. 12]**
- (1) The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.
 - (2) The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.

ARTICLE XI
Special Permit Conditions

§ 305-11.01. Special conditions.

In addition to the general conditions set forth in § 305-10.10 of this bylaw for all special permits the following special conditions shall apply to the following uses in this article listed as special permits in various districts in the Table of Use Regulations.

§ 305-11.02. Removal of soil, loam, sand, gravel, quarry or other earth materials.

Now General Bylaws Chapter 70, Earth Removal.

§ 305-11.03. Filling of land or water area. [Amended 4-24-2017 ATM by Art. 12]

For the filling of any land or water area where such filling is not covered by Article XIII of this bylaw, where such filling requires an amount of fill equivalent to 500 cubic yards or more, or where the area to be filled exceeds 10,000 square feet, a permit must be issued by the permit granting authority prior to initiation of site work. Where said filling is proposed within a project subject to review by the Board of Appeals and/or the Planning Board, the reviewing board shall serve as the permit granting authority under this bylaw. Where a proposed project must receive permits from both boards, or where the work does not require additional permits, the Board of Appeals shall serve as the permit granting authority. The following conditions apply to any filling authorized under this bylaw except for the construction of a new subsurface disposal system or repair and/or alteration of an existing subsurface disposal system: (Such conditions shall include, where applicable, prior approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Department of Transportation under MGL c. 130 and c. 131.)

- A. Submission of a location plan at a scale of one inch equals 1,000 feet showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie-in to the nearest road intersection.
- B. Submission of a site plan to a minimum scale of one inch equals 40 feet of the lot and surrounding area within 100 feet showing, in addition to Subsection A above, existing and proposed contour lines at intervals of not more than two feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered land surveyor.
- C. Provision for temporary and permanent drainage of the site.
- D. Limitation of fill to terrace fills which are not to exceed 10 feet at any one time nor be within 10 feet of an adjacent lot line or any cut.

- E. Regrading of all parts of the slopes resulting from such fill.
- F. Replacement of at least four inches of topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
- G. Submission of plan for lighting, if night operation is contemplated.
- H. Where any fill will have a depth of 10 feet or more and create a slope of more than one foot in two feet, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates. Such fence shall be located 10 feet or more from the edge of the fill.
- I. In granting a permit hereunder, the reviewing authority shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town which may include conditions as to the overall operation and as relating to the submitted items above.
- J. Where filling proposed under this bylaw is proposed within a project subject to review by the Board of Appeals and/or the Planning Board, the reviewing authority shall conduct a public hearing to consider the application for filling concurrent with the hearing to consider the project itself.

§ 305-11.04. Open space residential development.

- A. Purposes. The purpose of the bylaw is to allow for flexibility and creativity in the design of residential developments; encourage preservation of scenic vistas, natural resources and existing and potential municipal water supplies; facilitate construction and maintenance of streets, utilities and public services in a more economical and efficient manner; encourage a less sprawling form of development that consumes less open land and conforms to existing topography and natural features better than a standard subdivision; preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails; encourage provision of diverse housing opportunities and integration of a variety of housing types; and further the goals and policies of the Town's Comprehensive Plan.
- B. Definition.

OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD) — A single-family detached residential development in which the buildings are clustered together with reduced lot sizes and frontage. The land not included in building lots is permanently preserved as open space as defined herein. OSRD is the preferred form of residential development and/or redevelopment in the Town of Marshfield for residential developments of five or more lots.
- C. Applicability. The Planning Board may grant a special permit for an OSRD for any parcel or contiguous parcels of at least five acres in any

district permitting single-family residences subject to the regulations and conditions herein.

D. Procedural requirements.

(1) Rules and regulations. The Planning Board shall adopt rules and regulations consistent with the provisions of this bylaw and shall file them with the Town Clerk. Such rules shall address the size, content, and number of copies of preliminary and definitive plans and other submittals and the procedure for the review of special permits.³²

(2) Density/number of dwelling units.

(a) The number of dwelling units permitted shall not exceed that which would be permitted under a conventional subdivision that complies with the Marshfield Zoning Bylaw and the Subdivision Rules and Regulations of the Planning Board and other applicable laws and regulations of the Town or the state. The total number of dwelling units shall be determined by the following formula:

[Total area of land subject to the application] - [Area of wetlands/water bodies] = Applicable land area

[Applicable land area] x [0.90] divided by minimum lot area = Total number of dwelling units

(b) A preliminary subdivision plan may be submitted to assist in demonstrating the allowable number of units. If the parcel lies in more than one zoning district, the total for each district shall be calculated separately.

(3) Review and decision. The Planning Board shall act on applications according to the procedure specified in MGL c. 40A, § 9, with the exception that a decision shall be rendered within the time frame for definitive subdivision plans specified in MGL c. 41, § 81U, whenever this time frame is shorter. Public hearings for the subdivision application and the special permit application shall be held concurrently.

(4) Criteria for special permit decision.

(a) Findings.

[1] The Planning Board may approve the development upon finding that it complies with the purposes and standards of the OSRD bylaw and is at least equivalent to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The

32. Editor's Note: See Ch. 411, Open Space Residential Development.

Planning Board shall consider the following criteria in making its decision:

- [a] Upland open space as required by this bylaw has been provided and generally conforms with Subsection H of this bylaw.
- [b] Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots.
- [c] Lots meet the applicable dimensional requirements of Subsection E of the OSRD bylaw and the Marshfield Zoning Bylaw.

[2] The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the bylaw.

- (b) Time limit. Special permits are granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.
- (c) Relationship to Subdivision Control Law. Nothing contained herein shall exempt a subdivision from compliance with other applicable provisions of these bylaws or the Marshfield Subdivision Rules and Regulations, nor shall it affect the right of the Board of Health and Planning Board to approve, condition or disapprove a plan in accordance with the provisions of such rules and regulations and the Subdivision Control Law.³³

E. Standards and dimensional requirements. Where the requirements of this section differ from or conflict with the requirements in the Table of Dimensional and Density Regulations found elsewhere in this bylaw, the requirements of this section shall prevail for OSRD developments.

- (1) Minimum lot size: 1/2 the square footage otherwise required by the zoning district in which the project is located or 15,000 square feet, whichever is less.
- (2) Minimum frontage. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 75 feet of frontage and

33.Editor's Note: See Ch. 405, Subdivision of Land, and MGL c. 41, §§ 81K to 81GG.

provided further that such frontage reduction shall apply only to lots fronting on proposed internal roadways.

- (3) Lot shape. All building lots must be able to contain a circle of a minimum diameter of 75 feet from the front lot line to the rear building line.
- (4) Setbacks. The Planning Board may permit a reduction by up to 1/2 of the setbacks otherwise listed in the Table of Dimensional and Density Regulations in this bylaw, if the Board finds that such reduction will result in better design and improved protection of natural and scenic resources and will otherwise comply with the bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15 feet from the roadway right-of-way and a minimum of 30 feet from the outer perimeter of the land subject to the application. This thirty-foot setback shall be maintained in a naturally vegetated state to screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged.
- (5) Required open space. All land area not utilized for lots, roads, and drainage shall be set aside as permanent open space. A minimum of 50% of the upland area of the parcel ("applicable land area") shall be provided as open space. Applicants are encouraged to include wetlands and water bodies within the open space; however, they do not count toward the open space requirement. Roadway layouts do not count toward the open space requirement.

F. Permissible uses of open space.

- (1) Purposes. Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents of the OSRD development and/or the public. Where appropriate, multiple use of open space is encouraged. At least half of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas. The Board may approve or disapprove the proposed uses.
- (2) Recreation lands. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) be of a shape, slope, location and condition to provide an informal field for recreation or community gardens for the residents of the subdivision.
- (3) Leaching facilities. Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the Planning Board

finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands, or water bodies and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be permanently maintained by the lot owners. Where a parcel straddles the boundary of the Water Resource Protection District, leaching facilities shall be located outside of the district to the maximum extent feasible.

- (4) Accessory structures. Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking. With this exception, no other impervious areas may be included within the open space.

G. Ownership of open space.

- (1) Ownership options. At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be:
 - (a) Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use;
 - (b) Conveyed to a nonprofit organization, the purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Subsection G(2) below. Such organization shall be acceptable to the Town as a bona fide conservation organization; or
 - (c) Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development ("homeowners' association") and placed under conservation restriction as specified in Subsection G(2) below. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other common facilities until such time as the association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining these areas. The Planning Board shall require the applicant to provide documentation that the homeowners' association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.
- (2) Permanent restriction. In any case where open space is not conveyed to the Town, a permanent conservation, agricultural or historical preservation restriction approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, shall be recorded to

ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the endorsed definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained with good conservation practices.

- (3) Encumbrances. All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.
 - (4) Maintenance of open space. In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lots to ensure payment of such maintenance expenses.
 - (5) Monumentation. Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.
- H. Design requirements. The location of open space provided through this bylaw shall be consistent with the policies contained in the Marshfield Comprehensive Plan and the Marshfield Open Space and Recreation Plan. The following design requirements shall apply to open space and lots provided through this bylaw:
- (1) Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100 feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands, or as connections between open space areas.
 - (2) Open space shall be arranged to protect valuable natural and cultural areas such as stream valleys, wetland buffers, forestland and significant trees, wildlife habitat, open fields, scenic views, trails and archaeological sites and to avoid development in

hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized.

- (3) Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by foot trails.
- (4) Where the proposed development abuts or includes a body of water or a wetland, these areas and a minimum fifty-foot buffer to such areas should be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.
- (5) The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.
- (6) Open space shall be provided with adequate access, by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development.
- (7) Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections shall be provided where appropriate.

§ 305-11.05. Planned mixed-use development.³⁴ [Amended 10-19-2009 STM by Art. 11; 10-27-2014 STM by Art. 18]

This section of the Zoning Bylaw is to allow a Planned Mixed-Use Development (PMUD) Overlay District within a portion of the Industrial District as shown on the Zoning Map.

- A. Purpose. The purpose of this planned mixed-use development section is as follows:
- (1) To provide an opportunity to comprehensively plan large tracts of land in a pedestrian-friendly, campus-like setting, around a public green.
 - (2) To ensure high-quality site planning, architecture and landscape design to create a distinct visual character and identity for the development that provides the Town with a mixed-use environment with convenience and amenities.
 - (3) To ensure any potential traffic impacts of the planned mixed-use development are properly mitigated and in keeping with the character of the Town of Marshfield.

34. Editor's Note: For related Planning Board regulations see Ch. 414, Planned Mixed-Use Development Overlay District.

- (4) To generate positive tax revenue, while providing the opportunity for new business growth and additional local jobs.
- B. Process. The applicant files a special permit application with the Planning Board serving as the special permit granting authority (SPGA) for an element (or combination of elements) within the planned mixed-use district. A new element is a tract in single or consolidated ownership at the time of application and shall be a minimum of seven acres in size and contain at least 150 feet of frontage. An element can be planned for and developed in phases. Existing elements shall not require a minimum tract size. An element may be a single use or group of uses and may be broken into phases. Each element shall contain or provide for the overall road network, roadway drainage, a public green, park, and/or playground, bike and pedestrian ways, lots and proposed uses. A proposed element may, with the written approval of the Planning Board based on an express finding that off-site public improvements are in the public interest, provide financial support to off-site public improvements in lieu of on-site improvements as part of the application. When site plan approval is required for the proposed uses in the PMUD, the site plan approval authority shall be the Planning Board.
- C. Applicability and uses. In addition to the uses allowed in the 1-1 Zone that are not specifically prohibited in the PMUD, the following uses may be allowed by special permit: retail and service; eating and drinking places; banks; membership club; hotel; educational campus; medical facility or offices; general offices; research facilities; other amusement/recreation service; mixed-use buildings with commercial on first floor and residential units above with a base density of six units per acre (subject to affordability requirements under Subsection F below); age-restricted adult village residential units with a base density of four units per acre (subject to affordability requirements under Subsection F below); attached nursing, rest or convalescent home not to exceed 24 beds per acre.
- D. Required performance standards.
- (1) Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. Buildings, when abutting a public green, shall be oriented around a public green and not Route 139 (Plain Street).
 - (2) Access to Route 139 (Plain Street) from a proposed development or elements within the PMUD shall be through a secondary street as defined in the Planning Board Subdivision Rules and Regulations at a signalized intersection.³⁵
 - (3) Maximum percentage of land area allowed by use within the Planned Mixed-Use Development Overlay District:

35. Editor's Note: See Ch. 405, Subdivision of Land.

Use	Maximum Percentage Allowed Within the PMUD	Maximum in Acres Allowed Within the PMUD
Major retail and service (including grocery store)	8%	17.3
Retail and service mixed-use (including but not limited to residential units above)	22% or a maximum of 75 residential units above whichever is more restrictive	48
Office/research/medical	35%	75.6
Age-restricted adult village	5%	10.8
Nursing home/assisted living	10%	21.6
Hotel/motel (with conference center)	5%	10.8
Educational campus (including residential units above)	5%	10.8
Profit recreation	10%	21.6
Total	100%	216.5 acres

- (4) Development of the future elements within the PMUD shall be required to balance commercial and other nonresidential developments with residential elements. Future elements that are all residential (age-restricted adult village) shall be preceded by a minimum of 10,000 square feet of commercial development.
- (5) The base number of dwelling units in the PMUD shall be determined by the following formula: Total area of land subject to the application minus (-) wetlands/water bodies multiplied (*) by applicable base density add (+) affordable housing and density bonus (see Subsection F) equals (=) Total number of dwelling units.
- (6) Mixed-use residential units within the PMUD shall provide a minimum of 1.25 parking spaces for each bedroom. Age-restricted adult village/attached residential units within the PMUD shall provide a minimum of two parking spaces per unit. Enclosed or covered parking may be allowed as an accessory use in the rear of the first floor of a mixed-use building.
- (7) The majority of the parking shall be located to the rear or sides of buildings. All parking and loading areas shall be completely screened from Route 139 (Plain Street) by a minimum fifty-foot-wide raised and landscaped buffer. Parking lots and loading areas

shall be appropriately screened from roadways within the overlay district by a minimum twenty-foot-wide raised and landscaped buffer. Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.

- (8) Reduction in parking space requirements may be permitted by written request in the application as part of the granting of the special permit where by design and use it is shown to the Planning Board's satisfaction that the parking is compatibly shared by multiple uses. However, in no case shall a parking requirement reduction exceed 20% of those parking spaces required under normal application of requirements for the nonresidential uses proposed.
- (9) Individual retail establishments shall be limited to a maximum gross floor area of 55,000 square feet. An individual retail establishment may be increased to 65,000 square feet where the Planning Board finds that individual sections of the retail establishment front a public green with access and windows or where the additional space is used as small retail uses lining the wall facing the public green of the large retail establishment.
- (10) All elements that create mixed-use residential or attached residential units are required to provide affordable housing in compliance with Subsection F. All affordable housing created by this bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements of the Massachusetts Department of Housing and Community Development LIP Program. Affordable housing units will count toward the Town's Subsidized Housing Inventory, in accordance with MGL c. 40B.
- (11) All residential development which occurs as a result of this bylaw shall meet the affordable housing requirements and shall be entitled to a density bonus as follows: The number of affordable units and density bonus units shall equal the number of base density units multiplied by 25% and rounded up to the next even number divided by two. [Example: A base density of 9 units will result in 9 base density units plus 4 units ($0.25 \times 9 \text{ units} = 2.25$ units rounded up to 4 units, 2 affordable units and 2 density bonus units) or 13 units in total. A base density of 31 units will result in 31 base density units plus 8 units ($0.25 \times 31 \text{ units} = 7.5$ units rounded up to 8 units, 4 affordable units and 4 density bonus units) or 39 total units.]
- (12) The development site design shall be integrated into the existing terrain and surrounding landscape to provide the least amount of site disturbance, and shall be designed, including with appropriate noise, light and open space buffering and screening, to protect abutting properties, neighborhood and community amenities. Building sites shall, to the extent deemed feasible by the Planning Board:

- (a) Preserve unique natural or historical features.
 - (b) Minimize grade changes and removal of trees, vegetation and soil.
 - (c) Maximize buffers to wetlands and water bodies.
 - (d) Screen objectionable features from neighboring properties and roadways.
- (13) All elements of the PMUD shall provide for access on roads and driveways that in the opinion of the Planning Board have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the proposed development. The development shall maximize the convenience and safety of vehicular, bike and pedestrian movement within the site and in relation to adjacent ways through proper layout, location and design.
- (14) All dead-end roads and driveways shall terminate in a cul-de-sac or provide, if approved by the Planning Board as part of the special permit, other accommodations for vehicles to reverse direction when it is deemed in the public interest to do so. Turnaround areas shall be designed to accommodate the largest emergency vehicles of the Town of Marshfield. Dead-end streets and connecting driveways shall not exceed 800 feet in length, measured from the intersection of the road that provides access.
- (15) The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves. Plans shall provide information and elevations to show massing of buildings, height and spacing between buildings. Plans shall provide a table with properties, entity, use, area (in acres) and area (in percentage) for both the proposed element and total for the overlay district.
- (16) Architectural details, including elevation plans of all sides, shall be submitted of new buildings and additions, and textures of walls and roof materials should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.
- (17) The building's location shall be oriented parallel or perpendicular to the public green(s) and/or street. Where the minimum setback cannot be maintained, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements which will maintain the street line.
- (18) The building's main entrance may be placed to the side of the front facade to facilitate access to parking.

- (19) Mixed-use and residential building facades in excess of 40 feet shall incorporate recesses and projections of a minimum of two feet in depth or otherwise be designed to break up the building's mass and scale.
- (20) A minimum of 60% of the building's public green(s) and/or street side facade shall contain windows and other appropriate architectural elements, excluding the facade facing Route 139 (Plain Street) where the landscaped buffer is determined by the Planning Board to be adequate. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building facade; metal awnings are discouraged.
- (21) All utility connections to buildings and structures shall be located underground.
- (22) All building rooftop utilities such as air conditioners shall be appropriately screened from public view and from the view of abutting properties.
- (23) All ground-mounted utilities such as transformers, switching units, and ventilation pipes shall be appropriately screened from view.
- (24) All loading docks and service entrances where equipment, furniture, goods and materials are loaded into buildings shall be appropriately screened from view.
- (25) All dumpsters and other waste refuse containers shall be covered and appropriately fenced and screened from view. Collection times for dumpsters and other waste refuse containers located in the mixed-use and residential parcels of the PMUD Overlay District shall be scheduled for normal daytime (7:00 a.m. to 5:00 p.m.) residential collection hours.
- (26) Individual special permit applications shall comply with § 305-11.10 (Traffic impact study).
- (27) The large retail establishment shall either provide an entrance to the public green or it should be designed so that the facade facing the public green is lined with accessory shops or uses to enhance pedestrian activities.
- (28) A public green, playground, recreation field or other recreational amenities (trails/paths/bikeways) shall be required for each element of development within the PMUD. The public green(s) shall be a minimum of 1/2 acre in size per every seven acres within an element and shall be designed as a bike- and pedestrian-friendly park. The public green(s) shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. Each green shall be used solely for active and passive recreation purposes and shall be open to the public. The total

acreage of the green in each element may be used toward the land area calculations to determine allowable density within that element. The Planning Board may allow for an off-site location for the public green, playground, recreation field or other recreational improvement if determined to be in the best interest of Town. The public green, playground, recreation field or other recreational improvement requirement may (with Planning Board's approval) be met by adding to an existing public green, playground or recreation field or facility.

(29) Setbacks for the overlay district shall be as follows:

Minimum Yards	Minimum
Building Setbacks	(feet)
Public green (where applicable)	5
Front	20
Front (mixed-use)	5
Side	10
Rear	30

(30) Front setbacks for buildings facing the public green(s) may vary. All other standards for I-1 Zoning Districts contained in the Table of Dimensional and Density Regulations shall apply.

(31) In cases where the proposed traffic mitigation is deemed by the Planning Board to be out of character for the Town, the applicant may propose additional open space from within the PMUD District or adjacent districts or may donate an amount equal to the cost of the proposed mitigation to the Town for the purpose of open space acquisition. Where permanently protected open space is provided in lieu of traffic mitigation, said open space shall be at least equal in area to the total acreage of land of said proposed use.

E. Ownership of public green.

(1) Subject to approval by the Planning Board, all areas designated as public greens shall be either placed under a permanent conservation restriction or deeded to the Town as a condition of special permit and site plan approval. If placed under a conservation restriction, said restriction shall be in a form approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, that shall be recorded to ensure that such land shall be kept in an open state. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at

the Registry of Deeds/Land Court with the issuance of the building permit.

- (2) Maintenance of public green. The Town shall be granted an easement over such public green sufficient to ensure its perpetual maintenance as recreation land. Such easement shall provide that in the event the owner fails to maintain the public green in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the undeveloped lots within the corresponding phase of the PMUD to ensure payment of such maintenance expenses.
- (3) Monumentation. Where the boundaries of the public green are not readily observable in the field, the Planning Board shall require placement of permanent surveyed bounds sufficient to identify the location of the public green.

F. Affordable housing provisions.

- (1) The requirement for affordable units shall be met by one or a combination of the following methods:
 - (a) On-site development. Constructed or rehabilitated on the locus subject to the special permit (preferred); or
 - (b) Fees in lieu of construction. The applicant may offer, and the Planning Board, upon receiving a favorable recommendation from the Housing Partnership, may approve fees in lieu of construction of affordable housing units as satisfying the requirements of Subsection D above. The applicant shall make the payment of the fee in lieu of construction to the Marshfield Housing Authority for the sole purpose of creating affordable housing units in the Town of Marshfield that meet the state's LIP and add to the Town's Subsidized Housing Inventory as determined by the Housing Partnership. Fees in lieu of construction are more fully addressed below. The applicant may offer, and the Planning Board may accept, a combination of the on-site and fees in lieu of construction, provided that in no event shall the total number of affordable units provided on site and the number of affordable units for which a fee in lieu of construction is paid be less than the equivalent number or value of affordable units required for the applicable development by this bylaw. Note: If affordable units are for rent, the provisions below for fees in lieu of construction are not applicable.
- (2) Provision of affordable housing units on site.

- (a) Location of affordable units. All affordable units shall be situated within and dispersed throughout the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, than the market-rate units.
- (b) Minimum design and construction standards for affordable units. Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be identical to the market-rate units in size, design, appearance, construction, building systems such as HVAC, electrical and plumbing, and quality and types of materials used in all interior space including bedrooms, kitchen, bathrooms, living rooms, studies, hallways, closets, garages and basements and provided with identical amenities and appliances such as, but not limited to, decks, central vacuum cleaning systems, stoves, refrigerators, compactors, disposals, dishwashers and landscape fencing, walls and plantings unless otherwise approved in the special permit by the Planning Board. No changes to these standards may be made by the Planning Board without the approval of the Housing Partnership.
- (c) Marketing plan for affordable units. Applicants shall submit a marketing plan which describes the number of affordable housing units, their approximate sales price or rent level, the means for selecting buyers or tenants of the affordable units, how the applicant will accommodate local preference requirements and the method of affirmatively marketing the affordable units (including the marketing of such units) to minority households, in a manner that complies with the LIP Guidelines. This requirement is further addressed in § 305-11.14I of this bylaw.
- (d) The marketing plan shall be developed by the applicant with the assistance of the lottery agent and submitted to the Housing Partnership. The Housing Partnership shall review the marketing plan to determine its appropriateness in addressing the affordable housing needs within the community and its compliance with applicable federal and state statutes and regulations, the LIP Guidelines and this bylaw. The Housing Partnership may require modifications of the marketing plan or, if it determines the plan to be satisfactory, may forward it to DHCD with a favorable recommendation. Following the approval of the marketing plan by DHCD, the Housing Partnership shall notify the Planning Board and the lottery agent. The special permit and building permits may be granted prior to receiving DHCD approval so as to facilitate the construction of the development; however, certificates of

occupancy, whether for affordable or market-rate units, shall not be issued until such time as the marketing plan has been approved by DHCD.

- (e) Applicants shall comply with the requirements of the lottery agent and certify their acceptance and willingness to comply with the lottery process or other requirements of the lottery agent for the selection of qualified housing buyers or renters for the affordable units. The lottery system and requirements are further addressed in § 305-11.14I of this bylaw. Applicants may use a lottery agent from a list of DHCD approved lottery agents or may use the Marshfield Housing Authority as its lottery agent. The recommended lottery agent shall be approved by the Housing Partnership.
- (3) Provision for fees in lieu of construction of affordable housing units.
- (a) Fees in lieu of construction of affordable housing units. An applicant may propose to pay a fee in lieu of construction of affordable housing units to the Marshfield Housing Authority. A fee in lieu of construction shall be for the sole purpose of creating affordable housing in the Town of Marshfield that meet the state's LIP and adds to the Town's Subsidized Housing Inventory as determined by the Housing Partnership. The fee in lieu of construction shall be held in trust and in separate interest-bearing accounts by the Marshfield Housing Authority for such purpose.
 - (b) For each affordable unit for which a fee in lieu of construction is paid, the cash payment per unit shall be equal to 65% of the average price being asked for the market-rate units in the applicable development.
 - (c) The fee in lieu of construction shall not result in an increase in the total number of units contained in the application for the special permit approved by the Planning Board.
 - (d) The Marshfield Housing Authority shall submit to the Housing Partnership, annually and upon request, reports and other documentation of the use of its financial accounting for the fees in lieu of construction.
 - (e) The Marshfield Housing Authority shall hold all fees in lieu of construction of affordable housing units paid to it and all investment income and profit thereon received by it separately from all other moneys of the Marshfield Housing Authority. It shall cause such fees, income and profit to be audited at least once a year by an independent certified public accountant or independent firm of certified public accountants experienced in auditing accounts of governmental entities (which may be its regular auditor if such regular auditor meets the foregoing criteria), such audit to be completed no later than the general

audit of the Marshfield Housing Authority's financial statements for the applicable fiscal year. A copy of such audit shall be promptly submitted to the Town Accountant, the Town Treasurer/Collector, the Town Administrator, the Board of Selectmen, the Housing Partnership, and the Planning Board. Such audit may be combined with the general audit of the Marshfield Housing Authority as long as all matters relating to such fees, income and profit are set forth separately from all other accounts of the Marshfield Housing Authority.
[Amended 4-24-2017 ATM by Art. 12]

- (f) Schedule of fees in lieu of payments. Fees in lieu of construction payments shall be made prior to application for the first residential certificate of occupancy of the element.

G. Criteria for review and approval.

- (1) The Planning Board shall review all applications for planned mixed-use development to determine compliance of the proposal with the following criteria:
 - (a) Subsection A, Purpose.
 - (b) Subsection D, Required performance standards.
 - (c) That the proposed element provides the proper fiscal balance for the Town, ensuring that additional nonresidential growth (within the PMUD) occurs prior to or at the same time as additional residential development.
 - (d) That any proposed residential units provide the Town with the type of affordable housing as called for in the Housing Production Plan.
 - (e) That the projected traffic increase of the proposed uses to the local road(s) and Route 139 is within the capacity of the existing road network, or that the applicant's proposed traffic mitigation measures will adequately address actual and proposed traffic impacts from the proposed element and all other projected development in accordance with standard traffic impact assessment practices and traffic flow.
 - (f) That the proposed streets have been aligned to provide vehicular access to lots and/or buildings in a reasonable and economical manner. Lots, buildings, parks, playgrounds and streets have been located to avoid or minimize adverse impacts on wetlands and water bodies.
 - (g) That the proposed development improves pedestrian and bicycle access and safety.
 - (h) That suitable public green(s) and facilities have been provided.

- (i) Acceptability of building and site design.
 - (j) That the proposal conforms with the goals of the Marshfield Master Plan and Housing Production Plan as amended.
- (2) The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the bylaw.
- H. Severability. If any provision or provisions of this bylaw is or are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme judicial court of the commonwealth, the remaining parts of said bylaw shall not be affected thereby. **[Amended 4-24-2017 ATM by Art. 12]**
- I. Exemption. The Marshfield Planning Board shall have the right to waive strict compliance with the provisions of this bylaw for nonprofit recreational uses proposed on any municipally owned land within the PMUD.

§ 305-11.06. Planned industrial development. [Amended 4-24-2017 ATM by Art. 12]

For the planned development of land for industrial purposes subject to area regulations less than the minimum required in the Table of Dimensional and Density Regulations, the following regulations shall apply:

- A. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.
- B. A site plan shall be presented for the entire tract showing two-foot finished contours, existing and proposed drainage, sewerage, water, parking, street access and landscaping, and shall be subject to approval by the Planning Board where it constitutes a subdivision as per the Subdivision Control Law.³⁶
- C. Individual lot sizes shall not be reduced more than 10% below that normally required for manufacturing or service industrial purposes in the district.
- D. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.
- E. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.
- F. The development shall be served by a public water system.

36. Editor's Note: See MGL c. 41, §§ 81K to 81GG.

- G. At least 10% of the total tract area (of which at least 80% shall not be wetlands or land with a slope of over 5%) shall be set aside as common land and shall be either deeded to the Town or covenanted to be maintained as permanent open space in private or cooperative nonprofit ownership. The common land shall be either in a single contiguous parcel or in several separated parcels as deemed appropriate by the Board.
- H. Such common land shall be deeded to the Town or permanently covenanted simultaneously with the Planning Board's approval of the subdivision plan, if any.
- I. Such common land shall be restricted to open space, play field, golf course, or conservation areas.
- J. Such common land shall have suitable access to a street.

§ 305-11.07. Home occupation.

For the use of a dwelling in any "R" District for a home occupation, the following conditions shall apply:

- A. No more than one nonresident shall be employed therein.
- B. The use is carried on strictly within the principal building.
- C. Not more than 25% of the existing net floor area not to exceed 400 square feet is devoted to such use.
- D. That there shall be no display of goods or wares visible from the street.
- E. There shall be no advertising on the premises other than a small nonelectric sign not to exceed two square feet in area, and carrying only the occupant's name and his occupation such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist and similar occupations or professions. **[Amended 4-24-2017 ATM by Art. 12]**
- F. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.
- G. Any such building shall include no feature or design not customary in buildings for residential use.
- H. Such uses as clinics, barbershops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.

§ 305-11.08. Age-restricted adult village. [Amended 5-5-2008 ATM by Art. 21]

For age-restricted adult village (ARAV) housing not subject to the Table of Dimensional and Density Regulations nor subject to § 305-10.10 of the Zoning Bylaw, the following regulations shall apply:

A. Applicability and use.

- (1) The tract of single or consolidated ownership at the time of application shall be at least six acres in size in all residential zones, and shall be subject to approval by the Planning Board acting as the special permit granting authority (SPGA).
- (2) The following uses shall be permitted: attached ARAV housing units; community facilities such as religious, recreational, educational or membership club for the exclusive use of the residents of the ARAV.

B. Required performance standards. In addition to other minimum requirements stated elsewhere in this bylaw, the following improvements, performance standards and/or conditions are required for all age-restricted adult villages (ARAV) in the Town of Marshfield:

- (1) Yield plan. Applicants shall submit a yield plan that shows how many acres are available for development after subtracting all areas needed for stormwater management facilities, roads and common driveways. The yield plan will determine the total number of acres available for calculating the number of as-of-right (AOR) housing units. One acre is equal to one AOR unit.
- (2) Density of housing. The total number of housing units allowed in an ARAV in all residential zoning districts shall be determined by the following formula that includes as-of-right units, affordable and density bonus units. The number of affordable units and density bonus units shall equal the number of as-of-right (AOR) units multiplied by 25% and rounded up to the next even number, divided by two. [Example: A 9-unit AOR development will result in 9 AOR units plus 4 units ($0.25 \times 9 \text{ units} = 2.25 \text{ units}$ rounded up to 4 units, 2 affordable units and 2 density bonus units) or 13 units in total. A 31-unit AOR development will result in 31 AOR units plus 8 units ($0.25 \times 31 \text{ units} = 7.5 \text{ units}$ rounded up to 8 units, 4 affordable units and 4 density bonus units) or 39 total units.]
- (3) Natural open space.
 - (a) In all residential zones, at least 50% of the total tract area subject to the ARAV special permit application shall be upland natural open space. The natural open space shall be set aside as common land and shall be either deeded to the Town or placed under a conservation restriction, as defined in Article II, and maintained as permanent open space in private or

cooperative nonprofit ownership. The SPGA shall provide for the disposition and control of the open space land in a manner and form acceptable to it and approved by Town Counsel.

- (b) Natural open space is the area of the parcel(s) that is left undisturbed, in its natural state, as described further in this section. Areas of natural open space shall be preserved for wildlife habitat, aquifer protection, historic preservation, passive recreation and/or forestry management. Natural open space shall not be used for any of the following activities: buildings or structures, impervious surfaces, aboveground utilities or subsurface infrastructure with the exception of stormwater management facilities as noted below. Natural open space areas should encompass or protect valuable natural and cultural resources such as large tracts of forest land, buffer zones to wetlands and water bodies, significant trees, scenic views, river valleys, geological features, archaeological sites, historic trails or ways and open fields. Natural open space areas shall be contiguous areas of land. Narrow parcels or portions of lots less than 50 feet wide cannot be included in required natural open space calculations unless they are used for access to a walking trail. Walking trails may be constructed of organic materials such as wood chips or stone dust.
- (c) For the purpose of calculating the required 50% natural open space, the area of proposed development activity shall be enclosed within a polygon. The inside of the polygon shall be considered the area of the development footprint. Remaining areas outside of the development footprint, greater than 50 feet in width, shall be used to satisfy the 50% natural open space requirement. Areas of natural open space may be managed utilizing standard, accepted forestry practices. Additional landscape plantings can be planted in natural open space areas to supplement existing vegetation. Stormwater management facilities may be allowed within the area of natural open space, with the approval of the SPGA, if site conditions leave no other feasible alternatives. However, the area of the stormwater management facilities shall not be included in the 50% calculation for natural open space. Areas disturbed for construction of stormwater management facilities must be restored with native vegetation.
- (4) Mandatory affordable housing. All ARAVs are required to provide affordable housing in compliance with § 305-11.14, Inclusionary zoning for affordable housing. All affordable housing created by this bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements of the Massachusetts Department of Housing and Community Development LIP Program.

Affordable housing units will count toward the Town's Subsidized Housing Inventory, in accordance with MGL c. 40B, §§ 20 to 23.

- (5) Site design. The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent deemed feasible by the SPGA:
 - (a) Minimize obstruction of scenic views from publicly accessible locations.
 - (b) Preserve unique natural or historical features.
 - (c) Minimize grade changes and removal of trees, vegetation and soil.
 - (d) Maximize open space.
 - (e) Maximize buffers to wetlands and water bodies.
 - (f) Screen objectionable features from neighboring properties and roadways.
- (6) Roads and driveways.
 - (a) The ARAV shall provide for access on roads that have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the proposed ARAV. The development shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through proper layout, location and design.
 - (b) All roads and driveways serving more than one dwelling unit shall be designed and constructed in accordance the following sections of the Subdivision Rules and Regulations of the Planning Board of the Town of Marshfield: Article IV, Design Standards and Required Improvements, with the exception of §§ 405-9E and 405-12I in their entirety and § 405-9D, Note **, which are exempt from this requirement. Roads and driveways serving more than one dwelling unit shall also be designed and constructed in accordance with Article V, Completion of the Way, §§ 405-14, 405-16, 405-18 and 405-19 only.
- (7) Dead-end roads.
 - (a) All dead-end roads and common driveways shall terminate in a cul-de-sac or provide other accommodations for vehicles to reverse direction. Turnaround areas shall be designed to accommodate emergency vehicles.

- (b) Dead-end streets and connecting common driveways shall not exceed 800 feet in length, measured from the intersection of the road that provides access to the ARAV.

(8) Architecture.

- (a) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings. All buildings shall be separated a minimum distance of 1 1/2 times the height of the proposed buildings.
- (b) The maximum building height shall be 35 feet from the existing natural elevation.

(9) Parking.

- (a) The proposed development shall provide two parking spaces per each unit, plus one visitor parking space for every 10 units, plus one parking space per each 200 square feet of nonresidential area.
- (b) Parking areas, including maneuvering space for parking and loading areas, shall not be located within the required fifty-foot buffer areas. **[Amended 4-24-2017 ATM by Art. 12]**
- (c) Parking areas shall be screened from public ways and adjacent or abutting properties by building location, fencing, and/or dense landscape plantings.
- (d) No parking shall be allowed on interior streets or ways.

(10) Landscaping.

- (a) Connecting tree-lined walkways shall be provided between structures, parking areas and abutting public ways. A mixture of shade trees shall be spaced a minimum of 40 feet apart along streets and walkways. Landscape plans should be prepared and stamped by a professional landscape architect. The type, size and location of all plantings shall be included in the landscape plan.
- (b) Exposed storage areas, machinery, service areas, truck loading areas, solid waste disposal facilities, utility buildings, structures and other unsightly uses shall be set back and/or screened to protect neighbors and residents from objectionable views, noise, odors and vibration.

- (c) A fifty-foot-wide natural buffer shall be required along the perimeter of the property, except for access roads, which in the opinion of the SPGA provides suitable screening of abutting properties. The SPGA may require the natural buffer to be supplemented with additional plantings if the natural buffer does not provide adequate screening of abutting properties.
- (11) Lighting. All exterior lighting on roads, walkways and buildings shall be approved by the SPGA. Lighting specification cut sheets shall be submitted for all lighting in the ARAV. Lighting shall be designed to avoid unnecessary glare to abutting properties. Sufficient lighting should be provided to accommodate the needs of senior residents. A lighting plan shall be provided showing the intensity of light on the property. Reflectors and shields shall provide total cutoff of all light at the property boundaries.
- (12) Stormwater management. The stormwater management system shall be designed so that the volume and rate of runoff shall not exceed pre-development conditions. The use of low-impact development principles is encouraged, such as bioretention areas and decentralized stormwater management facilities. Groundwater recharge shall be maximized; surface and ground water quality shall be maintained or improved by employing best management practices. Neighboring properties shall not be adversely affected. The SPGA may require that existing problems on or adjacent to the site be mitigated as a condition of approval of a special permit under this section. Open air drainage facilities shall have a minimum fifteen-foot landscaped evergreen buffer area around the facility (excluding basin cleanout accessway).
- (13) Utilities. All electric, telephone, cable TV, and other such utilities shall be located underground. An evergreen landscaped buffer shall be provided around all transformers and other utility facilities.
- (14) Water Resource Protection District. Applicants submitting ARAV special permit applications within the Water Resource Protection District (WRPD) shall file for a WRPD special permit concurrently with the ARAV special permit and conform to the performance and design standards of § 305-13.03.
- (15) Wastewater. Wastewater treatment systems in all other ARAV developments shall be designed to not exceed 10 parts per million for the concentration of nitrate-nitrogen loading for the subject property as a whole, measured at the property boundaries.
- (16) Historic resources. The SPGA and applicant shall seek guidance from the Historical Commission to ensure the protection, restoration, or preservation of historic locations, artifacts or structures within the proposed development.
- (17) Management of common areas.

- (a) If an ARAV is owned or converted to ownership of more than one ownership entity, a nonprofit community association (CA) shall be established, requiring membership of each property owner in the development. The CA shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, roads, stormwater management and recreational facilities. Prior to the closing of the public hearing, the applicant shall submit a CA agreement guaranteeing continuing maintenance of common utilities, land and facilities. The CA shall assess each homeowner an equal share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the SPGA.
 - (b) CA agreements or covenants shall provide that in the event that the association fails to maintain common facilities, such as the wastewater treatment system or stormwater management system, in reasonable order and condition, in accordance with the agreement, the Town may, after notice to the CA and a public hearing, enter upon the property and conduct necessary maintenance to protect the environment. The cost of any work shall be assessed equally against the properties within the development. All costs incurred by the Town for needed maintenance will be reimbursed by the CA.
- C. Administrative procedures. The Planning Board shall be the special permit granting authority (SPGA) for ARAV applications. Applicants shall follow the administrative procedures relative to the issuance of special permits set forth in the Marshfield Planning Board Rules Governing Housing for the Elderly and Handicapped Persons as adopted on March 19, 1990, as amended, or any successor regulations.³⁷ Copies of the above-mentioned administrative rules shall be on file with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9.
[Amended 4-24-2017 ATM by Art. 12]
- D. Criteria for review and approval. The SPGA shall review all applications for ARAV developments to determine the suitability of the site to the following criteria:
 - (1) Compliance with Subsection B, Required performance standards;
 - (2) Compatibility with the surrounding neighborhood;
 - (3) Compliance with adopted public plans;
 - (4) The requested use will not overburden any public infrastructure such as water, roads, drainage or sewer system or any other municipal system to such an extent that the proposed ARAV in the immediate area or in any other area of the Town will be subjected

37. Editor's Note: See Ch. 408, Age-Restricted Adult Village.

to development-related impacts that would adversely affect health, safety or the general welfare;

- (5) Acceptable design and layout of streets and common driveways;
- (6) That the projected traffic increase to the local road(s) is within the capacity of the existing network and does not impair pedestrian safety;
- (7) Compliance with environmental performance standards;
- (8) Appropriateness of building architecture, orientation and site design; and
- (9) The preservation of important areas of open space or items of historical and/or archaeological significance.

E. Decisions.

- (1) The findings, including the basis of such findings, of the SPGA shall be stated in the written decision of approval, conditional approval, or denial of the application for special permit, and shall require a four-fifths majority vote for approval. For approval of a special permit granted under this section, an affirmative finding of the SPGA shall be required for all of the nine criteria listed above.
- (2) The SPGA may also require, in addition to any applicable conditions specified in this bylaw, such conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this bylaw, including but not limited to the following: front, side, or rear yards greater than the minimum required by this bylaw; screening buffers or planting strips, fences, or walls; modification of the architectural design and exterior appearance of the structures; lighting, regulation of the number and location of driveways, or other traffic features; off-street parking or loading; or any other special features beyond the minimum required by this bylaw.
- (3) Such conditions shall be provided in writing, and the applicant may be required to post a performance bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.
- (4) The special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown as determined by the SPGA. Once construction has begun, it shall be actively and continuously pursued to completion within a reasonable time.

§ 305-11.09. Residential accessory apartments.

- A. Purpose. The creation of any accessory apartment within an existing owner-occupied, single-family residence may be authorized by special permit in order to achieve the following objectives:
- (1) To enable homeowners who wish to remain in their homes and neighborhoods to do so.
 - (2) To promote more efficient use of the existing housing stock by allowing flexibility in response to changing household size.
 - (3) To promote affordable rental housing and homeownership for small households.
 - (4) To protect and maintain the character of the surrounding neighborhood.
- B. Applicability. Special permits may be granted within R-1, R-2, R-3, B-1, and B-2 Districts by the Board of Appeals, acting as the special permit granting authority (SPGA), when the plan submitted meets the review criteria contained in Subsection C.
- C. Review criteria. In reviewing and evaluating the plan, and in making a final determination regarding the special permit application, the SPGA may grant a special permit, provided that the following criteria are met. These criteria are the minimum over and above any other criteria which may be set forward in any portion of this bylaw which is specifically necessary to carry out the stated purposes for owner-occupied accessory apartments.
- (1) Only one accessory apartment shall be allowed per single-family dwelling unit;
 - (2) The accessory apartment shall occupy no more than 40% of the total living area of the dwelling;
 - (3) The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. In general, any new entrance shall be located on the side or rear of the building. Reasonable deviation from this condition shall be allowed in order to facilitate access and mobility for disabled persons;
 - (4) Compliance with Board of Health policies and regulations;
 - (5) Approved water conservation devices shall be required for new installations. This would include low-flow shower heads and water-efficient toilets;
 - (6) The dwelling must be in existence, and not substantially altered, for a period of three years prior to the filing of the application for special permit;

- (7) Required minimum lot size shall be, for property in Zones B-1 and R-3, 10,000 square feet; in Zones B-2 and R-2, 20,000 square feet; and in Zone R-1, 40,000 square feet;
 - (8) Sufficient parking space shall be provided on the lot, including at least one additional space to serve the accessory apartment. Said additional space shall have access to the driveway serving the principal dwelling;
 - (9) The principal dwelling shall be occupied by the applicant/owner as his or her principal residence;
 - (10) Compliance with the State Building Code.
- D. Plan requirements. The applicant shall comply with § 305-10.10, Special permits, of this bylaw.
- (1) In addition, the following information shall be furnished:
 - (a) The existing and proposed square footage of each dwelling unit;
 - (b) The existing and proposed floor layouts of each unit; and
 - (c) Any proposed changes to the exterior of the building.
 - (2) All plans should be prepared by a registered land surveyor.
 - (3) Requirements for open space should be maintained.
- E. Transfer of ownership of a dwelling with an accessory apartment.
- (1) The special permit for an accessory apartment in a single-family dwelling shall terminate upon the sale of property or transfer of title of the dwelling.
 - (2) The new owner(s) shall be required to apply for a new approval of a special permit for an accessory apartment and shall submit a written request to the SPGA.
- F. Recertification of owner occupancy. Not later than January 31 of each year following issuance of a special permit for an accessory apartment, the owner of the premises must certify under the pains and penalties of perjury on forms to be available at the office of the Building Commissioner/Zoning Enforcement Officer that the premises continue to be occupied by the owner as his or her principal residence. Failure to recertify in a timely manner shall result in the automatic termination of the special permit.

§ 305-11.10. Traffic impact study. [Amended 10-27-2014 STM by Art. 19]

A detailed traffic impact analysis shall be submitted for any application for a development which requires a special permit for a principal use within the

B-1, B-2 or I-1 Zoning District or which would have an anticipated average peak hour trip generation in excess of 80 vehicle trip ends or an average weekday generation in excess of 800 vehicle trip ends, except that the requirement for traffic impact analysis may be waived where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed in the past 12 months and is acceptable to assess the impacts of the proposed project, or where it is determined by the Board that the primary traffic impacts of the proposed development affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, and where the applicant is willing to contribute funds to a traffic mitigation fund in an amount at least equal to the cost of a traffic impact analysis, as determined by the Board upon consultation with at least the Building Commissioner/ Zoning Enforcement Officer, Board of Public Works, the Planning Board and the applicant. Calculation of anticipated average peak hour trip generation and average weekday generation shall be determined as follows:

A. Determination of traffic impact.

- (1) In determining traffic generation under this provision, the data contained in the most recent edition of The Institute of Transportation Engineers' publication "Trip Generation" shall be used.
- (2) If a principal use is not listed in said publication, the special permit granting authority (SPGA) may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed principal use.
- (3) If no such listed use is sufficiently similar, a traffic generation estimate, along with the methodology used, prepared by a registered professional engineer experienced and qualified in traffic engineering, shall be submitted for approval by the SPGA.

B. Preparation. The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. Firms and individuals preparing traffic impact analyses for submittal to the Board shall comply with any specific standards or requirements for qualifications as the Board may adopt.

C. Scope of traffic impact study. The traffic impact study shall include the following information:

- (1) Existing traffic conditions. Average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous three years, and levels of service (LOS) of intersections and streets likely to be impacted by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries and shall be no more than 12 months old at the date of the application, unless other data are specifically approved by the SPGA. Where a proposed development will have an impact on

a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

- (2) Projected traffic conditions for design year of occupancy. Statement of design year of occupancy, average annual background traffic growth, and impacts of proposed developments which have already been approved or are pending before Town boards.
- (3) Projected impact of proposed development. Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post-development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development [as defined in Subsection C(1) above].
- (4) Proposed mitigation. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car pooling, or other appropriate means, and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:
 - (a) Level of service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection be degraded below the Level of D.
 - (b) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.
 - (c) Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.
- (5) Adequacy of mitigation. If the proposed mitigation is deemed by the Board to be inadequate to achieve the standards set forward in Subsection C(4) above, the applicant shall provide alternative proposals to meet the standards, including reduction in the size of the development; change in proposed uses on the site; contributions to off-site street and intersection improvements; or construction of off-site street and intersection improvements. Where the alternative proposals submitted by the applicant are inadequate, and where it is determined by the Board that the primary traffic impacts of the development as proposed affect Route 139 and where the Town and/or MassHighway has

engineered plans for traffic mitigation that are in the planning or implementation stage, the applicant may be required as a condition of special permit approval to contribute funds to a traffic mitigation fund at least equal to \$300 per parking space required to serve the proposed use under this bylaw. For purposes of this standard:

- (a) "Level of service" (LOS) shall be determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council;
 - (b) "Impacted" means intersections projected to receive at least 5% of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project or based upon the total anticipated average daily traffic counts generated by the proposed project; and
 - (c) "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project, and "D" or better for all other streets and intersections.
- D. Administrative procedures. The special permit granting authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other Town boards and departments, the SPGA may grant such a permit.

§ 305-11.11. Curb cut permits.

- A. Applicability and use. All driveway openings for special permit uses must be approved by the special permit granting authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.
- B. Required performance standards. The following standards shall guide issuance of curb cut permits by the SPGA:
 - (1) One curb cut shall be allowed per parcel. If frontage exceeds 600 feet, one additional curb cut may be permitted where it will aid access to and circulation within the parcel. For the purpose of this

provision, "parcel" shall mean the entire property subject to an application and any other contiguous land in common ownership or control on or after the date of this bylaw (as amended at the Annual Town Meeting on April 29, 1999). Lots shall not be subdivided for the purpose of increasing the number of permissible curb cuts.

- (2) Curb cuts shall be no closer than 75 feet to existing curb cuts and 75 feet to intersecting roadways.
- (3) Wherever possible, access shall be provided onto side streets to avoid the need for a curb cut onto major roadways.
- (4) Joint or shared curb cuts with adjoining parcels are encouraged. When it will facilitate such an arrangement, the SPGA may reduce or eliminate the required side yard setback on the parcel. In such cases, the applicant must submit proof of such an arrangement such as reciprocal easements.
- (5) Curb cut widths shall be the minimum necessary for safe access and egress. The maximum width of curb cuts shall be 30 feet. Curb cuts shall be clearly defined with curbing. The special permit granting authority may modify these width requirements where necessary to promote safe access to or circulation within the parcel.
- (6) Applicants proposing redevelopment or expansion of existing uses shall correct existing access problems by better defining curb cuts or eliminating excess curb cuts.
- (7) The SPGA may restrict curb cuts to right turn in/right turn out only when, in the opinion of the SPGA, such restriction is necessary for public safety and to minimize traffic congestion.
- (8) Where state curb cut approval is required, applicants are encouraged to apply for such approval concurrently with local approval in order to maximize coordination between local and state review.

C. Administrative procedures.

- (1) The SPGA shall adopt rules and regulations relative to the issuance of a curb cut permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purpose of this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

- (2) After notice and public hearing, and after due consideration of the reports and recommendations of other Town boards/departments, the SPGA may grant such a permit.

§ 305-11.12. Communications towers and wireless communications facilities.

- A. Purpose, applicability and use. The purpose of this bylaw is to establish appropriate siting criteria and standards for communications towers and facilities including but not limited to radio, television, and cellular communications in order to minimize adverse visual impacts and maintain the residential character of the Town, and preserve scenic views to and from the Town's roadways and waterways. This bylaw is intended to establish reasonable regulations while allowing adequate service to residents, the traveling public and others within the Town and to accommodate the need for the minimum possible number of such facilities within the Town of Marshfield. The requirements of this bylaw shall apply to all communications towers and wireless communication facilities that require a special permit in accordance with § 305-5.04 of this bylaw, excluding in-kind or smaller replacement of existing equipment.
- B. Required performance standards.
 - (1) Any tower shall be set back from property lines a distance at least equal to the height of the tower.
 - (2) No towers may be constructed within areas subject to protection under the inland/coastal wetlands bylaw (§§ 305-13.01 and 305-13.02).
 - (3) Any tower shall be at least 500 feet from any existing building.
 - (4) Accessory structures housing support equipment for towers shall not exceed 400 square feet in size and 15 feet in height and shall be screened from view.
 - (5) Clearing of natural vegetation should be limited to that which is necessary for the construction, operation, and maintenance of the tower.
 - (6) Night lighting shall be prohibited unless required by federal authorities and shall be the minimum necessary.
 - (7) One tower shall be permitted per lot.
 - (8) No tower shall be more than 150 feet above the natural grade.
 - (9) Shared use of towers and co-location of communications devices is encouraged. All towers constructed as principal uses shall be designed to accommodate the maximum number of communications facilities possible.

- (10) Wherever feasible, wireless communication facilities shall be located on existing towers or other nonresidential structures, minimizing construction of new towers.
 - (11) Wireless communication facilities placed on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building. No facility shall project more than five feet above the existing roofline of the building. Any equipment associated with the facility shall be located within the building.
 - (12) Towers and facilities shall be painted a neutral, nonreflective color designed to blend with the surrounding environment.
- C. Administrative procedures. Site plan approval (pursuant to § 305-12.02) and special permit shall be granted by the Board of Appeals in accordance with MGL c. 40A, § 9. The Board of Appeals shall adopt rules relative to the issuance of special permits, including application fees, and file a copy with the Town Clerk.
- D. Criteria for review and approval.
- (1) The SPGA shall review all applications for communications towers and shall find that the location of the tower or device is suitable and that the size, height, and design is the minimum necessary for that purpose; that the proposed tower or devices will not adversely impact historic structures or scenic views; that there are no feasible alternatives to the location of the proposed tower or devices (including co-location) that would minimize their impact and that the applicant has exercised good faith in permitting future co-location of facilities at the site; and that the proposed tower or device is in compliance with federal and state requirements regarding aviation safety. The findings, including the basis for such findings, of the Board shall be stated in the written decision of approval, conditional approval, or denial of the application for special permit, and shall require a four-fifths majority vote for approval.
 - (2) The Board shall also impose, in addition to any applicable conditions specified in the bylaw, such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise service the purposes of this bylaw, including but not limited to screening, buffering, lighting, fences, modification of the exterior appearance of the structures, limitation upon the size, method of access or other traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Board. The special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good

cause shown, and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. Any extension, addition of cells or construction of new or replacement towers shall be subject to an amendment of the special permit following the same procedure as for an original grant of a special permit.

§ 305-11.13. Adult entertainment.

- A. Authority to regulate. This section is enacted pursuant to MGL c. 40A, § 9A, and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.
- B. Purpose.
 - (1) The purpose of this adult entertainment section of the Town of Marshfield Zoning Bylaw is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate, adverse impacts on the property values of residential and commercial property and adverse impacts on the quality of life. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Marshfield and its inhabitants.
 - (2) The provisions of this section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.
- C. Regulation of adult entertainment uses.
 - (1) Adult entertainment, as defined in this bylaw, shall be permitted only in the "I" Zoning District, upon the issuance of a special permit from the Planning Board. The Planning Board shall act on applications according to the procedure specified in MGL c. 40A, § 9A.

- (2) No adult entertainment special permit shall be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.

D. Dimensional requirements.

- (1) The distances specified below shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of any of the residential zoning districts or to the nearest property line of any of the other uses set forth below:
 - (a) Any such proposed use shall be located a minimum of 700 feet from any residential zoning district.
 - (b) Any such proposed use shall be located a minimum of 700 feet from any residential uses.
 - (c) Any such proposed use shall be located a minimum of 700 feet from any public or private school, public library, day-care facility or religious facility.
 - (d) Any such proposed use shall be located a minimum of 700 feet from any public or private playground, park or recreational area, or youth center.
 - (e) Any such proposed use shall be located a minimum of 700 feet from any other adult entertainment use approved under the provisions of this bylaw.
 - (f) Any such proposed use shall be located a minimum of 700 feet from any establishment licensed under the provisions of MGL c. 138, § 12.
- (2) No more than one structure to be used for adult entertainment shall be located on any one lot.
- (3) The maximum gross floor area of any structure to be used for adult entertainment shall not exceed 20,000 square feet per acre.

E. Expiration. A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date of issuance and shall be automatically renewable for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority.

F. Severability. The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

§ 305-11.14. Inclusionary zoning for affordable housing. [Added April 2007 ATM; amended 4-27-2015 ATM by Art. 15]

- A. Purpose. The purpose of this section of the bylaw is to promote the development of housing that is affordable to low- and moderate-income households, meet the requirements of the Local Initiative Program and qualify for inclusion on the Subsidized Housing Inventory.
- B. Applicability.
- (1) The inclusionary zoning bylaw shall apply to the R-1 and R-2 Districts within the Town of Marshfield, except the Water Resource Protection District.
 - (2) The inclusionary zoning bylaw shall not apply to any development undertaken by the Town of Marshfield for any municipal purposes.
 - (3) The inclusionary zoning bylaw shall not apply to any development carried out under MGL c. 40B, as amended.
- C. Voluntary provision of affordable units.
- (1) The use of this section of this bylaw shall be voluntary.
 - (2) The applicant for a special permit under this bylaw shall comply with the provisions described in Subsection D and otherwise comply with this section of this bylaw, and the Planning Board shall require such compliance in the special permit.
- D. Provision of affordable units; bonuses and incentives.
- (1) Affordable units and density bonus. All development which occurs as a result of this bylaw shall meet the affordable housing requirements and shall be entitled to a density bonus as follows: The number of affordable units and density bonus units shall equal the number of as-of-right (AOR) units multiplied by 25% and rounded up to the next even number divided by two. [Example: A 9-unit AOR development will result in 9 AOR units plus 4 units ($0.25 \times 9 \text{ units} = 2.25 \text{ units rounded up to 4 units}$, 2 affordable units and 2 density bonus units) or 13 units in total. A 31-unit AOR development will result in 31 AOR units plus 8 units ($0.25 \times 31 \text{ units} = 7.5 \text{ units rounded up to 8 units}$, 4 affordable units and 4 density bonus units) or 39 total units.]
 - (2) The requirement for affordable units shall be met by one or a combination of the following methods:
 - (a) On-site development. Constructed or rehabilitated on the locus subject to the special permit (see Subsection F); or
 - (b) Fees in lieu of construction. The applicant may offer, and the Planning Board, upon receiving a favorable recommendation from the Housing Partnership, may approve fees in lieu of

construction of affordable housing units as satisfying the requirements of Subsection D of this bylaw. The applicant shall make the payment of the fee in lieu of construction to the Marshfield Housing Authority for the sole purpose of converting non-affordable housing units to affordable housing units in the Town of Marshfield. Fees in lieu of construction are more fully addressed in Subsection G.

- (3) The applicant may offer, and the Planning Board may accept, a combination of the Subsection D(2)(a) and (b) requirements, provided that in no event shall the total number of affordable units provided on site and the number of affordable units for which a fee in lieu of construction is paid be less than the equivalent number or value of affordable units required for the applicable development by this bylaw.
- (4) All affordable units shall meet the requirements of the Local Initiative Program for Local Action Units and be eligible for inclusion on the Subsidized Housing Inventory.
- (5) Location of affordable lots. The location of affordable lots shall be determined in consultation with the Planning Board during the special permitting process.

E. Standards and dimensional regulations.

- (1) Applicability. Where the requirements of this section differ from or conflict with the requirements in the Table of Dimensional and Density Regulations found in Article VI of the Town's Zoning Bylaw, the requirement of this section shall prevail for developments being constructed under this section of the bylaw.
- (2) Minimum frontage. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 75 feet of frontage and provided further that such frontage shall apply only to lots fronting on proposed internal roadways.
- (3) Lot size. The Planning Board may allow reductions in the minimum lot sizes listed in Article VI, § 305-6.02, Table of Dimensional and Density Regulations, to allow for the creation of the affordable and density bonus units, if the Planning Board finds that such reductions will result in better design and improved protection of natural and scenic resources; provided, however, that the average lot size in a development shall not be less than 50% of the applicable minimum lot size listed in Article VI, § 305-6.02.
- (4) Lot shape. All building lots must be able to contain a circle of a minimum diameter of 75 feet from the front line to the rear building line.

- (5) Setbacks. The Planning Board may permit a reduction by up to 1/2 of the setbacks otherwise listed in the Table of Dimensional and Density Regulations in the Zoning Bylaw, if the Board finds after receiving an opinion from the Conservation Commission that such reduction will not affect natural resources, would result in better design and improved protection of the natural and scenic resources and will otherwise comply with the bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15 feet from the roadway right-of-way, and a minimum of 30 feet buffer setback from the outer perimeter of the land subject to the application. This thirty-foot setback shall be maintained in a naturally vegetated state or planted to create a screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged. The applicant shall provide a narrative describing any requested modifications of setback requirements as specified in § 305-11.04E(4) of the Zoning Bylaw and noting the proposed lots for which setback reductions are being sought.

F. Provision of affordable housing units on site.

- (1) Location of affordable units. All affordable units shall be situated within and dispersed throughout the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, than the market-rate units. Affordable lots shall not be smaller than the average lot within the development and shall not have drainage or utilities easements on them.
- (2) Minimum design and construction standards for affordable units. Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be identical to the market-rate units in size, design, appearance, construction, building systems such as HVAC, electrical and plumbing, and quality and types of materials used in all interior space including bedrooms, kitchen, bathrooms, living rooms, studies, hallways, closets, garages and basements and provided with identical amenities and appliances such as, but not limited to, decks, central vacuum cleaning systems, stoves, refrigerators, compactors, disposals, dishwashers and landscape fencing, walls and plantings unless otherwise approved in the special permit by the Planning Board. No changes to these standards may be made by the Planning Board without the approval of the Housing Partnership.
- (3) Timing of construction or provision of affordable units or lots.
 - (a) Unless otherwise approved by the Planning Board, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Unit %	Affordable Housing Unit %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%
Fractions of units shall not be counted	

- (b) Compliance with this requirement shall be monitored by the Building Commissioner/Zoning Enforcement Officer and the auditing agency (see Subsection J), on the basis of building permits issued and certificates of occupancy requested for both the affordable housing units and market-rate units. Certificates of occupancy for any market-rate housing units or nonresidential space shall not be issued if the required affordable housing units are not being provided in accordance with this schedule.
- (4) Marketing plan for affordable units.
- (a) Applicants shall submit a marketing plan which describes the number of affordable housing units, their approximate sales price or rent level, the means for selecting buyers or tenants of the affordable units, how the applicant will accommodate local preference requirements and the method of affirmatively marketing the affordable units (including the marketing of such units) to minority households, in a manner that complies with the LIP Guidelines. This requirement is further addressed in Subsection I of this bylaw.
- (b) The marketing plan shall be developed by the applicant with the assistance of the lottery agent and submitted to the Housing Partnership. The Housing Partnership shall review the marketing plan to determine its appropriateness in addressing the affordable housing needs within the community and its compliance with applicable federal and state statutes and regulations, the LIP Guidelines and this bylaw. The Housing Partnership may require modifications of the marketing plan or, if it determines the plan to be satisfactory, may forward it to DHCD with a favorable recommendation. Following the approval of the marketing plan by DHCD, the Housing Partnership shall notify the Planning Board and the lottery agent. The special permit and building permits may be granted prior to receiving DHCD approval so as to facilitate the construction of the development; however, certificates of occupancy, whether for affordable or market-rate units, shall

not be issued until such time as the marketing plan has been approved by DHCD.

- (c) Applicants shall comply with the requirements of the lottery agent and certify their acceptance and willingness to comply with the lottery process or other requirements of the lottery agent for the selection of qualified housing buyers or renters for the affordable units. The lottery system and requirements are further addressed in Subsection I of this bylaw.

G. Provision for fees in lieu of construction of affordable housing units.

- (1) Fees in lieu of construction of affordable housing units. An applicant may propose to pay a fee in lieu of construction of affordable housing units to the Marshfield Housing Authority. The fee in lieu of construction shall be for the sole purpose of converting non-affordable housing units to affordable housing units in the Town as part of the Local Initiative Program and shall be held in trust and in separate interest-bearing accounts by the Marshfield Housing Authority for such purpose.
- (2) For each affordable unit for which a fee in lieu of construction is paid, the cash payment per unit shall be equal to 65% of the average price being asked for the market-rate units in the applicable development.
- (3) The fee in lieu of construction shall not result in an increase in the total number of market-rate units contained in the application for the special permit approved by the Planning Board.
- (4) The Marshfield Housing Authority shall submit to the Housing Partnership, annually and upon request, reports and other documentation of the use of or its financial accounting for the fees in lieu of construction.
- (5) The Marshfield Housing Authority shall hold all fees in lieu of construction of affordable housing units paid to it and all investment income and profit thereon received by it separately from all other monies of the Marshfield Housing Authority. It shall cause such fees, income and profit to be audited at least once a year by an independent certified public accountant or independent firm of certified public accountants experienced in auditing accounts of governmental entities (which may be its regular auditor if such regular auditor meets the foregoing criteria), such audit to be completed no later than the general audit of the Marshfield Housing Authority's financial statements for the applicable fiscal year, and a copy of such audit shall be promptly submitted to the Town Accountant, the Town Treasurer/Collector, the Town Administrator, the Board of Selectmen, the Housing Partnership, and the Planning Board. Such audit may be combined with the general audit of the Marshfield Housing Authority as long as all matters relating to such fees, income and profit are set

forth separately from all other accounts of the Marshfield Housing Authority. **[Amended 4-24-2017 ATM by Art. 12]**

- (6) Schedule of fees in lieu of payments. Fees in lieu of construction payments shall be made according to the schedule set forth in Subsection F(3) above.

H. Preferences applicable to buyer/renter selection.

(1) Local preference.

- (a) Local preference shall be given to local residents in the selection of eligible applicants for 70% of the affordable units in a development.
- (b) Verification of local residency may require several forms of verification. The lottery agent shall make the determination as to the types of documentation required for verification of residency.
- (c) The application of local preference shall be in compliance with all applicable fair housing laws and LIP Guidelines.

(2) Minority preference.

- (a) Affirmative marketing goal. An affirmative marketing goal established for the Town by the DHCD shall be made part of the selection criteria for residents in all developments to which this bylaw applies.

I. Lottery selection of buyer/renter.

- (1) The Marshfield Housing Authority or its designee shall serve as the lottery agent and shall assist in the development of a marketing plan as provided in Subsection F(4) for each development to which this bylaw applies. The marketing plan shall describe the buyer selection process for the affordable units, including any lottery or similar procedure for choosing among eligible purchasers, and will provide for affirmative fair marketing of affordable housing units. The marketing plan shall include local preference as provided in Subsection F(4).
- (2) The lottery agent shall determine income and asset eligibility of all applicants for affordable housing according to LIP Guidelines and LIP Regulations, age restrictions, when applicable, and local preference described in Subsection H when conducting its marketing and lottery. There shall be no discrimination on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin, or any other basis prohibited by law in the selection of occupants for the affordable housing units.
- (3) Prior to marketing or otherwise making available for sale or rental of any of the units, the applicant and the lottery agent must obtain

DHCD's approval of the marketing plan. When submitted to the Housing Partnership for approval, the marketing plan shall be accompanied by a letter from the Board of Selectmen to the effect that the Town will perform any aspects of the marketing plan which are set forth therein as responsibilities of the Town.

- (4) The lottery agent shall be compensated by the applicant for its services as lottery agent in the amount and in the manner described in the approved marketing plan and schedule of fees established in accordance with Subsection L of this bylaw.

J. Auditing agency.

- (1) The Marshfield Housing Authority or its designee shall serve as the auditing agency for all developments approved under this bylaw and shall represent the interest of the Town and the Local Initiative Program. The auditing agency shall audit all applicable developments to determine compliance with the affordability and other requirements of the LIP, this bylaw, and to conditions relating to affordability, special permit, regulatory agreement, and use restrictions, for all applicable developments.
- (2) Initial sale. The auditing agency will review the initial sales data and determine the compliance of the development with the affordability requirements, as described in the LIP Guidelines and LIP Regulations. The auditing agency shall also ensure the applicant's compliance with the approved marketing plan and lottery process. Upon completion of its review of initial sales data, the auditing agency will deliver to the Housing Partnership a copy of such data together with the auditing agency's determination of whether the affordability requirements have been met.
- (3) Resale. The auditing agency shall audit resales of affordable units, including appraisal and selling price, deeds, use restriction, regulatory agreement and other applicable documents, for compliance with LIP Guidelines and LIP Regulations. The auditing agency shall evaluate the affordability of the unit and whether the unit should remain affordable or funds should be recaptured and turned over to the Town. Upon completion of its review of resales information, the auditing agency will deliver to the Housing Partnership a copy of its findings together with its recommendations. The Housing Partnership shall make a determination as whether the unit is to remain affordable or whether the excess proceeds should be returned to the Town. If the determination of the Housing Partnership is to retain the unit as affordable, the auditing agency shall locate and select an eligible buyer in compliance with the approved LIP Guidelines and LIP Regulations, marketing plan and lottery process.
- (4) Annual report. The auditing agency shall prepare and deliver, annually, an annual compliance report with respect to each

development to which this bylaw pertains to the Housing Partnership regarding the construction progress (where applicable) of the applicant with respect to any affordable units to be provided on site and any handicapped accessible units required to be provided and compliance of the applicant with all matters to be reviewed by the auditing agency as set forth in Subsection J(1) through (3) above. The annual compliance report shall indicate the extent of any noncompliance with such matters, describe efforts being made by the applicant to remedy such noncompliance and, if appropriate, recommend possible enforcement action against the applicant. The auditing agency shall deliver the annual compliance report within 120 days of the end of each calendar year.

- (5) The applicant and the Town shall submit any information, documents or certifications requested by the auditing agency which the auditing agency shall deem necessary or appropriate to evidence the continuing compliance of the applicant and the Town with the LIP and this bylaw.
- (6) The Marshfield Housing Authority shall be compensated by the applicant for its services provided as auditing agency in the amount and in the manner described in the approved marketing plan and the schedule of fees as set forth in Subsection L of this bylaw.

K. Maximum incomes and selling prices; initial sale.

- (1) To ensure that only eligible households purchase affordable housing units, potential buyers are required to submit all income and asset documentation to the lottery agent, as requested by the lottery agent, necessary and appropriate to determine whether the annual income exceeds the maximum level as established by the DHCD, and as may be revised from time to time.
- (2) The price of an affordable unit shall be determined in accordance with the most current LIP Guidelines and LIP Regulations.
- (3) The occupants of an affordable unit shall provide promptly to the auditing agency all documentation requested by the auditing agency, for the determination of initial and continued eligibility and any other matter regarding compliance with the LIP or this bylaw.
- (4) The method of determining the sale price for an affordable unit shall be recorded on the deed as a use restriction on the resale of the affordable unit.
- (5) The Town shall have the right of first refusal to either find a qualified buyer for the affordable unit or to purchase the unit to ensure that it remains affordable, should a qualified buyer not be found. The right of first refusal shall be recorded on the deed as a use restriction.

L. Fees.

- (1) A schedule of fees shall be developed and maintained by the Planning Board in consultation with the auditing agency, lottery agent, Housing Partnership and Board of Selectmen.
- (2) Fees established by the Planning Board shall include, but not be limited to, administrative fees, consultant fees, legal fees and any additional fees the Planning Board may determine to be appropriate for the issuance of the special permit and the administration of this bylaw and the Local Initiative Program. Fees established by the Planning Board shall be subject to a public hearing prior to their adoption by the Planning Board.
- (3) The lottery agent and auditing agency shall establish a fee schedule to defray the cost of implementing and auditing the lottery system and the affordable units in consultation with the Planning Board, Housing Partnership and Board of Selectmen. A copy of the fee schedule shall be forwarded to the Planning Board.

M. Criteria for review and approval.

- (1) The Planning Board shall review all applications for inclusionary zoning for affordable housing to determine compliance of the proposal with the following criteria:
 - (a) Subsection A, Purpose;
 - (b) Subsection E, Standards and dimensional regulations;
 - (c) Compatibility through design, architecture and buffering with surrounding neighborhood;
 - (d) Acceptability of road layout and site design;
 - (e) Preservation of important natural, historic and/or archaeological resources;
- (2) The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the bylaw.

N. Conflict with other bylaws. The provisions of this section of the bylaw shall be considered supplemental to the other provisions of the Zoning Bylaw. To the extent that any conflict exists between this section of the bylaw and others, the more restrictive provision shall apply.

O. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

§ 305-11.15. Wind energy conversion facilities (WECF). [Added April 2010 ATM by Art. 20]

A. Purpose and applicability.

- (1) Wind energy is an abundant, renewable and nonpolluting energy resource; its conversion into electricity will reduce our dependency on nonrenewable energy resources that adversely impact our air and water quality.
- (2) The purpose of this bylaw is to provide by special permit for the construction and operation of wind energy conversion facilities (WECF) or facility and to provide standards for the placement, design, construction, monitoring, modification and removal of WECF. These regulations are intended to protect public health and safety and minimize impacts on scenic, natural and historic resources of the Town, while allowing wind energy technology to exist. These regulations also provide adequate financial assurance for the decommissioning of WECF.
- (3) This bylaw applies to utility-scale, building-mounted and small-scale ground-mounted WECF proposed to be constructed after the effective date of this bylaw. Any physical modifications made after the effective date of this bylaw to existing WECF that materially alter the type or increase the size of such WECF or other equipment shall require a special permit.

B. General requirements.

- (1) No WECF shall be erected, constructed, installed or modified, as provided in this section, without first obtaining a special permit from the Board of Appeals. The construction of a WECF shall be permitted, subject to the issuance of a special permit, in compliance with § 305-10.10, Special permits, § 305-12.02, Site plan approval, and the requirements of § 305-5.04, Table of Use Regulations. WECF must comply with all requirements set forth in this bylaw. All such WECF shall be constructed and operated in a manner that minimizes any adverse safety and environmental impacts. No special permit shall be granted unless the special permit granting authority, the Board of Appeals, makes findings in writing that:
 - (a) The specific site is an appropriate location for such use;
 - (b) There is not expected to be any serious hazard to pedestrians, vehicles or abutting properties from the use;
 - (c) Adequate and appropriate facilities will be provided for the proper operation of the use.
- (2) The special permit decision from the Board of Appeals may impose reasonable conditions and safeguards that may require the

applicant to implement measures to mitigate adverse impacts of the WECF, if it is determined by the Board of Appeals that they are likely to occur.

- (3) Wind monitoring or meteorological towers shall be permitted in all zoning districts that allow for WECF, as listed in § 305-5.04, Table of Use Regulations. Wind monitoring towers are subject to the issuance of a building permit for a temporary structure and are also subject to reasonable regulations concerning the height of structures, lot area and setback requirements.
- C. Compliance with all laws, bylaws and regulations. The construction and operation of all WECF shall be in compliance with all applicable local, state and federal laws and regulations, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- D. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount and for a duration of time sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
- E. Site control. At the time of an application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads if required.
- F. General siting standards.
 - (1) Height. WECF shall be no higher than 300 feet in elevation above the existing natural grade of the land. WECF may exceed 300 feet if:
 - (a) The applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited WECF;
 - (b) The additional benefits of a higher tower outweigh any increased adverse impacts;
 - (c) The facility satisfies all other criteria for the granting of a special permit under the provisions of this section;
 - (d) The height of the facility is approved by the FAA and the MA DOT Aeronautics Division if required.
 - (2) Setbacks. WECF shall be set back a distance equal to the overall blade tip height plus the required setback in the applicable zoning district. The Board of Appeals may allow reduced setbacks for municipally owned WECF if the abutting property is owned by another Town entity and that entity/agency agrees to allow the structure near property under its control. In no case will the

setback be less than the height of the facility to any existing structure.

- (3) Setback waiver. The Board of Appeals may reduce the minimum setback distance as appropriate based on site-specific considerations if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.

G. Design standards.

- (1) Color and finish. The Board of Appeals shall have discretion over the turbine color. A neutral, nonreflective exterior color designed to blend with the surrounding environment is encouraged. Color renderings of the proposed WECF shall be submitted to the Board of Appeals for review and approval.

- (2) Lighting and signage.

- (a) Lighting. WECF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of other parts of the WECF, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties.

- (b) Signage.

- [1] Signs on the WECF shall comply with the requirements of the Town's sign regulations contained in Article VII of this bylaw and shall be limited to:

- [a] Those necessary to identify the owner, provide a twenty-four-hour emergency contact phone number, and warn of any danger;

- [b] Educational signs providing information about the facility and the benefits of renewable energy.

- [2] WECF shall not be used for displaying any advertising except for identification of the manufacturer or operator of the wind energy facility.

- (3) Utility services. All utility transmission lines from the WECF shall be located underground. The Board of Appeals may waive this requirement depending on soil conditions and topography of the site and any requirements of the utility provider. Electrical transformers, substations and disconnect devices for utility interconnections may be above ground if required by the utility provider.

- (4) Appurtenant structures. All appurtenant structures to a WECF shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such

appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures shall only be used for housing of equipment for the subject property. Whenever feasible, structures should be screened from view by a solid fence, wall or evergreen vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

- (5) Support towers. Monopole towers are the preferred type of support for the WECF.
- (6) Ground-mounted WECF are not permitted to host telecommunication equipment.

H. Safety, aesthetic and environmental standards.

- (1) Emergency services. The applicant shall provide a copy of the application package to the Department of Public Works and Fire and Police Departments. The applicant shall coordinate with those departments listed above in developing an emergency response plan.
- (2) Unauthorized access. WECF and other appurtenant structures shall be designed with a security barrier, structure, wall or fence at least six feet in height to prevent unauthorized access. To prevent access to the support tower by unauthorized persons, climbing apparatus shall be no lower than 10 feet from the ground or by placing secure shielding over the climbing apparatus.
- (3) Shadow/flicker. WECF shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect will not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.
- (4) Noise.
 - (a) The WECF and associated equipment shall conform to the following requirements, whichever is more restrictive:
 - [1] Article XII, Special Regulations, § 305-12.01J of this bylaw; or
 - [2] The provisions of the State Department of Environmental Protection (DEP) Division of Air Quality Noise Regulations (310 CMR 7.10). A source of sound will be considered to be violating these regulations if the source:
 - [a] Increases the broadband sound level by more than 10 dB above ambient; or
 - [b] Produces a "pure tone" condition, when an octave band center frequency sound-pressure level exceeds

the two adjacent center frequency sound-pressure levels by three decibels or more.

- (b) These criteria shall be measured at both the property line and at the nearest inhabited residence.
- (5) Land clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the WECF. No site alteration, clearing activities or grading shall take place on the site prior to the issuance of a special permit, except for construction of a temporary wind monitoring meteorological tower.
- (6) Monitoring and maintenance facility conditions. The applicant shall maintain the WECF in good condition in compliance with manufacturer's specifications, all State Electric Code requirements and the provisions of this bylaw. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Police and Fire Departments. The project owner shall be responsible for the cost of maintaining the WECF and any access road, unless accepted as a public way, and for the cost of repairing any damage occurring to the access road as a result of construction and operation.
- (7) Modifications. All material modifications to a WECF made after issuance of the special permit shall require approval by the Board of Appeals as provided in this section.

I. Abandonment or decommissioning.

(1) Removal requirements.

- (a) Any WECF which has reached the end of its useful life or has been abandoned shall be removed. When the WECF is scheduled to be decommissioned, the applicant shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the WECF no more than 150 days after the date that operations are discontinued. At the time of removal, the WECF site shall be restored to the state it was in before the facility was constructed. More specifically, decommissioning shall consist of:

- [1] Physical removal of all WECF structures, equipment, security barriers and transmission lines from the site;
- [2] Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;
- [3] Stabilization or revegetation of the site as necessary to minimize erosion.

- (b) The Board of Appeals may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) Abandonment. Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Board of Appeals. If the applicant fails to remove the WECF in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to enter the property and physically remove the facility.
- (3) Financial surety. The Board of Appeals shall require the applicant for a utility-scale WECF to provide a form of surety that will be available for use for the operating life of the WECF, either through escrow account, bond or other acceptable form of surety. The surety bond will be sufficient to cover the cost of removal in the event the Town or its contractor must remove the facility, in an amount and form determined to be reasonable by the Board of Appeals. In no event shall the surety bond exceed more than 125% of the estimated cost of removal. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for cost of living adjustment.
- (4) Term of special permit.
 - (a) A special permit issued for a WECF shall be valid for 25 years, unless extended or renewed. The time period may be extended or the permit renewed by the Board of Appeals upon satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the special permit. Submitting a renewal request shall allow for continued operation of the facility until the Board of Appeals acts. At the end of the term (including extensions and renewals), the WECF shall be removed as required by this section.
 - (b) The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
- J. Application process and requirements.
 - (1) General. The application for a WECF shall be filed in accordance with the rules and regulations of the Board of Appeals concerning special permits, Article X, Administration and Enforcement, § 305-10.10, and Article XII, Special Regulations, § 305-12.02, Site plan approval. All applications for special permits shall be filed by the applicant with the Town Clerk pursuant to MGL c. 40A, § 9.

- (2) Required information. The applicant shall provide the Board of Appeals with 16 copies of the application. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. The following information shall be included in the application:
 - (a) Name, address, phone number and signature of the applicant, as well as all co-applicants and property owners;
 - (b) The name, contact information and signature of any agents representing the applicant;
 - (c) Documentation of the legal right to use the WECF property.
- (3) Siting and design. The applicant shall provide the Board of Appeals with a description of the property which shall include a location map from a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed WECF site and the area within a two-mile radius from the proposed WECF.
- (4) Site plan. Applicants shall submit a detailed site plan, stamped by a Massachusetts licensed professional engineer, showing the proposed WECF property and the following site features:
 - (a) Property lines for the site parcel and adjacent parcels within 300 feet;
 - (b) Outline of all existing buildings, identifying their use (e.g., residence, garage, etc.) on the subject property and all abutting properties;
 - (c) Location of all existing and proposed access roads, public and private, on the site and adjacent parcels within 300 feet and proposed roads or driveways either temporary or permanent;
 - (d) Existing areas of tree cover, including the predominant height of trees, on the site parcel and adjacent parcels;
 - (e) Proposed location and design of WECF, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access and fencing, etc.;
 - (f) Location of all vantage points referenced below in Subsection J(5);
 - (g) Location of all resource areas, wetlands, natural heritage and endangered species estimated and priority habitat areas, migratory bird flyways, and prominent and natural and historical site features;
 - (h) All proposed grading shown in two-foot contour intervals;
 - (i) All proposed lighting shall be shown on the site plan. All lighting shall be designed to minimize glare on abutting

properties and be directed downward with full cutoff fixtures to reduce light pollution, except as required by the FAA and/or MA DOT Aeronautics Division;

- (j) Drainage calculations for the stormwater management system for all proposed impervious surfaces;
 - (k) Zoning district;
 - (l) Existing site topography at two-foot contour intervals.
- (5) Visual simulations.
- (a) Photo simulations. The Board of Appeals shall select between three and six sight lines, including from the nearest building with a view of the WECF, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a two-mile radius of the WECF. Computer-generated photo simulations shall have the following requirements:
 - [1] Photo simulations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the WECF;
 - [2] All view representations shall include existing and proposed vantage points, distances and angles, WECF structures, buildings and tree coverage;
 - [3] A description shall be provided of the technical procedures used in producing the photo simulations' vantage points, distances and angles. **[Amended 4-24-2017 ATM by Art. 12]**
 - (b) Balloon test. The applicant shall conduct a balloon test to help visualize the height of the proposed WECF. A large, brightly colored balloon that can be seen from a distance shall be raised to the same height as the highest point of the blade of the proposed WECF. The time and date of the balloon test shall be determined at the first public hearing and advertised by the applicant in a newspaper of general circulation in Marshfield. A second date for the test shall be provided in the event of poor weather/visibility. Balloon tests shall be scheduled between the hours of 9:00 a.m. and 5:00 p.m. All balloon tests shall be conducted during daylight hours and clear weather conditions.
- (6) Landscape plan. A landscape plan shall be provided that shows the location of all existing and proposed plantings. The landscape plan shall specify the size, type and location of all proposed plantings. The WECF shall be screened from adjacent properties by one or a combination of the following:

- (a) A minimum six-foot-high evergreen vegetative buffer;
 - (b) A six-foot-high solid fence; or
 - (c) A six-foot-high wall.
- (7) Operation and maintenance plan. The applicant shall submit a plan for maintaining access roads and the stormwater management system, as well as general procedures for operational maintenance of the WECF in accordance with manufacturer's specifications.
- (8) Compliance documents. The applicant shall provide the following information as part of the special permit application:
 - (a) A description of financial status of the owner of the proposed WECF;
 - (b) Proof of liability insurance;
 - (c) Certification of structure height approval from the FAA and from the MA DOT Aeronautics Division if required by applicable federal regulations;
 - (d) A statement certified by an acoustical engineer that demonstrates compliance with Subsection H(4) of this bylaw and provides the existing ambient sound levels and maximum projected noise levels from the WECF;
 - (e) Design plans of the WECF foundation and manufacturer's design plans for the structure, stamped by a Massachusetts licensed professional engineer;
 - (f) One- or three-line electrical diagram detailing the WECF components and electrical interconnection methods, including all National Electrical Code compliant disconnects and over-current devices;
 - (g) Documentation of the WECF manufacturer and model, rotor diameter, tower height and tower type.
- K. Independent consultants. Upon submission of an application for a special permit, the Board of Appeals will be authorized to hire outside consultants, as needed, to advise it on technical issues related to the WECF application, pursuant to MGL c. 44, § 53G. The applicant will be required to pay this consultant's fees.
- L. Building-mounted wind energy conversion facilities.
 - (1) Building-mounted WECF are allowed subject to a building permit and a special permit issued by the Board of Appeals as an accessory use. Applications for a building-mounted WECF shall comply with the requirements of Article X, § 305-10.10, Special permits, of this bylaw.

- (2) Turbine size. The blade tip of a building-mounted WECF shall be no lower than 15 feet from the ground elevation and no higher than 20 feet above the ridge line of the roof.
- (3) Noise. The WECF shall comply with the noise regulations listed in Subsection H(4) of this bylaw.
- (4) Number allowed. One WECF is allowed per building.
- (5) Additional submission requirements. Applicants shall submit architectural elevation drawings of the building showing the proposed WECF. Detailed manufacturer's specifications for the WECF shall be submitted.
- (6) Shadow/flicker. Building-mounted WECF shall comply with Subsection H(3), Shadow/flicker, of this bylaw.
- (7) Discontinuance. WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner/Zoning Enforcement Officer shall be removed within 30 days of an order from the Building Commissioner/Zoning Enforcement Officer to remove the WECF.
- (8) Setbacks. Building-mounted WECF shall be set back from the property line a distance equal to the length of the turbine blades plus the minimum setback required in the applicable zoning district.

M. Small-scale ground-mounted wind energy conversion facilities.

- (1) Small-scale ground-mounted WECF are allowed as an accessory use subject to a building permit and a special permit issued by the Board of Appeals. Applications for a small-scale ground-mounted WECF shall comply with the requirements of Article X, § 305-10.10, Special permits, and Article XII, Special Regulations, § 305-12.02, Site plan approval, of this bylaw.
- (2) Turbine size. The blade tip of the WECF shall be no lower than 15 feet from the existing ground elevation. The maximum height of a small-scale WECF is 150 feet above the existing ground elevation.
- (3) Noise. The WECF shall comply with the noise regulations listed in Subsection H(4) of this bylaw.
- (4) Additional submission requirements. Applicants shall submit an elevation drawing of the proposed WECF that illustrates the ground-mounted WECF on the property in relation to existing buildings, landscaping and other prominent site features. Detailed manufacturer's specifications for the WECF shall be submitted.
- (5) Shadow/flicker. Ground-mounted WECF shall comply with Subsection H(3), Shadow/flicker, of this bylaw. **[Amended 4-24-2017 ATM by Art. 12]**

- (6) Discontinuance. Ground-mounted WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner/Zoning Enforcement Officer shall be removed within 30 days of an order from the Building Commissioner/Zoning Enforcement Officer to remove the WECF.
- (7) Location. Ground-mounted turbines are not permitted within the front setback area of the lot, facing a public or private way.
- (8) Setbacks. Ground-mounted WECF shall comply with the setback requirements for the zoning district, as required in Article VI, Dimensional and Density Regulations, § 305-6.02. The setback distance shall be measured from the tip of the blade to the lot line.
- (9) Security. All ground-mounted WECF shall comply with the requirements of Subsection H(2) of this bylaw.

ARTICLE XII
Special Regulations

**§ 305-12.01. Environmental performance standards. [Amended
4-24-2017 ATM by Art. 12]**

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactivity or other hazard; noise, vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid wastes; conditions conducive to the breeding of insects or rodents; or other substance, conditions or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

- A. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
- B. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.
- C. No activities that emit dangerous radioactivity, at any point, and no electrical disturbance adversely affecting the operation, at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.
- D. No emission of visible smoke of a shade equal to or darker than No. 1 on the Ringelmann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted for a period or aggregate period of time in excess of six minutes during any one hour, provided that at no time during said six minutes shall the shade, density or appearance be equal to or greater than No. 2 of the Chart.
- E. No emission which can cause any damage to health or animals or vegetation or which can cause excessive soiling at any point shall be permitted.
- F. No emission which contains particle matter shall exceed federal standards of the Environmental Protection Agency.
- G. No facility regardless of its size shall discharge more than 40 pounds per hour of dust and fumes to the atmosphere.
- H. No discharge, at any point, into a private sewerage system, stream, the ground, or a municipal sewage disposal system of any material in such a way, or of such a nature or temperature, as may contaminate any running stream, water supply, or water body, or otherwise cause the emission of dangerous or objectionable elements and accumulation

of wastes conducive to the breeding of rodents or insects, shall be permitted.

- I. No activity shall be permitted which causes or creates a vibration, at any point on any lot line, with a displacement and respective frequency listed below.

Maximum Permitted Steady State Vibration Displacement

Frequency	Displacement
(cycles per second)	(inches)
10 and below	0.0008
10 to 20	0.0005
20 to 30	0.0003
30 to 40	0.0002
40 to 50	0.0001
50 to 60	0.0001
60 and over	0.0001

Maximum Permitted Impact Vibration Displacement

Frequency	Displacement
(cycles per second)	(inches)
10 and below	0.0016
10 to 20	0.0010
20 to 30	0.0006
30 to 40	0.0004
40 to 50	0.0002
50 to 60	0.0002
60 and over	0.0002

- J. Maximum permissible sound-pressure levels for noise radiated continuously from a facility between 10:00 p.m. and 7:00 a.m. at any lot line shall be as follows:

Frequency Band	Sound Pressure Level
(cycles per second)	(decibel re 0.0002 dyne/cm²)
20 to 75	69
75 to 150	54
150 to 300	47
300 to 600	41
600 to 1,200	37
1,200 to 2,400	34

Frequency Band	Sound Pressure Level
(cycles per second)	(decibel re 0.0002 dyne/cm²)
2,400 to 4,800	31
4,800 to 10,000	28

(1) If this sound is not smooth and continuous, one of the following corrections should be added to each of the actual decibel levels given:

(a) Daytime operation only: +5.

(b) Noise source operates less than 20% of any hour period: +5.

- K. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 ounce per thousand cubic feet of hydrogen sulfide or any "Odor Threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington, D.C., shall be permitted.
- L. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as welding, shall be permitted when it is determined that it will be hazardous or obnoxious.
- M. In the event of a conflict between the above performance standards and state standards, the standards of a duly organized regional authority, or local standards, the standards which are more stringent shall govern.

§ 305-12.02. Site plan approval.

Site plan review shall be used to evaluate the impacts of a proposed project. Any request for a permit for construction, additions, exterior alteration, relocation, or change in use of nonresidential use permitted by right or by special permit in any district shall not be granted until a site plan for such use has been submitted to and approved by the Board, except that the Board may waive the requirement for site plan approval where the proposed alteration or change in use is found to be minor.

- A. All applicants for site plan review shall fully comply with the submission requirements set forth in the Town of Marshfield Board of Appeals rules and regulations except where said rules and regulations are waived by the Board. Except as provided in § 305-10.09E hereof, any person desiring approval of a site plan under this section shall submit nine copies of said plan, with application for approval thereof, directly to the Board. The Board shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board, which said Board may, in its discretion, investigate the case and report in writing its recommendation to the Board. Applicants are encouraged to meet

informally with the Building Commissioner/Zoning Enforcement Officer prior to making a formal submission of plans to discuss site plan requirements and consider possible waivers. The Board may provide a set of guidelines to assist applicants in meeting site plan, architectural and landscaping objectives.

- B. Consultant review. If in the opinion of the Board the project requires review by a consultant the applicant will be responsible for consultant review fees as may be required by the Board of Appeals rules and regulations and as governed by MGL c. 44, § 53G.
- C. A traffic study may be required by the Board as more fully described in § 305-11.10.
- D. The Board shall not take final action on such plan until it has received a report thereon from the Planning Board, or until said Planning Board has allowed 35 days to elapse after receipt of such plan without submission of a report thereon.
- E. In exercising its jurisdiction under this section, the Board shall conform to all procedural requirements applicable to the Board when deciding requests for special permits as set forth in MGL c. 40A, § 9, and Article X of this bylaw. **[Amended 2009 ATM]**
- F. Review criteria/required performance standards. In considering a site plan under this section, the Board shall assure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located:
 - (1) Protection of adjoining premises against detrimental or offensive uses on the site, including compliance with all dimensional requirements set forth in this bylaw, and provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscaped buffer along the street frontage.
 - (2) Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements, including compliance with § 305-11.10 where required.
 - (3) Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site.
 - (4) Adequacy of the proposed drainage system within and adjacent to the site to manage all increased runoff resulting from the development on site, and adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction. Site plan review shall also include review of an operations and maintenance plan for the approved drainage system to be certified by a registered professional engineer.

- (5) Compliance with §§ 305-8.07 and 305-8.08 of this bylaw, including adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment.
 - (6) Adequacy of lighting, including compliance with § 305-8.09 of this bylaw, such that all lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties.
 - (7) Building sites shall minimize any material or significant adverse impacts on steep slopes, floodplains, scenic views, grade changes and wetlands.
 - (8) In the B-1 Zoning District, the development shall be reasonably consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development. If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.
 - (9) Where a proposal is within the jurisdiction of the Water Resource Protection District (WRPD), compliance with § 305-13.03F, Performance and design standards for all activities. **[Added April 2011 ATM]**
 - (10) Conformance with all appropriate provisions of the Zoning Bylaw except where variance from such provision is applied for and approved by the Board. All permits issued under this bylaw shall be conditioned upon receipt of all other required permits, including Board of Health; Conservation Commission if necessary; all required permits set out in § 305-10.10, Article XI, Article XIII and Article XV; and others as required.
- G. Design objectives. The following objectives, in addition to any standards prescribed elsewhere in this bylaw, shall be utilized by the Board during its site plan review. These objectives are intended to provide specific guidelines for the Board and the applicant.
- (1) Architectural details. Architectural details of new buildings and additions, textures of wall and roof materials should be harmonious with the building's overall architectural style and should preserve and enhance the character of the surrounding area.
 - (2) Building articulation. Giving emphasis to architectural elements (including windows, balconies, porches, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.
 - (3) Building form and features. The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships

between doors and windows should be harmonious among themselves and with those of the surrounding area.

- (4) Building location. Proposed buildings and structures shall be integrated as much as possible within the existing building locations, landscape and terrain. The building's location shall be orientated parallel or perpendicular to the street. Where the minimum setback cannot be maintained by the building, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements which will maintain the street line.
 - (5) Building design. The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roofline, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
 - (6) Spatial definition. Define various areas both public and private with walks, plantings, walls, fences and other elements that are in keeping with the overall architectural design.
 - (7) Special features. Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets.
 - (8) Lighting. Lighting should match the architectural style of the building and comply with the Zoning Bylaw, § 305-8.09.
 - (9) Pedestrian furnishings. Benches, bollards, lighting, street trees, refuse containers, flowers boxes, and canopies shall be provided and shall be consistent with the character of the development.
 - (10) Protection of historic character. When renovating an historic building, character-defining exterior elements of the historic building shall be preserved. Signage should be compatible with the historic character of the building.
- H. The Board shall have the power to modify or amend its approval of a site plan on application of the owner, lessee or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this section shall, where apt, be applicable to such modification or amendment.
- I. The site plan submitted to the Board shall show, among other things as may be required by the Board in the proper administration of this section, all existing and proposed buildings, structures, parking areas, loading areas, driveway openings, driveways, walkways, access and egress points, service areas, recreation areas and other open spaces, including dimensions and all elevations; easements within the lot; existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and

location and capacity of septic systems; wetlands, streams, bodies of water, and drainage swales; the location and description of all existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot, including two-foot contours, walks, fences, walls, planting areas, and greenbelts; and the amount(s) in square feet of proposed building(s), impervious surface area and open space (natural and landscaped) of the lot. The Board may request additional information or data it judges to be necessary to render its decision.

J. Compliance and enforcement.

- (1) The final approved site plan will be valid for two years and not contingent on continued ownership. Failure to actively begin construction within that time will require a new submittal. Construction, once commenced, shall be prosecuted diligently to conclusion. **[Amended 4-24-2017 ATM by Art. 12]**
- (2) No building permit shall be issued by the Building Commissioner/Zoning Enforcement Officer for any development subject to this section and no construction or site preparation shall be started until a decision of the Board approving a site plan has been filed with the Town Clerk and all other required permits have been received and filed with the Town Clerk.
- (3) The Board may require submittal of an as-built plan, certified by a registered professional land surveyor and engineer, to the Board and Building Commissioner/Zoning Enforcement Officer before the issuance of a permanent certificate of occupancy. The as-built plan shall attest to a development's conformity to its approved site plan by indicating landscaping, buildings, drainage flow, number of parking stalls, and limits of parking areas and drives. No activity subject to site plan approval shall be conducted on the site unless, in the opinion of the Building Commissioner/Zoning Enforcement Officer, the development or approved phase thereof has been substantially completed according to the approved site plan, and unless the proposed activity was reviewed by the Board pursuant to the site plan approval procedure. **[Amended 4-24-2017 ATM by Art. 12]**
- (4) The owner(s) and/or developer(s) of any lot, and all successors in interest, shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.
- (5) A permanent landscaping irrigation system, sufficient in the Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations.

Whenever possible, "gray" or reused water, or wells, shall be used as the water source for the irrigation system.

- (6) Maintenance bond. The Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two growing seasons following completion of planting.
- (7) Any changes in the approved site plan or in the activity to be conducted on the site shall be submitted to the Board for review and approval.

§ 305-12.03. Large-scale ground-mounted solar photovoltaic installations. [Added April 2011 ATM]

A. Purpose.

- (1) The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety and minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.
- (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

B. Applicability. This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this bylaw. These regulations also pertain to physical modifications that materially alter the type, configuration, or size of installations or related equipment.

C. General requirements for all large-scale ground-mounted solar photovoltaic installations. The following requirements apply to all large-scale ground-mounted solar photovoltaic installations to be sited in the I-1 Zoning District:

- (1) Compliance with all other laws and regulations. The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements. All buildings and fixtures forming part of a large-scale ground-mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- (2) Building permit and building inspection. No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

(3) Site plan review.

- (a) Large-scale ground-mounted solar photovoltaic installation with 250 KW or larger rated nameplate capacity shall undergo a site plan review in accordance with the requirements of § 305-12.02, Site plan approval, prior to construction, installation or modification as provided in this section. In addition to compliance with the requirements of § 305-12.02, Site plan approval, the following additional information shall be provided at the time of submission of the application:
 - [1] Drawings of the large-scale ground-mounted solar photovoltaic installation shall be stamped by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - [2] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;
 - [3] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - [4] Name, address, and contact information for proposed system installer;
 - [5] An operation and maintenance plan;
 - [6] Proof of liability insurance.
 - (b) The Board may waive documentary requirements as it deems appropriate.
 - (c) The by-right site plan approval process administered by the Board of Appeals for large-scale ground-mounted solar photovoltaic installation shall be completed within one year of the date of submission of a complete application package. All other locally required permits for large-scale ground-mounted solar photovoltaic installation shall also be issued within one year of the date of submission of a complete application package.
- (4) Independent consultants. Upon submission of the site plan application, the Board will be authorized to hire outside consultants, as needed, to advise it on technical issues related to the large-scale ground-mounted solar photovoltaic installation

application, pursuant to MGL c. 44, § 53G. The applicant will be required to pay the consultant's fees.

- (5) Site control. The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed large-scale ground-mounted solar photovoltaic installation.
- (6) Operation and maintenance plan. The applicant shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater management, as well as general procedures for operational maintenance of the installation.
- (7) Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the large-scale ground-mounted solar photovoltaic installation owner's or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (8) Setbacks. The setbacks for large-scale ground-mounted solar photovoltaic installations shall comply with the setbacks required in § 305-6.02 for the I-1 Zoning District.
- (9) Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installation shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures should be screened from view by an evergreen buffer of vegetation and/or a six-foot-high solid fence to avoid adverse visual impacts.
- (10) Lighting. Lighting of large-scale ground-mounted solar photovoltaic installation shall comply with § 305-8.09. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the large-scale ground-mounted solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- (11) Signage.
 - (a) Signs on large-scale ground-mounted solar photovoltaic installation shall comply with § 305-7.05. A sign shall be

provided that identifies the owner and provides a twenty-four-hour emergency contact phone number.

- (b) Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the large-scale ground-mounted solar photovoltaic installation.

(12) Utility connections. All utility connections from the large-scale ground-mounted solar photovoltaic installation shall be located underground. In the event that site constraints make it cost prohibitive due to soil conditions and/or topography of the site, or any requirements of the utility provider, the Board may wave this requirement. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

D. Safety and environmental standards.

- (1) Emergency services. The facility's owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the Fire Chief. The facility's owner or operator shall cooperate with public safety officials in developing an emergency response plan. All means of shutting down the large-scale ground-mounted solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (2) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to only what is necessary for the construction, operation and maintenance of the facility.

E. Monitoring and maintenance.

- (1) Maintenance. The facility's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for the cost of maintaining the large-scale ground-mounted solar photovoltaic installation and any access road(s), unless accepted as a public way.
- (2) Modifications. All material modifications to a large-scale ground-mounted solar photovoltaic installation made after issuance of the building permit shall require approval of the Board.

F. Abandonment or decommissioning.

- (1) Removal requirements. Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned, as described in Subsection F(2), shall be removed. The owner or operator shall physically remove the

installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or revegetation of the site as necessary to minimize erosion. The Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- (3) Financial surety. Applicants shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removing the entire large-scale ground-mounted solar photovoltaic installation in the event the Town has to intervene by removing the large-scale ground-mounted solar photovoltaic installation and remediating the landscape. The applicant shall submit a surety bond in an amount and form determined to be reasonable by the Board, but in no event to exceed more than 125% of the cost of removal. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a professional engineer licensed to practice in the Commonwealth of Massachusetts. The amount shall include a mechanism for calculating increased removal costs due to inflation.

§ 305-12.04. Medical marijuana facilities. [Added 4-29-2014 ATM by Art. 15]

A. Purpose. The purpose of this bylaw is:

- (1) To provide for the establishment of medical marijuana facilities in locations appropriate for the use and to regulate the use under strict conditions in accordance with the passage of the Citizens

Initiative Petition No. 11-11 (Question No. 3 on the November 2012 state ballot) and 105 CMR 725.100.

- (2) To minimize the adverse impacts of medical marijuana facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said facilities.
 - (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of medical marijuana facilities.
- B. Applicability. No medical marijuana facility shall be established except in compliance with the provisions of § 305-12.04. Nothing in this bylaw shall be construed to supersede any state or federal laws or regulations governing the sale and distribution of narcotic drugs. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a medical marijuana facility under § 305-12.04 of this bylaw.
- C. General requirements and conditions for all medical marijuana facilities.
- (1) All non-exempt medical marijuana facilities shall be contained within a building or structure.
 - (2) No medical marijuana facilities shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
 - (3) Medical marijuana facilities shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
 - (4) The hours of operation of medical marijuana facilities shall be set by the special permit granting authority, the Board of Appeals (BA), but in no event shall said facilities be open and/or operating between the hours of 8:00 p.m. and 8:00 a.m.
 - (5) No medical marijuana facility shall be located on the same lot or a lot which abuts the Marshfield Boys & Girls Club property, any public or private school building, day-care facility or any public playground, recreation facility, athletic field or other park where children congregate, or any residential zoning district and the PMUD Overlay District.
 - (6) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a medical marijuana facility.
 - (7) Medical marijuana facilities shall not be located inside a building containing residential units, including transient housing such as

motels and dormitories, or inside a trailer, recreational vehicle, or movable or stationary mobile vehicle.

- (8) Notwithstanding any provisions of Article VII of this bylaw, signage for all medical marijuana facilities shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height. The sign shall be located in a visible location near the main entrance to the facility. Exterior signs shall identify the name of the establishment but shall not contain any other advertising information.
- (9) Medical marijuana facilities shall provide the Marshfield Police Department, Building Commissioner/Zoning Enforcement Officer and the BA with the names, phone numbers and e-mail addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is any change in management staff or keyholders.

D. Special permit requirements.

- (1) Medical marijuana facilities shall only be allowed by special permit issued by the Marshfield Board of Appeals in accordance with MGL c. 40A, § 9, and § 305-10.10 of this bylaw, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A special permit for a medical marijuana facility shall be limited to one or more of the following uses that shall be determined by the BA:
 - (a) Cultivation of marijuana for medical use (horticulture), except that sites protected under MGL c. 40A, § 3, shall not require a special permit;
 - (b) Processing and packaging of marijuana for medical use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - (c) Retail sale or distribution of marijuana for medical use to qualifying patients.
- (3) In addition to the application requirements established by the Board of Appeals by rule and elsewhere in this bylaw, a special permit application for a medical marijuana facility shall include the following:
 - (a) The name and address of each owner of the establishment and property owner.
 - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment.

- (c) Evidence of the applicant's right to use the site for the establishment, such as a deed or lease.
 - (d) If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the names and addresses of all individuals associated with that entity.
 - (e) A certified abutters list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor.
 - (f) Proposed security measures for the medical marijuana facility, including lighting, fencing, surveillance cameras, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. The security measures shall be reviewed and approved by the Police Department.
 - (g) The facility shall provide service to qualified patients by appointment only.
 - (h) The facility shall provide free delivery to all qualified patients.
 - (i) No products shall be displayed in the facility's windows or be visible from any street or parking lot.
 - (j) All employees shall be 18 years of age or older.
- (4) Mandatory findings. In addition to the findings required under § 305-10.10, the Board of Appeals shall not issue a special permit for a medical marijuana facility unless it finds that:
- (a) The establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11;
 - (b) The applicant clearly demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
 - (c) The applicant has satisfied all of the conditions and requirements of § 305-12.04.
- (5) Annual reporting. All medical marijuana facilities permitted under this bylaw shall as a condition of its special permit file an annual report with the BA, Police Chief and the Town Clerk no later than January 31 of each year. The annual report shall include a copy of all current applicable state licenses for the establishment and/or its

owners and demonstrate continued compliance with the conditions of the special permit. In the event that the annual report is not received by January 31 or if the report is incomplete, the owners of the medical marijuana facility will be required to appear before the BA to provide the required information.

- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises as a medical marijuana facility. A special permit may be transferred only with the approval of the BA in the form of an amendment to the special permit with all information required in § 305-12.04.

E. Abandonment or discontinuance of use.

- (1) The Board of Appeals shall require the applicant to post a bond prior to the issuance of a building permit to cover costs for the removal of the medical marijuana facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all the items noted in this Subsection E and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Board of Appeals with three written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the Town to remove the improvement in compliance with law at prevailing wages.
- (2) A special permit shall lapse if not exercised within one year of issuance.
- (3) A medical marijuana facility shall be required to remove all materials, plants, equipment and other paraphernalia:
 - (a) Prior to surrendering its state-issued licenses or permits; or
 - (b) Within six months of ceasing operations, whichever comes first.

F. Severability. If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

ARTICLE XIII
Superimposed Districts

§ 305-13.01. Inland Wetlands District.

- A. Purpose of district. The purpose of this district is:
- (1) To preserve and protect the streams and other watercourses and their adjoining lands in the Town of Marshfield.
 - (2) To protect the health and safety of persons and property against the hazards of flooding and contamination.
 - (3) To preserve and maintain the groundwater table for water supply purposes.
 - (4) To protect the community against the detrimental use and development of lands adjoining such watercourses.
 - (5) To conserve the watershed areas of the Town of Marshfield for the health, safety, and welfare of the public.
- B. Definition of district. The Inland Wetlands District is superimposed over any other district established by this bylaw. Except as noted below, all lands in Marshfield which have been identified by the Soil Conservation Service of the U.S. Department of Agriculture as being characterized by poorly drained and very poorly drained mineral soils and very poorly drained soils formed by inorganic deposits and having a water table at or near the surface seven to nine months of the year are included in the district. Where these soils fall within the Coastal Wetlands District, the area shall be considered as in the Coastal Wetlands District. A parcel of land with respect to which a building or use permit is sought shall not be subject to the provisions of this Article XIII if:
- (1) It is partially outside the Inland Wetlands or Coastal Wetlands Districts; and
 - (2) The contiguous portion outside the boundaries of such districts is equal to at least 80% of the minimum area requirements of Article VI; and
 - (3) The proposed building or use will take place on the portion of such parcel which is outside such Inland or Coastal Wetlands Districts.
- C. Permitted use. Municipal use, such as waterworks, pumping stations, essential services and parks, is permitted under this section. Land in the Inland Wetlands District may be used for any purpose otherwise permitted in the underlying district except that:
- (1) No structure intended for human occupancy or use on a permanent basis having water and sewage facilities and no other building, wall, dam or structure (except flagpoles, signs and the like) intended for permanent use shall be erected, constructed, altered,

enlarged, or otherwise created or moved for any purpose unless a special permit from the Board is issued. However, without a special permit, a structure existing at the time this bylaw becomes effective may be reconstructed or repaired after a fire or other casualty and a dwelling or buildings accessory to a dwelling existing at the time this bylaw becomes effective may be altered or enlarged provided no other provisions of these bylaws are violated.

- (2) Dumping, filling, excavating or transferring of any earth material within the district is prohibited unless a special permit from the Board is issued. However, this subsection does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this bylaw becomes effective.
- (3) No ponds or pools shall be created or other changes in watercourses, for swimming, fishing or other recreational uses, agricultural uses, scenic features or drainage improvements or any other uses, unless a special permit from the Board is issued.

D. Permit and procedure.

- (1) Any person(s) desiring such a permit shall submit an application to the Board of Appeals which shall comply with the conditions and submittal requirements as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection, and the Massachusetts Department of Transportation under MGL c. 131, acts relating to the protection of inland wetlands of the commonwealth.)
- (2) The application procedure shall be the same as for special permit. Copies of the application for special permit to the Board with accompanying plans shall also be sent to the Building Commissioner/Zoning Enforcement Officer, Board of Health, Conservation Commission and the Planning Board for their recommendations to the Board, as to their approval, disapproval or appropriate recommendations.

E. Required submittals.

- (1) Submission of a location plan at a scale of one inch equals 1,000 feet showing the lot(s) to be developed, lot(s) lines within which the development is proposed, and tie-in to the nearest road intersection.
- (2) A site plan at a minimum scale of one inch equals 40 feet shall be prepared by a registered land surveyor or registered professional civil engineer. The site plan shall be submitted to the Board and shall show at least the following:
 - (a) The location, boundaries, and dimension of each lot in question.

- (b) Two-foot contours of the existing and proposed land surface.
 - (c) The locations of existing and proposed structures, watercourses, and drainage easements, means of access, drainage, and sewage disposal facilities.
 - (d) The elevation of the basement and first floor.
 - (e) The area and location of leaching fields.
- F. Development conditions. For the development of land within the Inland Wetlands District, the following conditions shall apply:
- (1) The lot(s) shall be served by a public water system.
 - (2) If the lot(s) is to be served by public sewerage system, the following conditions shall apply:
 - (a) A minimum of six test borings to a minimum depth of eight feet shall be taken, three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.
 - (b) The floor level of areas to be occupied by human beings as living or working space shall be four feet above the seasonal high-water table and not subject to periodic flooding.
 - (c) If the basement floor level is below the seasonal high-water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.
 - (d) Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.
 - (3) If the lot(s) is to be served by an on-lot septic system, the following conditions including those listed previously shall apply:
 - (a) The leaching area designed for use as well as a reserved area for future expansion or total future use shall be plotted with dimensions on the site plan.
 - (b) A minimum of two percolation tests per leaching area shall be performed. The maximum groundwater table shall be determined during the last two weeks of March or the first three weeks of April. At least two deep observation pits shall be dug to determine soil profiles. The observation pits may be

dug during other times of the year and shall be accompanied by a detailed report compiled by a soil scientist or qualified engineer.

- (c) The leaching areas shall not be constructed in areas where the maximum groundwater elevation is less than four feet below the bottom of the leaching area.
 - (4) The developer shall show that the proposed development will not endanger health or safety, including safety of gas, electricity, fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting or electrocuting; obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; or increase stormwater runoff velocity so that water levels on other land are substantially raised or the danger from flooding increased.
- G. Board of Appeals procedure.
 - (1) The Board of Appeals shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board, or until 30 days have elapsed after receipt of such plan without the submission of a report. The Board of Appeals shall give due consideration to all reports and, where its decision differs from the recommendations received, shall state the reasons therefor in writing.
 - (2) The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.
- H. Certificate of occupancy. No certificate of occupancy shall be issued until the Board, the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board have received a certified plan showing the foundation and floor elevations, grading of the premises, elevations of the various elements that make up the sewage disposal system, and that all requirements of all permits are satisfied.
- I. Areas and yard regulations. A lot, a portion of which is in the Inland Wetlands District, meets minimum area regulations under Article VI of this bylaw provided that not more than 20% of the lot area which is required to meet the minimum requirements of the zoning district is within the Inland Wetlands District.

§ 305-13.02. Coastal Wetlands District.

- A. Purpose of district. The purpose of this district is to promote:

- (1) The health and safety of the occupants of lands subject to seasonal or periodic tidal flooding.
 - (2) The preservation of the salt marshes and tidal flats and their attendant public benefit.
 - (3) The safety and purity of water; control and containment of sewage; safety of gas, electric, fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting, electrocuting or any other dangers due to flooding.
- B. Definition of district. The Coastal Wetlands District is superimposed over any other districts established by the bylaw. All lands in Marshfield covered by water of the average lunar monthly high tides and all other lands which have been identified in the report, "Soil Survey, Plymouth County, Massachusetts" issued July 1969 by the Soil Conservation Service of the U.S. Department of Agriculture as being tidal marsh and thereby subject to tidal flooding are included in this district.
- C. Permitted uses. Municipal uses such as wastewater treatment facilities, waterworks, pumping stations, a maritime service and safety facility, essential services, and parks are permitted in this district. Land in the Coastal Wetlands District may be used for any purpose otherwise permitted in the underlying district except that: **[Amended 4-24-2017 STM by Art. 2]**
- (1) No structure intended for human occupancy or use on a permanent basis having water or sewerage facilities, and no other building, wall, dam, or structure (except flagpoles, signs and the like) intended for permanent use shall be erected, constructed, altered, enlarged or otherwise created or moved for any purpose except for piers, boathouses, walkways, and similar facilities as which may be granted by a special permit from the Board. However, without a special permit, a structure existing at the time this bylaw becomes effective may be reconstructed or repaired after a fire or other casualty and a dwelling or building accessory to a dwelling existing at the time this bylaw becomes effective may be altered or enlarged provided no other provisions of these bylaws are violated.
 - (2) Dumping, filling, excavating, or transferring of any earth material within the district is prohibited. However, this subsection does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this bylaw becomes effective.
 - (3) No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, marine agricultural uses, scenic features or drainage improvements or any other uses, unless a special permit from the Board is issued.

- (4) No use shall be permitted to develop in such a manner as will adversely affect the natural character of the area.
- D. Permit and procedure. Any person(s) desiring such a permit shall submit an application to the Board which shall comply with the conditions and submittal requirements as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Department of Transportation under MGL c. 130, acts relating to the protection of coastal wetlands of the commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for special permit to the Board of Appeals with accompanying plans shall also be sent to the Building Commissioner/Zoning Enforcement Officer, Board of Health, the Conservation Commission, and the Planning Board for their recommendations to the Board as to their approval, disapproval or appropriate recommendations.
- E. Required submittals.
- (1) Submission of a location plan at a scale of one inch equals 1,000 feet showing the lot(s) to be developed, lot lines within which the development is proposed and tie-in to the nearest road intersection.
 - (2) A site plan at a minimum scale of one inch equals 40 feet shall be prepared by a registered land surveyor or a registered professional engineer. The site plan shall be submitted to the Board and shall show at least the following:
 - (a) The location, boundaries, and dimension of each lot in question.
 - (b) Two-foot contours of the existing and proposed land surface.
 - (c) The location of existing and proposed structures, watercourses and drainage easements, means of access and drainage.
- F. Board of Appeals procedure.
- (1) The Board shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board or until 30 days have elapsed after receipt of such plan without submission of a report. The Board shall give due consideration to all reports and, where its decision differs from the recommendations received, shall state the reasons therefor in writing.
 - (2) The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise,

of past flooding of said premises and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

- G. Certificate of occupancy. No certificate of occupancy shall be issued until the Board, the Building Commissioner/Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and the Planning Board have received a certified plan showing the foundation and floor elevations, elevations of the completed construction, and that all requirements of all permits are satisfied.
- H. Areas and yard regulations. A lot, a portion of which is in the Coastal Wetlands District, meets minimum area regulations under Article VI of this bylaw provided that not more than 20% of the lot area which is required to meet the minimum requirements of the zoning district is within the Coastal Wetlands District.

§ 305-13.03. Water Resource Protection District (WRPD). [Amended April 2011 ATM]

- A. Purpose of district. The purpose of this overlay district is to prevent contamination of and preserve the quantity and quality of ground and surface water which provides existing or potential water supply for the Town's residents, institutions, and businesses.
- B. Scope of authority. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Uses prohibited in the underlying zoning districts shall be prohibited in the WRPD.
- C. Establishment and delineation of the WRPD.
 - (1) The WRPD includes the Zone II protection areas as shown on the Zoning Map of the Town of Marshfield, Massachusetts, as defined in § 305-3.03 of the Zoning Bylaw (Zoning Map). The WRPD is superimposed over any other district established by this bylaw. In cases of conflicting use regulations, the more restrictive zoning requirements shall apply.
 - (2) The boundaries of this district may be modified upon acceptance of approved Zone II conformance with wellhead protection requirements of the Massachusetts Drinking Water Regulations, 310 CMR 22.21, and through a Zoning Map amendment approved through Town Meeting.
- D. Split lots and determination of applicability.
 - (1) Where the boundary line of the WRPD divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the WRPD. The boundary shall be shown on a site plan as required by this bylaw or through site plan review and shall be acceptable to the reviewing authority

in accordance with all applicable provisions from the Zoning Bylaw and associated Planning Board rules and regulations.

- (2) The applicant shall demonstrate, through the use of site plans, that development activity outside of the boundary shall not be connected to land within the boundary through post-development grading, stormwater infrastructure, wastewater infrastructure or other potential connections that could lead to the contamination of groundwater within the WRPD. Where development practices create a hydrologic connection across the WRPD boundary, the applicant shall demonstrate that any water moving into or away from the WRPD is accounted for in any of the required pollutant loading calculations and meets all of the standards associated with the WRPD. Where a special permit may be required, the Planning Board may impose such conditions as are reasonably required to ensure that these standards are met.
- (3) If an applicant questions the accuracy of Town's Zoning Map as referenced in Subsection C(1) above, the applicant may challenge the extent to which his/her property is subject to the WRPD provisions in advance of submitting an application for development to the Building Commissioner/Zoning Enforcement Officer, Board of Appeals, or the Planning Board. Said challenge shall be made through a request for a determination of applicability to the Building Commissioner/Zoning Enforcement Officer. A request for a determination of applicability shall be made in writing to the Building Commissioner/Zoning Enforcement Officer and shall include the following information at a minimum:
 - (a) Site plan clearly depicting the parcel boundary and boundaries of adjacent parcels and rights-of-way;
 - (b) Survey benchmarks;
 - (c) Stamp from a Massachusetts registered surveyor;
 - (d) Name and address of property owner(s);
 - (e) Property address and map and lot number from the most recent Assessor's records;
 - (f) Locations of surface water and wetland flags;
 - (g) Location of WRPD boundary;
 - (h) North arrow;
 - (i) Scale (minimum of one inch equals 40 feet).
- (4) Upon receipt of a request for a determination of applicability, the Building Commissioner/Zoning Enforcement Officer may make this determination in consultation with the Town Engineer and any other applicable agent of the Town of Marshfield.

- (5) The burden of proof shall be upon the applicant to determine the extent to which the property is subject to the jurisdiction of this bylaw. At the request of the applicant the Town may engage a professional engineer or State of Massachusetts registered land surveyor to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the applicant for all or part of the cost of the investigation.
- (6) The Building Commissioner/Zoning Enforcement Officer shall file his/her written determination with the Planning Board and the Board of Appeals. Any application for a determination of applicability and associated materials shall not substitute for materials required as part of site plan review, a building permit application, or any application for a special permit. Any determination made by the Building Commissioner/Zoning Enforcement Officer as part of a determination of applicability shall be considered by other reviewing agencies in their deliberations of separate applications but shall not constitute approval or denial of said applications.

E. Use regulations.

- (1) Exempt uses. The following specific uses of land shall be exempt from provisions associated with the WRPD. Where municipal services are exempted herein [Subsection E(1)(e), (f) and (g)], the Department of Public Works or Town Engineer shall provide notice to the Planning Board of these activities within 14 days of beginning work along with any available engineered plans.
 - (a) Storage of liquid petroleum products of any kind incidental to:
 - [1] Normal household quantities as defined in Article II, Definitions, of the Zoning Bylaw and outdoor maintenance or the heating of a structure;
 - [2] Waste oil retention facilities approved by the Board of Health or required by MGL c. 21, § 52A; or
 - [3] Emergency generators required by statute, rule or regulation;
 - (b) Non-sanitary wastewater treatment facilities approved by the DEP exclusively designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or (13);
 - (c) The replacement or repair of an existing non-sanitary wastewater treatment facility that will not result in a design capacity greater than the design capacity of the existing non-sanitary wastewater treatment facility;

- (d) The installation of new wells, the laying of waterlines, and repair and replacement of pipe and appurtenances;
 - (e) Drainage repair, replacement, and expansion of existing drainage structures and pipe. All drainage repair, replacement, and expansion shall follow DEP stormwater management best management practices as applicable;
 - (f) Minor road repair and overlay including total reconstruction or expansion;
 - (g) Street improvements pursuant to the Planning Board's street improvement policy; and
 - (h) The laying of sewer line and repair, replacement or expansion of existing structures and pipe.
- (2) Prohibited uses. In addition to any prohibitions found in § 305-5.04, Table of Use Regulations, the following specific uses of land shall be prohibited within the WRPD:
- (a) Petroleum, fuel oil, and heating oil bulk stations and terminals, not including liquefied petroleum gas.
 - (b) Facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.00, except for the following:
 - [1] Very small quantity generators as defined under 310 CMR 30.000;
 - [2] Household hazardous waste centers and events under 310 CMR 30.390;
 - [3] Waste oil retention facilities required by MGL c. 21, § 52A;
 - [4] Non-sanitary wastewater treatment facilities approved by DEP for the treatment of contaminated waters.
 - (c) Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads.
 - (d) Stockpiling and disposal of snow or ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads which has been removed from highways and streets located outside of the WRPD.
 - (e) Landfills and/or open dumps as defined in 310 CMR 19.006.
 - (f) Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1.

- (g) Landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to MGL c. 21, §§ 26 through 53, MGL c. 111, § 17, MGL c. 83, §§ 6 and 7, and regulations promulgated thereunder.
 - (h) Animal feedlots exceeding 10 animals per acre, except as may be protected under MGL c. 40A, § 3.
 - (i) Any new development or expansion of existing development that will result in more than 30% of a site becoming impervious within a residential district or more than 60% of a site within a commercial or industrial district becoming impervious unless specifically exempted under Subsection E(1), Exempt uses.
 - (j) Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater, unless specifically exempt in Subsection E(1), Exempt uses.
- (3) By-right uses. The following uses are allowed by right within the WRPD provided all necessary permits, orders, or approvals required by local, state or federal laws are obtained and subject to Subsection E(2), Prohibited uses, and Subsection E(4), Special permit uses, of this bylaw:
- (a) Conservation of soil, water, plants, and wildlife;
 - (b) Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
 - (c) Foot, bicycle and/or horse paths and bridges;
 - (d) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
 - (e) Maintenance, repair, and enlargement of any existing structure;
 - (f) Single-family residential development;
 - (g) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;
 - (h) Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, treatment plants, aqueducts, and tunnels; and
 - (i) Any use allowed by right in § 305-5.04, Table of Use Regulations, that is not otherwise prohibited or requires a special permit in the WRPD.
- (4) Special permit uses. In addition to § 305-5.04, Table of Use Regulations, the following uses shall require a special permit from

the Planning Board, as the special permit granting authority (SPGA):

- (a) Enlargement or alteration of existing uses that do not conform to the WRPD.
 - (b) Activities that involve toxic or hazardous materials in quantities greater than those associated with normal household quantities except as may be prohibited under Subsection E(2), Prohibited uses.
 - (c) Any increase in size or new on-site septic system or sanitary wastewater treatment plant with an individual or combined flow of 2,000 gallons per day or greater.
 - (d) Any streets, including new subdivision streets and bridges, which will be built to serve five lots or more unless specifically exempted under Subsection E(1), Exempt uses.
 - (e) Underground storage tanks not including those that may be used to temporarily store wastewater effluent in a system approved by the Board of Health or those used to temporarily store stormwater as part of a management system compliant with Subsection F(8) of this bylaw.
- (5) Reoccupation and special permits.
- (a) Existing residential, commercial, industrial, and/or community facilities where a change in use is proposed may not require a special permit provided that a WRPD reoccupation certificate signed by the Building Commissioner/Zoning Enforcement Officer indicates that a special permit is not required pursuant to the Planning Board rules and regulations associated with this bylaw.³⁸
 - (b) Eligibility for a WRPD reoccupation certificate is contingent upon following conditions:
 - [1] Any proposed use that is allowed by right pursuant to Subsection E(3) shall be eligible.
 - [2] Where the previous use required a special permit and the proposed use also requires a special permit, the triggers for special permits must be the same pursuant to Subsection E(4) in order to be eligible.
- F. Performance and design standards for all activities. Where applicable, the following performance and design standards shall apply to any activity that may be allowed by right or through a special permit in the WRPD:

38.Editor's Note: See Ch. 417, Water Resource Protection District.

- (1) Construction activities. Erosion and sediment control measures shall be taken to ensure that exposed earth and debris are not displaced by stormwater runoff or other conditions in accordance with the requirements for site plan review or the rules and regulations associated with a WRPD special permit.
- (2) Safeguards. Provision shall be made to adequately protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism. Such measures may include provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials. Any proposed indoor or outdoor storage of liquid petroleum products shall be in covered and secure container(s) in an area that has a containment system. Said containment system shall be designed and operated to hold the larger of the following two volumes:
 - (a) Ten percent of the cumulative storage capacity of all containers; or
 - (b) One hundred ten percent of the single largest container's storage capacity.
- (3) Pesticides, fertilizer and manure. Storage of pesticides, as defined in MGL c. 132B, of commercial fertilizers and soil conditioners, as defined in MGL c. 128, § 64, and animal manure shall only be permitted within a structure with an impermeable cover and liner designed to prevent the generation of contaminated runoff or leachate.
- (4) Disposal. No disposal of hazardous wastes within WRPD shall occur. All provisions of MGL c. 21C (the Massachusetts Hazardous Waste Management Act) shall be adequately satisfied.
- (5) Fill. Fill material used in the WRPD shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to ensure proper condition of the fill. Where a special permit is required, the SPGA may require soils testing by a certified laboratory at the applicant's expense as part of the application process or during construction.
- (6) Separation from groundwater. Permanent removal or regrading of the existing soil cover shall be prohibited where these activities shall result in a finished grade elevation less than five feet above the historical high groundwater level.
 - (a) Excavations for building foundations, roads or utility work or the installation of stormwater BMPs shall be exempt from this requirement.
 - (b) The high groundwater elevation may be determined by:

- [1] Soil color using the Munsell system, the abundance, size and contrast of redoximorphic features, if present;
 - [2] Observation of actual water table during times of annual high water table; or
 - [3] Use of USGS wells for correlating comparisons in water tables during times when the water table is not at the annual high range.
- (c) Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered professional engineer.
- (d) Where these requirements would severely limit the development potential of a particular parcel, an applicant may propose permanent removal or regrading of the existing soil cover to a finished grade which is less than five feet above the historical high groundwater elevation through a full WRPD special permit application.
- (7) Wastewater. Wastewater flow in the WRPD shall not exceed 440 gallons per 40,000 square feet for the use of conventional on-site wastewater disposal. This flow may increase to 550 gallons per 40,000 square feet through the use of a DEP-approved innovative and alternative septic system provided the Board of Health also approves the use of the system.
- (8) Stormwater management. Stormwater runoff from impervious surfaces shall be recharged on site in accordance with the standards and guidelines included in the latest version of the Massachusetts Stormwater Management Standards unless in conducting application review it is determined that recharge either is unfeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge.
- G. Performance and design standards for special permit applications. In addition to those performance and design standards in listed in Subsection F, the following performance and design standards shall apply to any activity that may be allowed through a special permit in the WRPD as applicable:
 - (1) Nitrogen loading. All applicants required to obtain a special permit in accordance with § 305-5.04, Table of Use Regulations, and Subsection E(4), Special permit uses, and all applicants for any permit for any use or structure to be located on land which is within the WRPD and which is shown on a definitive subdivision plan, filed on or after April 22, 1996, shall demonstrate by written report to the satisfaction of the Planning Board that the concentration of nitrate-nitrogen resulting from wastewater disposal, animal waste, runoff and fertilizer application, when diluted by rainwater recharge on the lot or subject property as a whole, shall not exceed five milligrams per liter (mg/l). Nitrogen loading, for the purpose

of this requirement, shall be calculated in accordance with the Planning Board rules and regulations adopted pursuant to Subsection H, Administrative procedures.

- (2) Emergency response plan (ERP). For industrial and commercial uses, an emergency response plan to prevent contamination of soil or water in the event of accidental spills or the release of toxic or hazardous materials shall be submitted to the SPGA, if deemed necessary, for approval prior to granting of a special permit. Recommendations from the Fire Department on said plan shall be sought. At a minimum, the ERP shall include:
 - (a) A clear outline of communication protocol among facility personnel and emergency response agencies;
 - (b) Twenty-four-hour contact information for a designated emergency response coordinator (typically the owner or facility manager), who can respond to the site within one hour of notification; multiple emergency response coordinators are recommended;
 - (c) Twenty-four-hour emergency contact information for local Police Department, Fire Department, and Board of Health;
 - (d) Twenty-four-hour emergency contact information for notification of the Massachusetts Department of Environmental Protection;
 - (e) Twenty-four-hour emergency contact information for the facility's designated hazardous waste transporter, if the facility is a licensed hazardous waste or regulated waste generator;
 - (f) A list of the hazardous products or hazardous wastes present at the facility, including volume and location of any aboveground or underground storage containers;
 - (g) Inventory of all cleanup supplies; and
 - (h) A facility map showing hazardous waste accumulation areas, aboveground or underground storage containers, sinks and drains, emergency exits, fire extinguisher locations, and locations of spill cleanup supplies. The facility map shall be posted in the building and shall include emergency contact numbers.
- (3) Monitoring. Periodic monitoring shall be required when the site location and land use activities in the area indicate a significant risk of contamination to the water supply as determined by the SPGA based upon recommendations of the Department of Public Works, Board of Health, and Conservation Commission. Such monitoring may include analysis of water for chemical constituents determined by the SPGA to be appropriate and the installation

of groundwater monitoring wells constructed and located by a registered professional engineer with expertise in hydrology, or by directly testing effluent. All testing and engineering costs will be borne by the applicant for special permit or owner of the property.

- (4) Wastewater flows that exceed 2,000 gallons per day (gpd). For those uses that require a special permit pursuant to Subsection E(4)(d), applicants shall meet one of the following standards using the procedures outlined in the Planning Board's regulations:
 - (a) Where a previously developed site is being redeveloped, applicants shall demonstrate that there is no net increase in the concentration of nitrogen when nitrogen loading analyses are performed for both the previous and proposed use; or
 - (b) For new development that cannot meet the five mg/l on-site standard for average nitrogen concentration or where the standard under Subsection G(4)(a) cannot be achieved for redevelopment, an aggregation of flows analysis shall be provided pursuant to the WRPD rules and regulations demonstrating the use of credit land will result in compliance with the five mg/l standard.
- H. Administrative procedures. The Planning Board, as the SPGA, shall adopt rules and regulations relative to its role in governing activities within the WRPD, which may be amended from time to time and filed with the Town Clerk.³⁹ Where a special permit application is being considered, the Board shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9.
- I. Review criteria. Decisions by the SPGA to approve, deny or approve with conditions any application for a special permit in the WRPD shall use the following criteria:
 - (1) The proposal shall be in harmony with the purpose and intent of this bylaw and will promote the purposes of the WRPD.
 - (2) The proposal shall meet the performance and design standards of Subsection F, Performance and design standards for all activities, and Subsection G, Performance and design standards for special permit applications, as applicable.

§ 305-13.04. Stormwater Management Overlay District. [Added April 2006 ATM; amended 4-27-2015 ATM by Art. 17]

- A. Purpose. The purpose of the Stormwater Management Overlay District is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source

39.Editor's Note: See Ch. 417, Water Resource Protection District.

pollution associated with new development and redevelopment. These objectives will be met by regulating new construction, construction of impervious surfaces, the removal of natural vegetation, especially large trees, and the excavation and alteration of land, in order to minimize erosion, sedimentation, flooding, water pollution, and other adverse impacts of development within the overlay district or any adjacent low lying areas.

- B. Scope of authority. The Stormwater Management Overlay District is established as an overlay district and shall be superimposed on other zoning districts established by this bylaw. All regulations of the Marshfield Zoning Bylaw applicable to the underlying districts shall remain in effect, except that where the Stormwater Management Overlay District imposes additional regulations, such regulations shall prevail.
- C. District boundaries. The boundaries of the Stormwater Management Overlay District are delineated on the Official Zoning Map.
- D. Applicability. The following types of development within the Stormwater Management Overlay District are subject to review by the Building Commissioner/Zoning Enforcement Officer. Notwithstanding other provisions of this bylaw, no land development within the Stormwater Management Overlay District shall be permitted and no building permit shall be issued until the provisions of the Stormwater Management Overlay District regulations have been met. Development activities subject to the Stormwater Management Overlay District design standards include the following:
 - (1) The construction of a new dwelling or principal structure.
 - (2) Any substantial alteration or addition to any dwelling or other structure, if such action enlarges the footprint of the structure by more than 200 square feet.
 - (3) The removal, filling, excavation or alteration of earthen materials if such alteration changes preexisting topography and drainage characteristics of the property in a manner that may adversely impact abutting property owners.
 - (4) The removal or destruction of more than five mature trees having a diameter of six inches or greater, measured four feet from the ground surface. This limitation on cutting of mature trees does not apply to trees that are to be removed for construction of a street, dwelling, driveway, walkway, septic disposal system, or a retaining wall. Other trees may be removed if in the opinion of the Tree Warden the trees are dead, dying or are diseased trees that represent a safety hazard to public health or property.
 - (5) Any activity that increases the impervious coverage on any lot that causes additional volumes of runoff to discharge on abutting

properties that may cause flooding and adversely impact abutting property owners.

- E. Development performance standards. All new construction, substantial alterations, excavation, filling, grading or tree cutting described above in Subsection D shall comply with the following development standards:
- (1) For lots ranging in size from 5,000 to 7,499 square feet, the following development limitations shall apply:
 - (a) Building area shall not exceed 16% of the land area of any lot.
 - (b) Impervious surfaces shall not exceed 25% of the land area of any lot.
 - (c) A minimum of 15% of the lot shall remain undisturbed with existing natural vegetation.
 - (2) For lots ranging in size from 7,500 to 9,999 square feet, the following development limitations shall apply:
 - (a) Building area shall not exceed 15% of the land area of any lot.
 - (b) Impervious surfaces shall not exceed 22% of the land area of any lot.
 - (c) A minimum of 25% of the lot shall remain undisturbed with existing natural vegetation.
 - (3) For lots ranging in size from 10,000 square feet to 19,999 square feet in area the following development limitations shall apply:
 - (a) Building area shall not exceed 15% of any lot area.
 - (b) Impervious surfaces shall not exceed 20% of the lot area.
 - (c) A minimum of 35% of the lot area shall remain undisturbed with existing natural vegetation.
 - (4) In the Stormwater Management Overlay District, the removal of native vegetation, especially large trees having a diameter of six inches or greater, measured four feet from the ground surface, shall be minimized. Trees may only be removed for construction of streets, structures, driveways, retaining walls, walkways, utilities and septic systems. Selective clearing of not more than five trees for lawns shall be designated on the site plan.
 - (5) To the maximum extent feasible, post-development runoff shall not exceed pre-development runoff. All roof runoff shall be retained and recharged on site in dry wells or infiltration basins covered by natural vegetation which shall be designed to accommodate a one-inch rainfall within a twenty-four-hour period.

- (6) Sediment and erosion control measures as required by the Building Commissioner/Zoning Enforcement Officer or designee shall be employed to minimize the impacts during and after construction.
- F. Permit procedures and requirements. Any activity listed above in Subsection D requires copies of plans to be submitted to the Planning Board, Conservation Commission, Department of Public Works, and Board of Health for review and recommendations. Said boards shall have 21 days to provide comments to the Building Commissioner/Zoning Enforcement Officer. If no comments are received within the 21 days, the Building Commissioner/Zoning Enforcement Officer may proceed with the issuance of the building permit.

§ 305-13.05. Brant Rock Village Overlay District. [Added 5-5-2014 ATM by Art. 17]

- A. Purpose. The purpose of the Brant Rock Village Overlay (BRVO) District is to protect and enhance the public health, safety, environment and general welfare by establishing minimum requirements for new development and redevelopment of existing properties and uses located in the BRVO District. New development and redevelopment within the BRVO District are intended to reduce the impacts from actual and projected coastal flooding. In addition, these regulations are intended to promote certain types of mixed-use buildings, as defined in Article II, Definitions, to provide for commercial uses on the first floor and residential uses on the second floor. The Village of Brant Rock has a historical development pattern that contains both commercial and residential uses within a single building and other geographical areas which are substantially residential. Many of the existing buildings have these preexisting nonconforming uses. The BRVO will authorize certain mixed uses within a single building provided such buildings can be designed and constructed in a manner that preserves and respects the historic New England architecture of the Brant Rock Village and reduces damage caused by chronic flooding that is prevalent in the BRVO District.
- B. Scope of authority. The Brant Rock Village Overlay District (BRVO) is hereby established as an overlay district and shall be superimposed over the existing Business Waterfront (B-4) Zoning District. All regulations of the Marshfield Zoning Bylaw applicable to the underlying districts shall remain in effect, except that where the Brant Rock Village Overlay District allows for mixed-use buildings, these regulations shall prevail.
- C. District boundaries. The boundaries of the Brant Rock Village Overlay District are delineated on the Official Zoning Map. The overlay district boundaries shall follow the boundaries of the existing Business Waterfront (B-4) Zoning District in the Brant Rock Village area.
- D. Applicability.

- (1) BRVO provides a development alternative for property owners within the overlay district if they are floodproofing a structure at or above the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) one-hundred-year storm event established base flood elevation (BFE).
- (2) Any new building construction, reconstruction or additions to structures within the BRVO that include floodproofing at or above the BFE have the option to build a mixed-use building with commercial uses allowed on the first floor and residential uses allowed on the second floor. Mixed-use buildings shall be subject to the following BRVO regulations.

E. Allowed uses.

- (1) All uses permitted in the B-4 District.
- (2) Residential use of 2 1/2 stories by special permit issued by the Board of Appeals subject to the building height requirements in Subsection G below.

F. Design requirements.

- (1) Floodproofing. All of the building shall be elevated above the FEMA FIRM base flood elevation (BFE). Providing a BFE higher than the minimum required by FEMA, to plan for projected sea level rise, is encouraged. Moisture- and rot-resistant breakaway panels shall be provided to screen the building's pilings or piers in the area between the natural ground elevation and the first floor. These breakaway elements should be consistent with the rest of the building's design elements.
- (2) Outside boardwalk. All buildings shall provide an outdoor boardwalk, farmer's porch or similar structure, elevated above the BFE, set back from the street or sidewalk. The boardwalk or porch on the first floor shall be a minimum of 10 feet wide measured from the inside edge of the top of the stairs to the outermost wall of the commercial first floor building.

G. Intensity and dimensional regulations. All new buildings, redeveloped buildings, or additions for proposed mixed use shall comply with the following intensity and dimensional regulations:

- (1) Setbacks.
 - (a) Front. A ten-foot setback is required. No setback from the front property line is required for stairs or ramps leading above the BFE or any boardwalk or porch located above the BFE.
 - (b) Side. No side line setbacks are required for buildings providing the ability to have a continuous boardwalk to abutting buildings. Adjoining property owners are encouraged to connect boardwalks and porches to create a continuous

elevated pedestrian walkway within the BRVO. For buildings that do not provide the ability to connect to abutting buildings, a five-foot setback is required. Driveways are allowed within the setback.

- (c) Rear. A fifteen-foot building setback is required. Parking spaces and maneuvering lanes are allowed within the setback.
 - (2) Density. Residential dwelling units on the second story are allowed by special permit at a density of up to three dwelling units per 10,000 square feet of underlying land area.
 - (3) Lot size. The minimum lot size for a mixed-use building is 10,000 square feet.
 - (4) Building height. The maximum building height is 2.5 stories or 35 feet measured above the FEMA FIRM base flood elevation.
- H. Architecture. New buildings, additions and reconstruction where mixed uses are proposed shall be designed to incorporate the design elements in the following design sketch:



I. Mixed use.

- (1) Buildings shall be designed to reflect the traditional New England coastal village architecture found within the region. The mass, proportion, and scale of the building, roof shape, roof pitch, proportions and relationships between doors and windows should be harmonious among themselves.
- (2) Architectural details of new construction and proposed reconstruction as well as any additions to existing buildings should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.
- (3) Wherever possible, the building's location shall be oriented parallel to Ocean Street and Dyke Road, unless there is a compelling reason to do otherwise that will enhance the proposed project. Building facades in excess of 30 feet wide shall incorporate recesses and projections, of a minimum of two feet in depth, to break up the building's mass. The building roofline should include variations in pitch and height and include dormers, turrets and decks. All building materials shall be moisture and rot resistant in consideration of the coastal weather conditions.

- J. Landscaping. Landscape plantings shall be comprised of native plant species that have adapted to coastal site conditions such as wind, salt spray, flooding and burial. Plantings that provide a variation of seasonal colors are encouraged in elevated planters at both the boardwalk and sidewalk levels.
- K. Parking. Parking shall be provided as required in Article VIII, Off-Street Parking and Loading and Lighting Regulations. In the BRVO one parking space for each bedroom in all residential units is required. Existing public parking spaces located within 300 feet of the street frontage for the property may be counted toward meeting the minimum parking requirements for commercial uses, by special permit pursuant to § 305-8.05 of the bylaw.
- L. Signs. All commercial signs shall comply with Article VII, Signs.
- M. Accessibility. All commercial units and boardwalks shall comply with the requirements of the Americans with Disabilities Act (ADA) and the State Architectural Access Board.
- N. Affordable housing. Mixed-use buildings shall provide affordable housing for low- or moderate-income individuals as defined in Article II, Definitions. The construction of all residential housing shall include affordable housing in compliance with § 305-11.14, Inclusionary zoning for affordable housing. The number of affordable units required shall be in accordance with the requirements of § 305-11.14D, Provision of affordable units; bonuses and incentives. If the residential units are for rent, the provisions of § 305-11.14D(2)(b), Fees in lieu of construction, are not applicable.

ARTICLE XIV

Amendment, Severability and Effective Date**§ 305-14.01. Amendment. [Amended 4-24-2017 ATM by Art. 12]**

This bylaw may be amended from time to time in accordance with Section 5 of the Zoning Enabling Act. During the amendment procedure, subdivision plans in process of review by the Planning Board under the Subdivision Control Law shall be subject to the provisions of the Zoning Enabling Act.⁴⁰

§ 305-14.02. Severability.

The invalidity, unconstitutionality, or illegality of any provision of this bylaw or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality, or legality or any other provision or boundary.

§ 305-14.03. Effective date.

This bylaw shall take effect upon the date resulting from the procedure provided for in MGL c. 40, § 32.

40. Editor's Note: For the Zoning Enabling Act see MGL c. 40A. For the Subdivision Control Law see MGL c. 41, §§ 81K to 81GG.

ARTICLE XV

Floodplain Zoning

[Amended April 2006 ATM; April 2012 ATM; 4-27-2015 ATM by Art. 16; 10-24-2016 STM by Art. 5]

§ 305-15.01. Purpose.

The purposes of this bylaw are to: protect human life and health and minimize danger to emergency response officials in the event of flooding, minimize expenditure of public money for flood-control projects and emergency response and cleanup, reduce damage to public and private property and utilities resulting from flooding waters and debris, and ensure that the Town of Marshfield qualifies for participation in the National Flood Insurance Program.

§ 305-15.02. Applicability.

This bylaw applies as an overlay district to all areas of special flood hazard located within the jurisdiction of the Town of Marshfield and designated as Zone A, AE, AH, AO, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Marshfield are panel numbers 25023C0116J, 25023C0117K, 25023C0118J, 25023C0119K, 25023C0136K, 25023C0137K, 25023C0138K, 25023C0139K, 25023C0143K, 25023C0207J, 25023C0226K, 25023C0227K, 25023C0228K, 25023C0229K, 25023C0231K, 25023C0232K, 25023C0233K, 25023C0234K, 25023C0237K, and 25023C0241K. All panels ending with the suffix J shall have the effective date of July 17, 2012. All panels ending with the suffix K shall have an effective date of November 4, 2016. This area shall be known as the Floodplain District. The exact boundaries of the district may be defined by the base flood elevations shown on the FIRM and further defined by the FEMA Plymouth County Flood Insurance Study (FIS) booklet dated November 4, 2016. The FIRM and FIS booklet are incorporated herein by reference. In the event any provisions of this bylaw are in conflict with requirements for any other districts, the more restrictive regulation shall take precedence.

§ 305-15.03. Floodplain permit required.

Permits for development and uses of land within the Floodplain District shall be required for the following: (Such applications shall be obtained prior to or in conjunction with building permits if necessary.)

- A. New construction of residential and nonresidential structures.
- B. Substantial improvement (as defined) of any existing structure.
- C. Expansion of the footprint of any existing structure.
- D. Alteration of topography (as defined).

§ 305-15.04. Application for floodplain permit.

Applications for floodplain permits shall be made to the Building Commissioner/Zoning Enforcement Officer except where indicated below. Applications shall contain:

- A. Elevation in relation to mean sea level of the lowest floor (including basements or cellars) of all existing and proposed structures.
- B. Elevation in relation to mean sea level of existing and proposed floodproofing.
- C. Signed statement by a registered professional engineer or architect that the requirements of this bylaw have been met. (Note: The above-referenced requirements may be met through submission of a FEMA elevation certificate.)
- D. Plans for any breakaway walls to be used to enclose space below the base flood elevation (in V Zones).
- E. Description of topographic alterations including existing and proposed grades and a delineation of the special flood hazard area boundary line.
- F. Site plan certified by a registered land surveyor showing all existing and proposed natural and constructed features on the property. The site plan shall include a notation of the special flood hazard area designation for all existing and proposed structures.
- G. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within Zone A, where such data is not provided on the FIRM.

§ 305-15.05. Standards for areas of special flood hazard.

All permits granted under § 305-15.03 above shall be subject to the following provisions:

- A. All development and redevelopment, whether permitted by right or by special permit, shall be in accordance with the standards of the Massachusetts State Building Code, the Wetlands Protection Act (MGL c. 131, § 40) and regulations (310 CMR 10.00, 310 CMR 13.00, and 310 CMR 12.00), septic system regulations (310 CMR 15, Title 5), and all other applicable federal, state and local requirements. Any variance from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- B. No alteration of topography shall be permitted where it may result in increased runoff or drainage to the detriment of other property owners or the Town.
- C. Certification by a registered professional engineer or architect for all floodproofing measures shall be required.

- D. Storage of fuel oil or toxic or hazardous materials below the base flood elevation shall be floodproofed.
- E. Within Zones AH and AO, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.

§ 305-15.06. Additional requirements in Velocity (V) Zones.

If proposed construction or alteration of topography is located within a V Zone on the FIRM maps, all floodplain permits granted under § 305-15.03 above shall be subject to the following additional requirements:

- A. All new construction within V Zones shall be located landward of the reach of mean high tide.
- B. Man-made alteration of coastal dunes within V Zones is prohibited where such alteration could result in increased flood damage.

§ 305-15.07. Floodways.

All encroachments, including fill, new construction, substantial improvements to existing structures, and other development, are prohibited in the floodway as designated on the Marshfield FIRM maps. Along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to determine the extent of the floodway.

§ 305-15.08. Administration.

The Building Commissioner/Zoning Enforcement Officer shall administer this bylaw as follows:

- A. Review proposed construction and alteration of topography within the Floodplain District to assure that all necessary permits have been received from those federal, state and local governmental agencies from which approval is required and ensure that the requirements of this bylaw have been met.
- B. Maintain records of the elevation of the lowest floor (in relation to NGVD), including basement, of all new or substantially improved structures. In addition, maintain records as to whether or not such structures contain a basement.
- C. If a structure has been floodproofed, maintain records of the elevation of the lowest floor and the elevation to which the structure was floodproofed, including the required engineering certification.
- D. Maintain for public inspection all records pertaining to the provisions of this bylaw.

E. Provide notice to the following of any alterations or relocation of a watercourse and ensure that such activity does not diminish the flood-carrying capacity of such watercourse:

- (1) Adjacent communities.
- (2) NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- (3) NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

§ 305-15.09. Special permits.

A. The Board of Appeals may grant a special permit modifying the performance standards in §§ 305-15.05 and 305-15.06 for the following:

- (1) Nonresidential structures such as boathouses, boat yards, and structures designed for education and research, the nature of which requires their location within the Floodplain District.
- (2) Restoration and reconstruction of structures listed in the National or State Register of Historic Places.

B. Special permits shall only be issued upon a determination by the Board of Appeals that:

- (1) Failure to grant the special permit would result in exceptional hardship to the applicant.
- (2) The granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or conflict with existing bylaws.
- (3) The relief granted is the minimum necessary considering the flood hazard.
- (4) All subdivision proposals are designed to assure that such proposals minimize flood damage, all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

- C. Any applicant to whom a special permit is granted shall be given written notice that the proposed development may result in increased risk to life and property and increased flood insurance premium rates.
- D. The Board of Appeals, as the special permit granting authority (SPGA), may adopt rules and regulations relative to the issuance of such special permits and file a copy with the Town Clerk. The Board shall follow the procedural requirements for special permits as set forth in MGL c. 40A, § 9.

Division 4: Planning Board

Chapter 400

GENERAL PROVISIONS, PLANNING BOARD

ARTICLE I

Approval of Codification

[The codification of the rules and regulations of the Planning Board as Division 4 (Chapters 405 through 420) of the Town Code was approved by the Planning Board 7-24-2017.]

Chapter 405
SUBDIVISION OF LAND

GENERAL REFERENCES

Stormwater management — See Ch. 246. Zoning — See Ch. 305.

**Wetlands protection — See Ch. 294 and Ch.
505.**

ARTICLE I
Introduction

§ 405-1. Authority.

Under the authority vested in the Marshfield Planning Board, or its legally constituted successor, by MGL c. 41, §§ 81O, 81Q and 81FF, as amended, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Marshfield. Furthermore, the Marshfield Planning Board hereby adopts regulations for the construction of ways and the installation of municipal services with respect to ways serving lots shown on any subdivision plan, including those plans that predate the Subdivision Control Law. Such rules and regulations shall supersede and replace any previously adopted Subdivision Control Law rules and regulations and may be amended in accordance with the provisions of MGL c. 41, § 81Q.

§ 405-2. Purpose.

The Subdivision Control Law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town by regulating the laying out and construction of ways in subdivisions, providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas. The powers of the Board under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for ensuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provision for water, sewerage, drainage, and other requirements where necessary, in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.

§ 405-3. Approved definitive plan required.

- A. No person shall make a subdivision of land within the Town, or proceed with the improvement or sale of lots in a subdivision or the construction of ways, or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Board as hereinafter provided.
- B. After the approval of such plan, the location and width of ways shown thereon shall not be changed without the approval of the Board, but the number, shape and size of the lots shown on the plan so approved may be changed without action by the Board, provided every lot so changed still has frontage on a public way or a way shown on a plan approved

by the Board and such frontage and the size of the lots comply with applicable zoning bylaws of the Town of Marshfield.

ARTICLE II
Definitions

§ 405-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AASHTO — American Association of State Highway and Transportation Officials. Referring to policies concerning geometric design of highways and streets, highway materials, and methods of sampling and testing adopted by the American Association of State Highway and Transportation Officials.

ABUTTER — The owner of land located within 300 feet of any bound of the subdivision including land on the opposite side of a street.

ACCESS — A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

ACCESS CONNECTION — Any driveway, street, curb cut, turnout or other means of providing for the movement of vehicles to or from the public/private roadway network.

ACI — Manual of concrete practice published by the American Concrete Institute.

AGENT — A duly authorized designee of the Planning Board.

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquaculture use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.⁴¹

APPLICANT — An owner, his agent or representative or assigns, who has an application before the Planning Board. The owner in equity, an agent, representative, or his assigns may act for an owner, provided written evidence of such fact is submitted.

AQUIFER — Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

AQUIFER PROTECTION — The Water Resource Protection District is the designated Aquifer Protection District in the Town of Marshfield as shown on the Zoning Map and development within, which is governed by the provisions of § 305-13.03 of the Marshfield Zoning Bylaw.

AREA OF SINGLE ACCESS — A permanent or temporary dead-end street or series of dead-end streets intersecting with each other in such a way as to provide sole access to and from an existing street for not more than eight dwellings total. This category is meant to include but not be limited to cul-de-sac, loop, hammerhead turnaround, and other dead-end street types.

AS-BUILT PLAN — Construction or engineering plans prepared by an engineer after the completion of construction in such a manner as to accurately identify and depict the location of all on-site improvements,

41. Editor's Note: See MGL c. 131, § 40.

including but not limited to all structures, parking facilities, components of the stormwater management system, monuments, curbs, gutters, and sidewalks.

ASTM — Standard specifications published by the American Society for Testing and Materials.

AVERAGE DAILY TRAFFIC — The total traffic volume during a given time period (in whole days greater than one day and less than one year) divided by the number of days in that period.

BEST MANAGEMENT PRACTICES (BMP) — Industry standards and mitigation measures utilized by the project engineer to create a drainage system designed with maximum measures for flood control and enhanced water quality discharge from a site.

BIKEWAY — A way designed to be used principally or exclusively by a bicycle or similar nonmotorized vehicle.

BOARD — The Planning Board of the Town of Marshfield.

CONSERVATION COMMISSION — The Marshfield Conservation Commission.

CONSULTANT REVIEW AND FEE — Review done when specific conditions arise from the land or the nature of the proposal that necessitate the assistance of a planning, engineering, traffic, soils, hydrologic or other consultant to assist the Planning Board in analyzing a project and ensuring compliance with all relevant laws, ordinances, bylaws and regulations. The fee refers to the reasonable cost of these consultants to be borne by the applicants.

CROSS ACCESS — A service drive providing vehicular and pedestrian access between two or more contiguous sites so the driver need not enter the public street system.

DEAD END — See definition of "area of single access" above.

DEFINITIVE PLAN — The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds or filed with the Recorder of the Land Court when approved by the Board, and such plan when approved and recorded or filed. The requirements and content of the definitive plan shall be as specified hereinafter.

DEPARTMENT SPECIFICATIONS — The Standard Specifications for Highways and Bridges of the Massachusetts Highway Department, dated 1973, including all revisions thereto.

DEPARTMENT'S STANDARDS — The Construction Standards of 1977 of the Massachusetts Highway Department, as most recently amended.

DETENTION FACILITY — A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DIRECTIONAL MEDIAN OPENING — An opening in a restrictive median which provides for the specific movements and physically restricts other movements.

DRAINAGE BASIN — A man-made area surrounded by an embankment to temporarily hold stormwater over a storm event, to allow settling of solids and prevent downstream flooding.

DRAINAGE FACILITIES/SYSTEMS — Proposed systems for collection, storage and discharge of stormwater.

DRAINAGE LOT — An individual lot with a minimum 20 feet of frontage, containing drainage basin and related structures.

EASEMENT — A right acquired by public authority or other person to use or control property for a utility or other designated public purpose.

EMERGENCY ACCESS — A secondary means of ingress to/egress from a development, residential, commercial or industrial, which provides year-round, twenty-four-hour-per-day access open to all residents, visitors, employees, patrons, and services of the development, and which provides standard construction quality as to materials, depths and thicknesses prescribed in Article IV of these regulations.

ENGINEER — A registered professional civil engineer in the Commonwealth of Massachusetts experienced in the phases of civil engineering related to subdivision planning and design.

FLOODPLAIN/FLOODWAY — Areas subject to flooding under a one-hundred-year storm event as shown on the Federal Insurance Rate Maps (FIRM) as most recently amended.

FOOTCANDLES (FC) — A unit of measuring the amount of illumination equal to one lumen per square foot on a surface.

FOOTCANDLES, HORIZONTAL — The amount of illumination equal to one lumen per square foot on a horizontal surface.

FOOTCANDLES, INITIAL — The amount of illumination (measured by footcandles) given off by a luminary at the time of installation.

FRONTAGE — For the purpose of these regulations, physical access, or the demonstrated feasibility of safe physical access, to a property from a street designed for such purposes, i.e., collector and minor residential streets, excluding wetlands, ledge, and areas of slope in excess of 10%.

GENERAL LAWS — The General Laws of the commonwealth with all additions thereto and amendments thereof. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.

GIS — Geographic Information Systems Mapping.

HANDICAP ACCESSIBILITY — The regulations and standards promulgated under the Federal Americans with Disabilities Act and the Massachusetts Architectural Access Board.⁴²

HOT SPOT — A stormwater hot spot is an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Infiltration basins should never receive runoff from stormwater hot spots, unless the stormwater has already been fully treated by another stormwater treatment practice. This is due to potential groundwater contamination.

IMPERVIOUS COVER — Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INFILTRATION — The flow of water from the ground surface down into the soil.

INFILTRATION FACILITY — Any structure or device designed to infiltrate retained water to the ground. These facilities may be above grade or below grade.

LAND DISTURBANCE ACTIVITY — Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including grading, digging, culling, scraping, excavating of soil, placement of fill materials, paving construction, substantial removal of vegetation, and any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

LAND SURVEYOR — A person who is a registered land surveyor in the Commonwealth of Massachusetts.

LAYOUT — The full strip of land designated as a way or street as distinguished from the roadway. A way.

LOT — An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

LOW-IMPACT DEVELOPMENT — A land development design approach to managing stormwater runoff. Low-impact development (LID) emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime of watersheds through infiltrating, filtering, and storing.

MASSACHUSETTS STORM-WATER MANAGEMENT HANDBOOK — The most recent edition promulgated by MassDEP of the Massachusetts Storm-water Handbook.

MASSDEP — The Massachusetts Department of Environmental Protection or its successor.

MGL CHAPTER 41 — Massachusetts General Laws Chapter 41 (§§ 81K to 81GG) and any acts in amendment thereof, also commonly known as the "Subdivision Control Law."

MHD — Massachusetts Highway Division (District No. 5) of the Massachusetts Department of Transportation (MassDOT).

42. Editor's Note: The definition of "high water" which immediately followed this definition was repealed 7-24-2017.

MODIFICATION — Any change to the Planning Board's approval that shall require review, as either a minor or major modification, and which may be subject to a public hearing.

MUNICIPAL SERVICE — Public utilities furnished by the Town of Marshfield such as water, sewerage, gas and electricity.

MUNICIPAL SERVICES — Sewers, pump stations, surface water drainage systems, water pipes, gas pipes, streets, sidewalks, electric lines, telephone lines, fire alarm facilities, and their respective appurtenances.

MUNICIPAL STORM DRAIN SYSTEM (MS4) — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure, that together comprise the storm drainage system owned or operated by the Town of Marshfield.

MUTCD — The Manual on Uniform Traffic Control Devices, Millennium Edition. An AASHTO guide on the safe design of roadways.

MYLAR — The original plans prepared on a thin polyester film material capable of reproduction and acceptable for recording at the Registry of Deeds.

NAVD 88 — North America Vertical Datum of 1988.

NGVD — National Geodetic Vertical Datum of 1929.

NONPOINT SOURCE POLLUTION — Pollution from any source other than any discernible, confined, and discrete conduit or waterway, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

OWNER — As applied to real estate, the person (as hereinafter defined) holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the appropriate land registration office, registry of deeds, or registry of probate.

PERSON — An individual or two or more individuals, or a group or association of individuals, a trust, a partnership, or a corporation having common or undivided interests in a tract of land.

PLANNING BOARD ENGINEER — A Massachusetts registered professional civil engineer so designated by the Board to act as its agent in that capacity.

PRELIMINARY PLAN — A plan of a proposed subdivision or a resubdivision of land prepared in accordance with Article III under procedure, to facilitate proper preparation of a definitive plan.

PRINT — A contact print, dark line on white background.

PROFESSIONAL ENGINEER/LAND SURVEYOR — Individuals licensed and registered in the Commonwealth of Massachusetts as professional engineers or land surveyors who are experienced with subdivision planning and design. For the purposes of these rules and regulations, the licensees

must hold current and unexpired licenses. The Planning Board reserves the right to verify the status of any licensee's license in order to promote health, safety and welfare of the public.

RDG — Roadside Design Guide, latest edition. An AASHTO guide on the safe design of roadways.

RECHARGE — The replenishment of water to aquifers.

RECORDED — Recorded in the Plymouth County Registry of Deeds, except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court.

REDEVELOPMENT — Any construction, alteration, or improvement exceeding one acre in area where existing land use is high-density commercial, industrial, institutional or multifamily residential.

REGISTERED MAIL — Registered or certified mail.

REGISTRY OF DEEDS — The Registry of Deeds of the County of Plymouth, including when appropriate the Plymouth County Registry District of Land Court.

RESCISSION — An action of the Planning Board, through a public hearing process, to make null and void a prior approval or action of the Planning Board.

RESOURCE AREA — Any area protected under the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Marshfield Conservation Commission regulations.

RETENTION FACILITY — A man-made basin, depression, dike, and/or related structure for the purpose of detaining or impounding stormwater on a site, but which has no free-flowing outlet, e.g., a pipe or weir, to allow stormwater from small storm events to be discharged to a natural watercourse or wetland. Leaching pits, or similar ground discharge structures, shall not constitute an outlet in the meaning of this definition.

ROADWAY — That portion of a way, which is designed and prepared for vehicular travel. The "traveled way".

SOIL EROSION AND SEDIMENT CONTROL PLAN — A plan showing the control of soil erosion and sedimentation on or from a development site and is required to be submitted as part of these rules and regulations.

SPECIAL ACCOUNT — An account established in accordance with MGL c. 44, § 53G, which allows the Planning Board to engage consultants to review plans regulated by these regulations.

STANDARD FOR DIGITAL SUBMISSION TO MUNICIPALITIES — A standard for the digital submission of plans to municipalities issued by the Executive Office of Energy and Environmental Affairs (EOEA) Office of Geographic and Environmental Information (MassGIS), detailed in a document titled "Standard for Digital Plan Submittals to Municipalities, Version 2.0" dated October 2007.

STANDARD SPECIFICATIONS — Massachusetts Highway Department Standard Specifications for Highways and Bridges, latest edition.

START OF CONSTRUCTION — The first land disturbing activity associated with a development, including but not limited to land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STORM EVENT — A natural storm event and/or computer model of such an event that depicts storm or rainfall behavior.

STORMWATER — A term used to describe water that originates during precipitation events. It may also be used to apply to water that originates with snowmelt or runoff water from overwatering that enters the stormwater system. Stormwater that does not soak into the ground becomes surface runoff, which either flows into surface waterways or is channeled into stormwater management systems such as storm drains.

STORMWATER MANAGEMENT PLAN — A plan showing the management of stormwater on or from a development site and is required to be submitted as part of these rules and regulations.

STORMWATER MANAGEMENT STANDARDS — The most recent edition promulgated by the Massachusetts Department of Environmental Protection, or its successor, of the Stormwater Management Standards. An overview of the standards may be found in Chapter 1 of the Massachusetts Stormwater Management Handbook, available online at: www.mass.gov/dep/water/laws/policies.htm#storm.

STORMWATER OPERATION AND MAINTENANCE PLAN — The applicant's proposed plan for regular inspection and cleaning of proposed drainage structures and/or systems to ensure BMPs in accord with federal, state and local regulations.

STORMWATER RUNOFF — Water resulting from precipitation that flows overland.

STORMWATER TREATMENT PRACTICES — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STREAMS AND OTHER WATERCOURSES — As defined in MGL c. 131, § 40, the Wetlands Protection Act.

STREET —

- A. EXPRESSWAY (FREEWAY) — A divided, limited access highway used exclusively for inter-local and interstate travel, and providing grade-separated intersections. Example: Route 3.
- B. ARTERIAL (PRIMARY OR MAJOR) STREET — A street which, in the opinion of the Board, is being used or will be used as a thoroughfare between different portions of the Town. Arterials interconnect the

principal traffic generators within the Town as well as important rural routes. Residential development should be served from a side street, and a detailed traffic analysis should be made to determine how best to serve the commercial property, whether from service roads, special entrances, or side streets. Examples: Route 139 (Plain Street, Careswell Street and Ocean Street); Route 3A (Main and Moraine Streets), Union, Furnace, and Acorn Street.

C. SECONDARY (MAJOR COLLECTOR) STREET — A street intercepting several minor collector streets or which will be the principal access to a business or industrial subdivision and which, in the opinion of the Board, may carry traffic from such collector streets to a major street or community facility. Examples: Pine, Oak, Ferry, Summer, Elm, So. River, Church, Clay Pit, School, Prospect, Forest, Highland, Spring, Old Ocean, Mt. Skirgo, Winslow, Parsonage, Webster, Canal, and Enterprise Drive.

D. RESIDENTIAL STREETS —

- (1) TYPE "A" — Serving five or fewer houses; typically a dead-end street, with no chance of being extended into adjoining undeveloped land; R-1 and R-2 Zoning Districts; one sidewalk required.
- (2) TYPE "B" — Serving eight or fewer houses; typically a dead-end street; R-3 Zoning District; one sidewalk required.
- (3) TYPE "C" — Serving fewer than 25 houses; two sidewalks required; all zoning districts.
- (4) TYPE "D" — Serving 25 or more houses; includes the principal access street for circulation within a large residential subdivision, or one which is planned to be extended to serve adjoining undeveloped land; two sidewalks required; all zoning districts.

STREET DETERMINATION — An official petition before the Planning Board that requests the Planning Board for an opinion, as provided for in the Marshfield Zoning Bylaw, Article II, Definitions, "street," that provides a determination with respect to the adequacy of an existing road (roadway surface in existence prior to January 1, 2010) having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and buildings erected or to be erected thereon.

STREET IMPROVEMENT — An official application and construction plan submitted to the Planning Board that specifies the proposed design and construction requirements for construction of:

- A. Roads that have not been built within existing paper right-of-way(s);
- B. Unimproved roads that have not been paved and/or do not have stormwater management infrastructure; and

- C. Lots shown on a subdivision plan that predates the adoption of the Subdivision Control Law, MGL c. 41.

STREET IMPROVEMENT PLAN — In cases where a preexisting grandfathered lot as provided for in MGL c. 40A, § 6, fronts on an unconstructed paper street (not covered under the definition of "subdivision" below) an applicant may file with the Planning Board a street improvement plan under the same process (including a public hearing) as a definitive subdivision as provided for in § 405-7, Street determination/street improvement plan, in the Marshfield Subdivision Rules and Regulations.

STREET LAYOUT — The portion of land proposed within a subdivision designated as the way or street beyond the visible paved traveled roadway. Layout shall include all sidewalks, grass strips and reserved areas as shown on the approved definitive plan.

SUBDIVISION — The division of a tract of land into two or more lots, and shall include resubdivision, and shall relate to the process of subdivision or the land or territory subdivided. The division of a tract of land into two or more lots shall not constitute a subdivision if, at the time it was made, every lot within said tract had frontage, in compliance with the Zoning Bylaw, on:

- A. A public way as laid out by the Selectmen or a way which the Town Clerk certifies is maintained and used as a public way;
- B. A way shown on a plan previously approved and endorsed under subdivision control; or
- C. A way in existence on January 23, 1956, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular and pedestrian traffic and municipal services in relation to the proposed use of the land abutting thereon or served. Conveyance or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the required frontage, or the division of a tract of land on which two or more buildings were standing on January 23, 1956, into separate lots, on each of which one such building remains standing, shall not constitute a subdivision.

SUBDIVISION CONTROL — The power of regulating the subdivision of land granted by the Subdivision Control Law.

SUBDIVISION CONTROL LAW — Sections 81K through 81GG, inclusive, of MGL c. 41 as now in force, and any acts in amendment thereof, or successor standard/document. This document can be found at <http://www.mass.gov/mgis>.

SUBDIVISION INSPECTOR — An inspector engaged by the Planning Board for on-site inspection and recommendations during construction of the subdivision to be paid by the developer for services rendered.

SURETY — A form of performance that is posted by the developer/applicant prior to the start of work to guarantee completion of approved work and, if

defaulted by the developer/applicant, shall be used by the Town to complete said work. The Planning Board's consulting engineer recommends all surety amounts as requested by the Planning Board.

SURVEYOR — Any person who is registered by the Commonwealth of Massachusetts to perform land surveying services.

SWALE — A man-made depression usually narrow and shallow in width, elongated, to provide for the movement of stormwater to a point of discharge.

TRAVELED WAY — That portion of a way which is designed and prepared for vehicular travel. The roadway.

TREE CUTTING AND PLANTING PLAN — A plan to accompany definitive subdivision plans which shall be designed to protect large or significant trees, promote public safety, and enhance the privacy of the residents and neighbors of the subdivision.

VITAL ACCESS — A way shall be said to provide vital access to a lot if safe, practical access can be gained from the way to the buildable portions of the lot, as contemplated by MGL c. 41, § 81M. An unconstructed street or paper street shall not be said to provide vital access to a lot for the purposes of obtaining approval not required (ANR) endorsement.

WALKWAY — A way designed for use by pedestrians, not necessarily parallel to a street.

WATERCOURSE — Any body of water, including but not limited to lakes, ponds, rivers and streams.

WATERWAY — A channel, either natural or man-made, that directs surface runoff to a watercourse or to the public storm drain.

WAY — The full strip of land designated as a way or street as distinguished from the roadway. The layout.

WETLAND BYLAW — Marshfield Wetlands Protection Bylaw, Chapter 294, as amended.

ZONING BYLAW and ZONING MAP — Marshfield Zoning Bylaw, as amended; Marshfield Zoning Map, as amended.⁴³

43.Editor's Note: See Ch. 305, Zoning.

ARTICLE III

Procedure for Submission and Approval of Plans**§ 405-5. Plan believed not to require approval.**

- A. Any person wishing to cause to be recorded a plan of land who believes that his plan does not require approval under the Subdivision Control Law may submit his plan, together with a filing fee as provided in Chapter 420, Fee Schedule, and seven contact prints of said plan for the Board's use, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file with the Town Clerk and the Board by delivery or by registered or certified mail, postage prepaid, an application (Form A).⁴⁴ **[Amended 7-24-2017]**
- B. If the Board determines that the plan does not require approval under the Subdivision Control Law, it shall without a public hearing and within 21 days of submission cause to be endorsed thereon the words: "Approval Under the Subdivision Control Law Not Required." Said plan shall be certified by the Board and returned. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within 21 days of submission of said plan give written notice to the Town Clerk and the person submitting the plan.
- C. In determining whether a way in existence when the Subdivision Control Law became effective in the Town is adequate to qualify a plan as not constituting a subdivision, the Board shall take into consideration the following factors, among others:
- (1) Whether the right-of-way is at least 24 feet wide as required by the Zoning Bylaw;
 - (2) Whether the existing horizontal and vertical alignment of the roadway provides safe visibility; and
 - (3) Whether the roadway is at least 20 feet wide and paved, with adequate provisions for drainage.
- D. Said plan shall include the following:
- (1) The following statement: "Planning Board endorsement of this plan indicates only that the plan is not a subdivision under MGL c. 41, § 81L, and does not indicate that the lot is buildable, or that it meets zoning, health, conservation or general bylaw requirements."
 - (2) Title, date, scale, legend, North arrow, locus map, existing buildings and structures, existing septic systems, stone walls, easements, and wetlands as delineated under the Zoning Bylaw and/or MGL c. 131, § 40, and the Town of Marshfield Wetland Bylaw. Base flood elevation data, as shown on the Flood Insurance

44. Editor's Note: Form A is available at the Planning Board office.

Rate Map, as most recently revised, published by the Federal Emergency Management Agency, shall be provided. The scale of said plan shall be one inch equals 40 feet or such other scale as shall be deemed appropriate by the Planning Board to show the property and the above-required information conveniently. Plans shall be in accordance with MGL c. 36, § 13A, as amended. Applications which are found to be incomplete shall be returned to the applicant without the endorsement of the Board with the finding that insufficient information has been provided to determine whether or not the plan constitutes a subdivision in the meaning of MGL c. 41, § 81L. **[Amended 7-24-2017]**

- (3) The entire parcel(s) subject to the application.

§ 405-6. Preliminary plan.

Applicants are encouraged to meet with the Board for pre-preliminary discussions with conceptual subdivision plans. The purpose of such discussions is to identify potential problems or concerns prior to the applicant expending funds for the filing of preliminary or definitive plans.

- A. General. A preliminary plan of a subdivision may be submitted by the applicant for discussion, approval, conditional approval, or disapproval by the Board. An applicant shall demonstrate ownership of the fee interest on the land in question or else document that (s)he is acting as the duly authorized agent of said owner by means of a notarized letter so stating. Eight copies of the plan shall be submitted to the Board and written notice of such submission made to the Town Clerk by delivery, or by registered or certified mail, postage prepaid.

- (1) Fees; administrative/staff review.

- (a) Every preliminary plan shall be subject to the filing fee as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**
- (b) Any change deemed to be significant by the Planning Board, such as a new roadway location or connection, shall require a new submission and filing fee as required above. The Board may, at its discretion, waive filing fees where changes to plans are required through circumstances beyond the control or design responsibility of the applicant.

- (2) Fees; consultant review/special accounts.

- (a) Every preliminary plan shall be required to file the minimum review fee to establish an individual special account as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**
- (b) Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning,

engineering, traffic, soils, hydrologic or other consultant, the Planning Board may engage such consultant services to assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations. The Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of the application.

- (c) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer/Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application or permit. **[Amended 7-24-2017]**
 - (d) Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
 - (e) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, provided that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a closely related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the filing of the appeal, the selection made by the Board shall stand.
- B. Contents. The preliminary plan so titled shall be drawn at a scale of one inch to each 40 feet. Said preliminary plan should show sufficient

information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the definitive plan. The necessary information should include all pertinent data on nearby property which would have an effect on, or be affected by, the subdivision. The plan shall be prepared by an engineer and land surveyor, registered in Massachusetts, shall be clearly and legibly drawn in black India ink upon tracing cloth or Mylar, and shall bear a certification signed by the land surveyor on the title sheet stating that the plan is derived from an actual survey made on the ground according to Planning Board and state standards. All surveying shall conform to the requirements of the Land Court, Class A, as set forth in the manual of said Court, from time to time current. Plans shall conform to MGL c. 36, § 13A, and shall be 24 inches wide and 36 inches long. If multiple sheets are required, they shall be numbered consecutively in the upper right-hand corner and they shall be accompanied by an index sheet showing the entire subdivision. The index sheet shall contain a key plan at one inch equals 100 feet or as approved by the Board, indicating the location of each street. The plan shall contain the following:

- (1) Name of subdivision, date, bar scale, name of applicant, engineer, North point, bench marks, and map locus, an identification of the appropriate zoning district, including but not limited to wetlands as delineated under MGL c. 131 and the Town of Marshfield Wetland Bylaw, and any possible exceptions or conflicts with the Zoning Bylaw. All plans shall note that design and construction are to conform to the rules and regulations of the Board. A title block must appear on each page and suitable space provided to record the action of the Board and the signatures of the Board members on the first page thereof.
- (2) Names of all abutters as they appear on the most recent tax list and approximate intersecting boundary lines of abutting lands. All contiguous property owned by the applicant shall be included in the plan regardless of whether or not a substantial portion of the applicant's remaining land remains undivided. Such remaining area shall be considered as a single lot, requiring approval as a resubdivision before further division of the remaining area occurs.
- (3) Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision.
- (4) Sufficient data to determine the minimum lot areas and zoning dimensional compliance of lots within or affected by the subdivision.
- (5) Location of all permanent monuments as defined in Article IV, Design Standards and Required Improvements, properly identified as to whether existing or proposed.
- (6) A sketch plan showing tracts of land, ownership, and topography at no less than two-foot contour and the location, names and present

widths of the secondary streets bounding, approaching or within reasonable proximity of the subdivision.

- (7) Size and location of existing and proposed storm drains, water main locations, and utilities within and adjacent to the subdivision (refer to design standards herein).
 - (8) Location of and distance from sources of private and the nearest public water supply in accordance with the rules and regulations of the Board of Health.
 - (9) Major site features such as existing easements, stone walls, fences, buildings, other structures, historic structures, vistas, areas of unique vegetation, existing septic systems, wooded areas, rock ridges and rock outcroppings, swamps, marshes, water bodies, wetlands as cited in § 405-5D(2), and existing topography as required. During discussion of the preliminary plan, the complete information required for the definitive plan will be developed.
 - (10) Base flood elevation data, as shown on the Flood Insurance Rate Map, as most recently revised, published the Federal Emergency Management Agency. **[Amended 7-24-2017]**
- C. Street numbers and names; referral to Historical Commission, Police Department and Fire Department.
- (1) All proposed ways are to be referred to in all preliminary plans by approximate street numbers in relation to existing public ways (e.g., 1100 Careswell Street instead of "Marsh Hill"). Said numbers are to be obtained from the office of the Town Engineer for preliminary plan purposes. Multiple streets within a proposed subdivision shall be referred to in a preliminary plan as Road A, B, C, etc.
 - (2) Upon submission of a formal preliminary plan (Form B),⁴⁵ the Planning Board shall refer the plan forthwith to the Historical Commission, which shall make a recommendation to the Board within 30 days of the referral date as to proposed street names. If, in the Commission's view, the subject property has significant historical association, which merits preservation, it shall forward recommendations to the Planning Board. The Planning Board shall consider the significance of such associations as provided by the Commission in its final selection of street names. The applicant may provide suggestions to the Commission and directly to the Planning Board.
 - (3) After the elapsing of 30 days from the date of referral to the Historical Commission, the Planning Board shall forward all recommendations acceptable to it to the Police and Fire Departments for their comment. Within the allowed forty-five-day

45. Editor's Note: Form B is available at the Planning Board office.

review period for preliminary plan action, the Planning Board shall render its decision on street names as a part of its decision on the application.

- (4) The Board shall strive to select brief names for convenience and clarity, limiting length of names to one word, unless exceptional historic significance is shown.
 - (5) Hence forward, whether followed by a definitive plan or further preliminary plans, the Town Engineer shall refer an applicant on the same parcel to the approved street name(s), unless in his judgment new access or intervening circumstances warrant reconsideration. In that event, reference can again be made to the procedure under this section.
- D. Approval or disapproval. The Board shall, within 45 days after submission, give such preliminary plan its approval, with or without modification, or shall disapprove such plan, stating its reasons. The Town Clerk shall be notified of the Board's decision in writing. Such approval is valid for seven months and does not constitute approval of a subdivision but does facilitate the procedure in securing final approval of the definitive plan.

§ 405-7. Street determination/street improvement plan.

[Preexisting private/paper street(s) and all roads or streets in pre-1956 recorded subdivisions.]

- A. Purpose. The purpose of these regulations is to set forth the procedures and standards by which a lot owner may determine whether one or more lots have frontage on a way that meets the definition of "street" in the Marshfield Zoning Bylaw.
- (1) This process is called a "street determination" and it prescribes the requirements for construction of:
 - (a) Roads that have not been built, within existing paper rights-of-way;
 - (b) Unimproved roads that have not been paved and do not have stormwater management infrastructure; and
 - (c) Lots shown on a subdivision plan that predates the adoption of the Subdivision Control Law, MGL c. 41.
 - (2) These regulations for improvements to private ways are intended to reduce the likelihood of drainage and erosion problems and ensure that improvements, when completed, result in a positive street determination.
- B. Authority. A building permit may not be issued by the Building Commissioner for new construction unless the lot on which the building is to be constructed has frontage on a "street" as defined in the

Marshfield Zoning Bylaws. For private streets not approved under the Subdivision Control Law, the Planning Board must make a determination as to the adequacy of the way in accordance with this definition. A "street" as defined in the Marshfield Zoning Bylaw Article II is: "A way, over 24 feet in right-of-way width, which: A. Is a public way laid out by a governmental entity or public authority pursuant to Massachusetts General Laws or is shown as a public way on an official map adopted by the Town pursuant to MGL c. 41, § 81E, or has been accepted by the Town as a public way; or B. Is shown on a plan approved and endorsed in accordance with the Subdivision Rules and Regulations of Marshfield and MGL c. 41, §§ 81K to 81GG; or C. has, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and buildings erected or to be erected thereon." **[Amended 7-24-2017]**

C. Application for a street determination.

(1) Submittal requirements. Applicants for street determinations shall submit the following items to the Planning Board:

- (a) A written request for a street determination signed by the individual seeking the determination.
- (b) The name(s) of the street(s) for which a determination is being sought.
- (c) The Assessor's parcel number for the lot(s) for which a determination is being sought.
- (d) An Assessor's map or other locus map which shows adjacent streets and is sufficient to locate the street(s) and parcel(s).
- (e) An administrative filing fee as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**

(2) Planning Board procedure. Upon receipt of a completed request for a street determination, the Planning Board will schedule the request for its next available meeting.

(3) Review standards.

- (a) If the way is not a public way or a subdivision way, the Planning Board will consider the following criteria in determining whether a private way is of "sufficient width, suitable grades, and adequate construction":

[1] The roadway surface must be a minimum width of 20 feet of bituminous concrete;

[2] The roadway surface was created prior to January 1, 2010;

- [3] The adequacy of or need for drainage along the roadway;
 - [4] The adequacy of municipal services along the roadway (includes water and wastewater);
 - [5] The number of existing and potential lots on the way;
 - [6] The minimum requirement for a twenty-four-foot right-of-way in the Zoning Bylaw;
 - [7] The slope of the roadway.
- (b) The Board's decision shall be based on the conditions that exist at the time the street determination is requested.
- (4) Decision. The Planning Board will vote to issue a positive or a negative street determination within 90 days of receipt of a completed request. The Board's decision will be issued in writing, with reasons set forth, and a copy shall be provided to the Building Commissioner. **[Amended 7-24-2017]**
- (a) Positive street determination. Upon issuance of a positive street determination, applicants may be issued a building permit (assuming all other requirements of zoning are met).
 - (b) Negative street determination. The Building Department will not issue building permits when a negative street determination is made. In such cases, roadway improvements must be made prior to reconsideration by the Planning Board. Such improvements fall into two categories:
 - [1] Applicants seeking to create new lots on private ways/paper streets must file a subdivision plan pursuant to the Subdivision Control Law and the Marshfield Subdivision Rules and Regulations.
 - [2] Applicants seeking to develop existing lots must file a subdivision plan meeting the minimum standards and procedures outlined below.
- D. Improvements to private ways and paper streets. Where the Planning Board determines that the negative street determination is the second category {Subsection C(4)(b)[2], existing lots of record on a paper street} applicants shall provide the following information:
- (1) Contents. The street improvement plan, so titled, shall be drawn at a scale of one inch to each 40 feet. Said street improvement plan should show sufficient information about the proposed improvements. The necessary information should include all pertinent data on nearby property, which would have an effect on, or be affected by, the proposed improvements. The plan shall be prepared by an engineer and/or land surveyor, registered in Massachusetts, shall be clearly and legibly drawn and shall bear a

certification signed by the land surveyor on the title sheet stating that the plan is derived from an actual survey made on the ground according to Planning Board and state standards. All surveying shall conform to the requirements of the Land Court, Class A, as set forth in the manual of said Court, from time to time current. Plans shall conform to MGL c. 36, § 13A, and shall be 24 inches wide and 36 inches long. If multiple sheets are required, they shall be numbered consecutively in the lower right-hand corner and they shall be accompanied by an index sheet showing the entire subdivision. The index sheet shall contain a key plan at one inch equals 100 feet or as approved by the Board, indicating the location of each street.

(a) The street improvement submittal shall include six full size (24 inches wide and 36 inches long), 18 1/2 x 17 sets and a pdf file (CD/DVD or USB).

(b) The plan shall contain the following:

- [1] Street address/name of property owner, date, bar scale, name of applicant, engineer, North point, bench marks, and map locus, an identification of the appropriate zoning district, including but not limited to wetlands as delineated under MGL c. 131 and the Town of Marshfield Wetland Bylaw, and any possible exceptions or conflicts with the Zoning Bylaw (including flood designation). All plans shall note that design and construction are to conform to the rules and regulations of the Board. A title block must appear on each page and suitable space shall be provided to record the action of the Board and the signatures of the Board members on the first page thereof. Said title box shall be on the lower right-hand corner of the plan page.
- [2] Names of all abutters as they appear on the most recent tax list and approximate intersecting boundary lines of abutting lands. All contiguous property owned by the applicant shall be included in the plan regardless of whether or not a substantial portion of the applicant's remaining land remains undivided. Such remaining area shall be considered as a single lot, requiring approval as a resubdivision before further division of the remaining area occurs.
- [3] Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision and/or street improvement.
- [4] Sufficient data to determine the minimum lot areas and zoning dimensional compliance of lots within or affected by the subdivision.

- [5] Location of all permanent monuments as defined in Article IV, Design Standards and Required Improvements, properly identified as to whether existing or proposed.
- [6] A sketch plan showing tracts of land, ownership, and topography at no less than a two-foot contour and the location, names and present widths of the secondary streets bounding, approaching or within the street improvement or reasonable proximity of the subdivision.
- [7] Size and location of existing and proposed storm drains, water main locations, and utilities within and adjacent to the subdivision and/or street improvement (refer to design standards herein).
- [8] Location of and distance from sources of private and the nearest public water supply in accordance with the rules and regulations of the Board of Health.
- [9] Major site features such as existing easements, stone walls, fences, buildings, other structures, historic structures, vistas, areas of unique vegetation, existing septic systems, wooded areas, rock ridges and rock outcroppings, swamps, marshes, water bodies, wetlands as cited in § 405-5D(2), and existing topography as required. During discussion of the street improvement plan, the complete information required for the definitive plan will be developed.
- [10] Base flood elevation data, as shown on the Flood Insurance Rate Map, as most recently revised, published by the Federal Emergency Management Agency. **[Amended 7-24-2017]**
- [11] An estimate of the number of potential lots that could be served by the way based on existing zoning if a positive street determination were issued.
- [12] A certified list of all abutters to the street that is being developed. If two streets are being improved, all abutters to both streets must be notified.
- [13] The plan shall have a statement that the applicant intends to have the street remain private.
- [14] The sheet showing the topographic information shall provide the following certification:

I certify that the topographic information on this plan was derived wholly from an on ground instrument survey and that the datum was obtained from a U.S.G.S. Bench Mark # _____

Date: _____

(Signature of Professional Land Surveyor)

- (2) Waiver requests. If any waivers from the Subdivision Rules and Regulations are requested, the applicant shall include a waiver request letter which lists all of the requested waivers and the reasons why waivers are requested. The waiver request letter shall state how it would be in the public's best interest to waive strict compliance with specific sections of the Subdivision Rules and Regulations.
- (3) Town Clerk copy. Following the submission of the application packages to the Planning Board, one complete application package must also be filed with the Town Clerk who will time and date stamp it and keep it for his or her records. This includes a copy of the drainage calculations. A copy of the completed set of plans (stamped by the Town Clerk) shall also be submitted to the Planning Board. If the applicant would like a stamped application package for his or her records, an additional set should be provided to the Town Clerk.
- (4) Incomplete applications. Incomplete application submittals may be denied by the Planning Board at the first public hearing.
- (5) Special permits and or definitive subdivisions. Where a street improvement plan also requires a definitive subdivision plan or special permit approval in accordance with the Marshfield Zoning Bylaw, both applications shall be filed concurrently.
- (6) Inspection. At the time of construction, an inspector supplied by the Town shall be paid at the specified hourly rate by the Town to be reimbursed on at least a quarterly or monthly basis, as billed, by the Planning Department. Release from covenant or bond shall not be made until all inspection fees have been paid. **[Amended 7-24-2017]**
- (7) Administrative expenses. An administrative fee as provided in Chapter 420, Fee Schedule, shall be provided with a street improvement plan. A check payable to the Town of Marshfield for administrative fees shall be submitted to the Planning Board for deposit with the Town Treasurer/Collector. **[Amended 7-24-2017]**
- (8) Review fees/special accounts. Every applicant filing a street improvement plan shall be required to file a minimum review fee as

provided in Chapter 420, Fee Schedule, to establish an individual special account. **[Amended 7-24-2017]**

- (a) Any change deemed to be significant by the Planning Board such as a new roadway location or connection shall require a new submission and filing fees/review fees as required above. The Board may, at its discretion, waive filing fees where changes to plans are required through circumstances beyond the control or design responsibility of the applicant.
- (b) Specific conditions arising from the land or the nature of the proposal may necessitate the assistance of a planning, engineering, traffic, soils, or other consultant to assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations. The Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for employment of outside consultants engaged by the Board to assist in the review of the application.
- (c) Funds received by the Planning Board pursuant to this subsection shall be deposited with the Town Treasurer/Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application or permit.
- (d) Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. Upon a written request received from the applicant, a final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- (e) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, provided that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not

possess the minimum educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a closely related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the filing of the appeal, the selection made by the Board shall stand.

- (9) Testing. The applicant shall pay expenses for street improvement inspections and/or testing to ensure the work conforms to the rules and regulations.
- E. Public hearing. Before approval, approval with conditions or disapproval of the street improvement plan is given, a public hearing shall be held. Notice of the time and place of the hearing and of the subject matter sufficient for identification shall be given by the Board by advertisement in a newspaper of general circulation in the Town of Marshfield once a week for two successive weeks, the first publication being not less than 14 days before the day of the hearing. The applicant is responsible for preparing notices to abutters by certified mail, return receipt requested. The prepared notice shall then be verified by the Planning Board or its agent before being mailed by the applicant. Return receipts are to be addressed to the Planning Board for further verification. The notice shall be mailed to the abutters by certified mail not less than 10 days before the date of the hearing. A copy of said notice shall be mailed to all owners of land abutting the subdivision and/or street improvement as appearing in the most recent tax list. Failure to do so will result in the continuation of the public hearing.
- F. Design and construction standards for street improvements. Based on site and right-of-way conditions, road improvements shall follow the definitive subdivision road standards (see Article IV, Design Standards and Required Improvements) except as follows:
 - (1) Pavement width shall be a minimum of 20 feet and shall include a minimum eight-inch gravel base, a two-inch base course and a one-and-one-half-inch top course.
 - (2) Drainage. Catch basins with deep sumps and hoods shall be required. Depending on topography and other site conditions, forebays and other drainage pretreatment structures may be required in environmentally sensitive areas. In all cases, appropriate provision for water runoff shall be made so that it leads into a drainage system. Stormwater shall not be directed onto any abutting property unless it is within an approved stormwater management system. Stormwater management systems shall be designed to minimize erosion. Drainage pipes located within the right-of-way shall be reinforced concrete pipe.
 - (3) Curb/berm. All roads shall have twelve-inch-wide Cape Cod berms.

- (4) Sidewalks. In areas where the adjoining streets do not have sidewalks, the Board may not require sidewalks or contribution to the sidewalk fund as part of the street improvement.
 - (5) Tapering. Where necessary, newly constructed segments of an unaccepted street shall be tapered back to provide a safe transition to the cross section of the existing ways.
- G. Performance guarantee. An applicant of a street improvement plan shall, prior to endorsement of the plan, provide the Board with the required provisions to guarantee the construction of ways and installation of municipal services in accordance with § 405-8E, definitive subdivision plan performance guarantee.
- H. Certificate of action. The action of the Board in respect to such plan, as to approval, modification or disapproval thereof, shall be by vote. Copies of the certificate of action shall be certified and filed with the Town Clerk and sent by delivery or registered mail, postage prepaid, to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its decision. Final approval, if granted, shall be endorsed on the original drawing of the street improvement plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of action of the Board with the Town Clerk, and said Clerk has notified the Board that no appeal has been filed. The Town Clerk shall endorse on the plan or record separately and refer to on said plan the fact that no notice of appeal was received during the 20 days of the plan. Endorsement and recording of final plans must occur within six months of the filing of the decision with the Town Clerk or the Planning Board may vote to revoke its approval of the plan.
- (1) Failure of the Board to take final action regarding a street improvement plan within 90 days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. After the street improvement plan has been approved and endorsed, the applicant shall furnish the Board with six prints and two Mylars.
 - (2) Final approval of the street improvement plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.
 - (3) Approval in all cases is granted for a two-year period from the date of such approval, and if a development is not completed in its entirety in that time, the applicant must again petition the Board for action on the undeveloped portion.
 - (4) The Board may grant extensions of this two-year deadline if petitions for such extensions are received prior to the expiration of the two-year period. After expiration of the two-year period, the Board shall conduct a public hearing on the petition for action on

the undeveloped portion and may make revisions to the approval to reflect current conditions.

- I. Payment of taxes. Prior to endorsement of the street improvement plan, applicants shall provide the Planning Board with a current (within one month) municipal lien certificate demonstrating that all taxes have been paid in full on the property subject to the certificate of action.
- J. Recording of certificate of action, plans and associated documents. The applicant is responsible for recording at his or her cost the approved street improvement plan, certificate of action, all easements, covenants, declaration of homeowners' associations and any other documents which require recording at the Registry of Deeds or Land Court. Following recording, the applicant shall provide proof of recording to the Planning Board.
- K. Minimum street improvement conditions. If the Planning Board votes to approve a street improvement plan, the applicant will be required to comply with the following minimum conditions:
 - (1) Prior to construction.
 - (a) Prior to the endorsement of the plan, the applicant shall deposit with the Planning Board a sum of money to be determined by the Board, based on length of new roadway, for inspection of the street improvements during construction by the Planning Board's consulting engineer. Any unexpended funds will be returned to the applicant following completion of work.
 - (b) The applicant shall schedule a preconstruction meeting with the Town Planner, the Planning Board's consulting engineer, the Town Engineer and the applicant's contractor that will be constructing the road improvements.
 - (c) The applicant shall provide the Planning Board with 48 hours' notice of when construction is scheduled to commence.
 - (d) The applicant is responsible for recording the signed street improvement plan and street improvement decision at the Plymouth County Registry of Deeds and/or Land Court (if applicable) and providing proof of said recording to the Planning Board.
 - (e) The applicant shall stake out the location of the roadway widening and limit of work three days prior to construction and notify all abutters in writing and the Planning Board and the Board's consulting engineer of the construction start date.
 - (f) All trees to be preserved shall be clearly identified with flagging tape.

- (g) The applicant shall obtain approval from the Department of Public Works for the water main connection prior to construction of the roadway.
- (h) Construction shall not be started after October 1 and prior to March 1 of any given calendar year.
- (2) During construction.
 - (a) With the approval of the Town Planner and Planning Board consulting engineer, road and utility construction is allowed to shift within the right-of-way in order to preserve any existing mature trees located within the right-of-way (ROW). The roadway contractor should make an effort to avoid damaging the roots, trunks and limbs of trees, shrubs or other vegetation to be preserved within and adjacent to the ROW.
 - (b) The contractor shall keep open, at a minimum, a single travel lane to allow for vehicular travel for area residents and emergency vehicles. The work zone shall be properly marked with signs approved by the Department of Public Works Engineering Division.
 - (c) The applicant shall be responsible for controlling any erosion that may occur during construction with hay bales and/or silt fence. All exposed areas shall be stabilized with loam and seed or sod and maintained until they are stabilized.
 - (d) Construction shall be completed in accordance with the approved final revised plan.
 - (e) All construction traffic control signs and/or barriers must be clearly marked and easily removable. All signs and barricades must be reflective for clear visibility at night.

L. Completion of improvements.

- (1) If the applicant chooses to undertake all roadwork prior to the release of a lot(s), four copies of as-built drawings and two Mylars of the street improvement work shall be submitted for review and approval prior to the issuance of a positive street determination. Applicants that provide security for lots to be released shall provide four copies of as-built drawings and two Mylars of the street improvement work to be submitted for review and approval prior to the release of security.
- (2) After improvements are completed in accordance with approved plans and the Planning Board is so notified in writing, the Planning Board shall issue a positive street determination for the applicable portion of the street(s) and shall notify the Building Department and the applicant in writing of its decision.

- (3) All street improvements shall be completed within two years of the date of the Planning Board's vote to approve a street improvement plan.

§ 405-8. Definitive plan.

A. General. All plans shall be submitted in accordance with MGL c. 36, § 13A, as amended. A definitive plan of a subdivision may be submitted by the applicant for discussion, approval, conditional approval, or disapproval by the Board. An applicant shall demonstrate ownership of the fee interest on the land in question or else document that (s)he is acting as the duly authorized agent of said owner by means of a notarized letter so stating. Any person who submits a definitive plan of a subdivision for approval shall file with it the following:

(1) Definitive subdivision plan submission requirements.

- (a) Definitive subdivision plan applicants shall submit to the Planning Board the following information in their application package:⁴⁶

Information Required	Number Required	Format
Definitive Subdivision Plan	14	24" x 36"
Definitive Subdivision Plan	7	11" x 17"
Completed Application Form C, Definitive Subdivision Plan	2	Standard form
Completed Definitive Subdivision Plan Form M, Submission Requirements Checklist	1	Standard form
Drainage Calculations	4	8.5" x 11" bound

If the property is located in the Water Resource Protection District, 1 extra set of prints 24" x 36" shall be submitted.

If the property is located on a state road, Route 3A or Route 139, 1 extra set of prints 24" x 36" shall be submitted.

If the property is located in an area within the sewer district, 1 extra set of prints 24" x 36" shall be submitted.

If the property is located in the Water Resource Protection District, 1 additional copy of the drainage calculations shall be required.

46. Editor's Note: Forms C and M are available at the Planning Board office.

- [1] Waiver requests. If any waivers from the Subdivision Rules and Regulations are requested, the applicant shall include a waiver request letter which lists all of the requested waivers and the reasons why waivers are requested. The waiver request letter shall state how it would be in the public's best interest to waive strict compliance with specific sections of the Subdivision Rules and Regulations.
- [2] Town Clerk copy. Following the submission of the application package to the Planning Board, one complete application package must also be filed with the Town Clerk who will time and date stamp it and keep it for his or her records. This includes a copy of the drainage calculations. If the applicant would like a stamped application package for his or her records, an additional set should be provided to the Town Clerk.
- [3] Filing fees. The application package shall include the filing fee in the amount specified in the most recent fee schedule.⁴⁷
- (b) A separate check shall be provided for the cost of any consultants the Planning Board may retain to provide technical assistance in reviewing the subdivision plan. The amount of the consultant review fee is listed in the fee schedule based on the size of the development. Following action of the Planning Board on the subdivision application, any remaining funds in the consultant review fee account will be returned to the applicant, upon written request.
- (c) The definitive plan application fee and consultant review fee shall be submitted to the Planning Department in the form of a check made out to the Town of Marshfield.
- (d) Incomplete application packages will not be accepted by the Planning Department.
- (2) Special permits. Where a definitive subdivision plan also requires special permit approval in accordance with the Marshfield Zoning Bylaw, both applications shall be filed concurrently.
- (3) Inspection. At the time of construction, an inspector supplied by the Town shall be paid at the specified hourly rate by the Town to be reimbursed on at least a quarterly or monthly basis, as billed, by the Planning Department. Release from covenant or bond shall not be made until all inspection fees have been paid. **[Amended 7-24-2017]**
- (4) Administrative expenses.

47. Editor's Note: See Ch. 420, Fee Schedule.

- (a) In addition, fees for the review and staff time required to process the definitive plan by the Planning Department, Board of Health, Fire Department, Police Department, Highway Division, Sewer Division, Water Division, and Building Department, or consultants used in lieu of departmental staff, shall be as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**
- (b) The Board may reduce or waive the above administrative expenses if the applicant has previously filed a preliminary plan which has been approved.
- (5) Testing. The applicant shall pay expenses for subdivision inspection and/or testing to ensure the work conforms to the rules and regulations.
- (6) Review fees/special accounts. Every definitive plan shall be required to file the minimum review fee to establish an individual special account as provided in Chapter 420, Fee Schedule. The Board may credit the review fee/special account by the amount paid for a preliminary plan that has been approved. **[Amended 7-24-2017]**
 - (a) Any change deemed to be significant by the Planning Board, such as a new roadway location or connection, shall require a new submission and filing fees/review fees as required above. The Board may, at its discretion, waive filing fees where changes to plans are required through circumstances beyond the control or design responsibility of the applicant.
 - (b) Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, or other consultant to assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations, the Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for employment of outside consultants engaged by the Board to assist in the review of the application.
 - (c) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer/Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application or permit.

- (d) Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- (e) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, provided that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a closely related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the filing of the appeal, the selection made by the Board shall stand.

B. Contents.

- (1) The definitive plan shall be prepared by an engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black India ink upon tracing cloth, or reproducible Mylar. All surveying shall conform to the requirements of the Land Court, Class A, as set forth in the manual of said Court, as updated from time to time. The plan shall be at scale of one inch equals 40 feet. Plans shall conform to MGL c. 36, § 13A, and shall be 24 inches wide and 36 inches long. If multiple sheets are required, they shall be numbered consecutively in the upper-right hand corner and they shall be accompanied by an index sheet showing the entire subdivision. The index sheet shall contain a key plan at one inch equals 100 feet, or as approved by the Board, indicating the location of each sheet. The land surveyor, in addition to providing the record plan Mylars, is to provide at least two copies of his grid plan (working drawings) showing the perimeter survey traverse and all other data normally found on such plans. The definitive plan shall contain the following:
 - (a) Name of subdivision, date, bar scale, name of applicant, engineer, North point, bench marks, and map locus, an identification of the appropriate zoning district, including but

not limited to wetlands as delineated under MGL c. 131 and the Town of Marshfield Wetland Bylaw, and any possible exceptions or conflicts with the Zoning Bylaw. All plans shall note that design and construction are to conform to the rules and regulations of the Board. A title block must appear on each page and suitable space provided to record the action of the Board and the signatures of the Board members on the first page thereof.

- [1] The following notations are to be provided on the first page of all definitive subdivision plans:

Subject to a covenant duly executed, dated the ____ day of _____, 20 ____, running with the land, to be duly recorded by or for the owner of record.

This plan is subject to all conditions of the Marshfield Planning Board Certificate of Action dated _____, filed with the Marshfield Town Clerk on _____ and herewith recorded as a part of this plan.

I hereby certify that there has been no appeal taken to this Planning Board action during the 20-day statutory appeal period.

Date: _____

Town Clerk, Town of Marshfield

I certify that this survey was made on the ground in accordance with the standards of the Land Court Instructions of 1989 on or between _____ and _____.

Date: _____

(Signature of professional land surveyor)

I certify that all design and construction as presented conforms to the Rules and Regulations of the Planning Board with no exceptions or conflicts except as listed below.

- [2] Separate plan-profile drawings of all proposed streets shall be submitted with the subdivision plan. They shall show and identify all existing and proposed utilities and construction items, including dimensions, pertinent to the road construction.

- (b) Names of all abutters as they appear in the most recent tax list and approximate intersecting boundary lines of abutting lands. All contiguous property owned by the applicant shall be

included in the plan regardless of whether or not a substantial portion of the applicant's land remains undivided. Such remaining area shall be considered as a single lot, requiring approval as a resubdivision before further division of the remaining area occurs.

- (c) Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision. Where a definitive plan is not preceded by a preliminary plan, reference shall be made to § 405-6C for street naming procedures. Definitive plans shall show the proposed siting of dwellings, grading, and numbering of each dwelling. Numbering shall be obtained from the office of the Town Engineer prior to definitive plan submission.
- (d) Sufficient data to determine the location, elevation, direction and length of every street and way line, lot line, and boundary line, and to establish these lines on the ground.
- (e) Location of all permanent monuments as defined in Article IV, Design Standards and Required Improvements, properly identified as to whether existing or proposed.
- (f) Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- (g) Size and location of existing and proposed storm drains, water mains, utilities and their appurtenances, including hydrants, within and adjacent to the subdivision (refer to design standard herein). The applicant shall submit calculations for the determination of all waterway openings to justify culvert and drain sizes as hereinafter set forth. A registered professional engineer shall prepare such calculations.
- (h) Location of sources of private water supply, nearest public water supply source, and existing septic systems in accordance with the rules and regulations of the Board of Health.
- (i) Location of approved percolation test pits and deep observation pits, if any, in accordance with the rules and regulations of the Board of Health. Whether or not septic systems are proposed, general soil logs and groundwater profiles shall be shown based on on-site observation pits and/or wells and/or percolation test. Soil logs shall be sufficient in detail to show the depth of organic matter, subsoil thickness, and depth to bedrock (up to eight feet), as well as percent composition of soil and subsoil types. Locations of test pits shall be adequately distributed throughout the land area to the satisfaction of the Planning Board, providing at least one test hole per every two lots, and one per each 500 feet of proposed roadway. The Board may require additional soil boring, probings and test pits, additional soils tests, and submission of

a foundation design report from a Massachusetts geotechnical engineer demonstrating that the existing soils will provide adequate support for pavements and utilities.

- (j) Locations of proposed sewage disposal facilities with the elevation of the bottom of the leaching bed or trenches shown.
- (k) Profile plans of proposed streets drawn as follows:
 - [1] A horizontal scale of one inch equals 40 feet.
 - [2] A vertical scale of one inch equals four feet.
 - [3] Existing center line in the fine solid line.
 - [4] Existing right side line in fine dotted line.
 - [5] Existing left side line in dashed line.
 - [6] Proposed center-line grades in heavy lines, all appropriately designated, showing grade elevations at every fifty-foot station, except on vertical curves where they shall be shown at every twenty-five-foot station and at PVC and PVT.
 - [7] Proposed system of drainage, including catch basins, manholes, and proposed inverts, and pipe sizes.
 - [8] All existing intersecting walks and driveways.
 - [9] The elevation datum shall be mean sea level as determined from USGS bench marks. One bench mark for each 1,000 feet of roadway, with a minimum of three, must be established and preserved for construction purposes.
 - [10] Rates of gradient shown by figures for roadways, drainage, and driveways.
 - [11] Road profiles must have been obtained from field survey.
 - [12] All road center lines must have been staked out on the ground and clearly marked with station numbers two weeks prior to public hearing.
- (l) Typical section of proposed streets shown on a profile plan in accordance with typical cross section as shown in appendix,⁴⁸ showing construction and all proposed and required utilities.
- (m) Profiles and cross sections of drainage easements where applicable.
- (n) Existing and proposed topography as follows: The contour intervals shall be one foot where slopes are less than 5% and

48. Editor's Note: See Appendix A included as an attachment to this chapter.

two feet on slopes 5% or greater; distinguishable line densities shall be used to show the difference between one- and two-foot contours. The topographic maps shall meet National Map Accuracy Standards as defined by the United States Geological Survey (USGS) and shall have been derived wholly from on-ground instrument surveys. Elevations shall be based upon USGS National Geodetic Vertical Datum (NGVD) and permanent bench marks shall be identified that are outside the limits of work. A reasonable number of permanent bench marks, to be determined by the Planning Board through consultation with the Planning Board Engineer, shall be established on the site for convenient elevation reference during and after road construction. Existing contours are to be shown as dashed lines and proposed final contours as solid lines. Topographic plans shall extend beyond the limits of the site as far as may be necessary to provide information relative to the project, but in no case shall extend for less than 100 feet, and shall include but not be limited to all natural features such as stone walls, fences, buildings, historic structures, vistas, areas of unique vegetation, wells, septic systems, utilities, existing water bodies, natural waterways, swamps, wetlands (as defined under MGL c. 131, the Local Wetlands Bylaw and the Zoning Bylaw), marshlands, and floodplains (as shown on the Federal Insurance Rate Map as most recently amended) within and adjacent to the subdivision. The topographic plan is to be provided with the following certification:

"I certify that the topographic information on this plan was derived wholly from an on-ground instrument survey and that the datum was obtained from USGS Bench Mark No.

"

Date: _____

(Signature of professional land surveyor)

- (o) Landscaping and planting plan, showing treatment of all planting strips, roadway islands and medians, and disturbed slope areas by species, location, size and quantity.
- (p) Base flood elevation data shall be provided for subdivision proposals and other proposed development.
- (q) A sketch plan showing a feasible, prospective street layout for any adjacent unsubdivided land whether or not owned by the applicant unless such a plan has already been filed with the Board.
- (r) An erosion control and construction management plan showing the construction methods, scheduling (including any necessary

or proposed phasing of work), winter stabilization measures, and location of necessary water pollution and erosion control methods.

- (s) Designation of temporary stump storage or spoils material area, in accordance with local and state regulations.
 - (t) The completed Form M checklist of required items under the provisions of these regulations demonstrating the completeness of the submission for review.⁴⁹
 - (u) The proposed siting of dwellings, grading and numbering of each lot (as obtained from the Department of Public Works).
 - (v) Location on the plan and draft language for easements for utilities, drainage or any necessary off-site uses, improvements or structures. In the case of any necessary off-site easements, such as for drainage, water mains, or other needs, copies of the fully executed easements must be provided to the Board prior to final plan endorsement.
 - (w) Location on the plan and draft easement or conservation restriction language for any proposed open space. Final language shall be provided prior to final endorsement.
 - (x) Sufficient data to determine the minimum lot areas and zoning dimensional compliance of lots within or affected by the subdivision.
- (2) In case a tract is subdivided into parcels larger than normal building lots, the Board may decline to approve the plan unless such parcels are arranged so as to allow the opening of proper future ways and logical and proper subdivision.
- C. Public hearing. Before approval, modification and approval or disapproval of the definitive plan is given, a public hearing shall be held. Notice of the time and place of the hearing and of the subject matter sufficient for identification shall be given by the Board by advertisement in a newspaper of general circulation in the Town of Marshfield once a week for two successive weeks, the first publication being not less than 14 days before the day of the hearing. The applicant is responsible for preparing notices to abutters by certified mail, return receipt requested. The prepared notice shall then be verified by the Planning Board or its agent before being mailed by the applicant. Return receipts are to be addressed to the Planning Board for further verification. The notice shall be mailed to the abutters by certified mail not less than 10 days before the date of the hearing. A copy of said notice shall be mailed to all owners of land abutting the subdivision as appearing in the most recent tax list. Failure to do so will result in the continuation of the public hearing.

49. Editor's Note: Form M is available at the Planning Board office.

- D. Review by Board of Health as to suitability of the land. The Board of Health shall report to the Board in writing, giving its approval or disapproval of the plan in accordance with the State Environmental Code, Title 5, copies of which are available from the Board of Health. In the event of disapproval, it shall make specific findings as to which, if any, of the lots shown on the plan cannot be used for building sites. Such conditions shall be noted on the plans, specifying the lots or land to which said condition applies. The Planning Board shall not approve any plan that is disapproved by the Board of Health. Every lot shall be approved with a connection with a municipal sewer or septic system acceptable to the Board of Health.
- E. Performance guarantee. Before endorsement of a plan, the Board shall require provision for the construction of ways and installation of municipal services in accordance with the rules and regulations of the Board. Such construction and installation shall be secured by one, or in part one and in part the other, of the methods described in the following Subsection E(1) and (2), which method may be selected and from time to time varied by the applicant.
- (1) Approval by bond or money or negotiable securities. The applicant may file a bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements as shown on the definitive plan and as specified in the rules and regulations. Detailed cost estimates for all improvements shall be submitted by the applicant's professional engineer to the Board for review. If said estimates are found by the Board and its engineer to be unsatisfactorily low, a revised estimate satisfactory to the Board will be required. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Board and by Town Counsel and, in addition, as to sureties, by the Town Accountant and shall be contingent on the completion of such improvements within one year of the date of the bond. At the discretion of the Board, time extensions may be granted for periods of one year, provided that such an extension may be conditioned upon an increase in the amount of such bond or security as determined by the Board. The penal sum of any such bond or the amount of any deposit held may, from time to time, be reduced by the Board and obligations of the parties thereto released in whole or in part. **[Amended 7-24-2017]**
 - (2) Approval by covenant. Instead of filing a bond or depositing money or negotiable securities, the applicant may provide covenant restrictions. Such covenant, executed and duly recorded by the owner of record, running with the land, shall provide that construction of ways and installation of municipal services shall be provided for the entire subdivision before any lot may be built upon or conveyed. For corporations registered in Massachusetts, covenant documents shall be executed by any two of the following

officers, or by evidence of corporate vote: president, vice president, or treasurer. Such a covenant shall comply with the requirements of Chapter 377 of the Acts of 1958.⁵⁰ Any covenant given shall be either inscribed on the plan or contained in a separate document referred to on the plan. Before any lot is released from the covenant restrictions, the construction of subdivision improvements for the segment of the street providing frontage for said lots and for all roadway segments connecting said lots to the roadway system of the Town shall be complete, with respect to all utilities, curbing, drainage, roadway base course, and roadway pavement binder course.

F. Certificate of approval, modification, or disapproval.

- (1) The action of the Board in respect to such plan, as to approval, modification or disapproval thereof, shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail, postage prepaid, to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its decision. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. The Town Clerk shall endorse on the plan or record separately and refer to on said plan the fact that no notice of appeal was received during the 20 days following the filing of the Board's action on the plan. Endorsement and recording of final plans must occur within six months of the filing of the decision with the Town Clerk or the Planning Board may vote to revoke its approval of the plan. Any definitive plan evolved from the submission of a preliminary plan which has received approval, with or without modifications, shall be governed by the rules and regulations relative to subdivision control in effect at the time of submission of the preliminary plan, provided that the definitive plan is duly submitted within seven months from the date on which the preliminary plan was submitted. **[Amended 7-24-2017]**
- (2) Failure of the Board to take final action regarding a definitive plan within 90 days when the plan was preceded by a preliminary plan or within 135 days when not preceded by a preliminary plan, after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. After the definitive plan has been approved and endorsed, the applicant shall furnish the Board with four prints thereof.
- (3) Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

50. Editor's Note: See MGL c. 41, § 81U.

- (4) Approval in all cases is granted for a two-year period from the date of such approval, and if a development is not completed in its entirety in that time, the applicant must again petition the Board for action on the undeveloped portion.
 - (5) The Board may grant extensions of this two-year deadline if petitions for such extensions are received prior to the expiration of the two-year period. After expiration of the two-year period, the Board shall conduct a public hearing on the petition for action on the undeveloped portion and may make revisions to the approval to reflect current conditions.
 - (6) Subdivision reinstatement. In the event that the subdivision approval has expired beyond the two-year period for completion, the applicant shall pay an administrative fee as provided in Chapter 420, Fee Schedule, and all costs associated with readvertising the public hearing. **[Amended 7-24-2017]**
 - (7) Subdivision modifications. Any proposed modification to conditions of approval or a major modification that triggers the need for a public hearing will require an administrative fee in the amount as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**
- G. Payment of taxes. Prior to endorsement of subdivision plans, applicants shall provide the Planning Board with a current (within one month) municipal lien certificate demonstrating that all taxes have been paid in full on the property subject to the certificate of action.
- H. Recording of certificate of action, plans and associated documents. The applicant is responsible for recording at his or her cost all approved definitive subdivision plans, certificate of action, all easements, covenants, declaration of homeowners' associations and any other documents which require recording at the Registry of Deeds or Land Court. Following recording, the applicant shall provide proof of recording to the Planning Board.
- I. Minor changes; plan revisions; incomplete submissions. Definitive plans submitted to the Planning Board for review under the Town Clerk's stamp may not be revised without the consent of the Board, and only as discussed in public session at the public hearing. Any such changes shall be prominently noted on the plan set cover sheet and on any individual sheets affected so as to make clear the plan of record on which the action of the Board is being requested.
- (1) Minor changes may be allowed by the vote of the Board at any time after the public hearing, again with the required notations on cover sheet and affected plan sheets. A minor change is defined by the Board as a change which has no discernible impact outside the subdivision, does not increase rates or volumes of stormwater runoff, does not increase the amount of cut or fill required, or does not involve regrading of more than two lots nor more than 200

linear feet of roadway within the subdivision. The Planning Board shall determine, in its opinion, if plan revisions are minor changes or constitute major changes requiring refile and rehearing.

- (2) The Board reserves the right to disapprove incomplete submissions at any time if, in its opinion, review of the plan is hampered by the absence of required information. In the event of such disapproval, the plans shall be returned to the applicant as incomplete and a copy of the certificate of action filed with the Town Clerk noting the reason for the Board's action. The Board also reserves the right to retain any filing and review fees, or to reimburse any portion of such fees to the applicant, based on the extent to which the review has proceeded and to cover administrative costs of filing, notification, distribution, etc.
- J. Prohibited activities. Site preparation, tree cutting, filling, grading and other work done in anticipation of the subdivision plan approval should not be performed prior to the submission and approval of a definitive plan. The Planning Board reserves the right to disapprove any such work, to order restoration of the site, and to assess fines as provided for in these regulations upon filing of a Form A, Preliminary or Definitive Plan Application.⁵¹
- K. Certificate of performance. Upon completion of the construction of ways and installation of services in accordance with the rules and regulations of the Board, security for the performance of which was given by Subsection E(1) and/or (2), or upon the performance of any covenant with respect to any lot, the applicant shall submit as-built drawings of all utilities and drainage systems to the Board and a written statement in duplicate to the Town Clerk, stating that the necessary requirements have been met. Such statement shall contain the address of the applicant, and the Town Clerk shall furnish the Planning Board with one copy of the above statement with a notice provided by the applicant from the Register or Recorder that the plan is recorded in Book No., Page No., and date. If the Board is satisfied that all requirements have been met, it shall release the interest of the Town in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instruments, duly acknowledged, which may be recorded.
 - (1) If it is determined that the necessary work has not been completed, the Board shall so notify the applicant in writing specifying the details. Failure of the Board to so notify the applicant within 45 days after the receipt by the Town Clerk will cause all obligations under the bond to cease and terminate by operation of the law. Any deposits shall be returned and any covenant shall become void.
 - (2) If the forty-five day period expires without such specifications, or without release and return of the bond or return of the deposit or

51. Editor's Note: Form A is available at the Planning Board office.

release of the covenant, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

- (3) The Board shall retain a portion of the performance guarantee to ensure acceptance of streets by the Town in accordance with § 405-17, Street acceptance.
- (4) The Building Commissioner shall issue no building permit for a lot within a subdivision until such lot has been released by the Board.
[Amended 7-24-2017]

ARTICLE IV

Design Standards and Required Improvements**§ 405-9. Streets.**

- A. Protection of natural and cultural features. Due regard shall be shown for all natural features, such as large trees, watercourses, scenic points, historic spots, stone walls, and similar community assets which, if preserved, will add attractiveness and value to the subdivision. If, in the opinion of the Board, excessive vegetation is removed due to proposed grades, a restoration plan shall be submitted for approval, together with the definitive plan. In no case shall areas larger than 100 feet in width be clear-cut to accommodate siting of houses. Areas larger than 150 feet in width shall not be clear-cut to accommodate siting of roads and drainage structures. The applicant shall strive to maintain clear-cutting within the roadway and, where necessary, within the planting strip. Stone walls shall not be removed or buried unless approved by the Board and shall be reconstructed and used in subdivision design.
- B. Grading and topography.
- (1) Efforts shall be taken to maintain the continuity of the natural topography. Cut and fill shall be avoided in all instances possible. Except in areas where terracing is used, when excavation is necessary, grading shall be done in such a way that the resulting contours follow smooth natural curves that conform to the curves of the surrounding landscape. Straight or angular slopes or cuts that interrupt natural topography shall not normally be allowed. Existing contours shall be preserved insofar as it is possible through optimal location of streets and dwellings to the satisfaction of the Planning Board. In any event, no change shall be made in existing contours which adversely affects any land abutting the proposed subdivision.
 - (2) Street layouts shall generally follow (parallel) the existing contours, or existing stream valley and natural swales, and should be designed with the objective of the preservation of natural features identified on the plan, as required in Subsection A above. All work on the ground hereinafter specified shall be performed by the applicant in accordance with these rules and regulations, in conformity with approved definitive plans and specifications and other construction requirements of the Town agencies concerned, and to the satisfaction of such agencies. In particular, all design, material, and construction specifications of the Marshfield Department of Public Works (DPW) relative to road and utility construction shall be adhered to unless otherwise provided for in these regulations. Where no detail is given under Marshfield DPW or the Department's specifications, reference shall be made to construction details of the Massachusetts Municipal Engineers

Association. All streets in the subdivision shall be designed so that, in the opinion of the Board, they shall provide safe vehicular travel.

C. Location of streets.

- (1) In case a tract is subdivided into parcels larger than normal building lots, the Board may decline to approve the plan unless such parcels are arranged so as to allow the opening of proper future ways and logical and proper subdivision.
- (2) In case access to a subdivision crosses land in another municipality, the Board may require certification from appropriate authorities that such access is in accordance with the master plan and subdivision requirements of such municipality and that a legally adequate performance bond had been duly posted or that such access is adequately improved to handle prospective traffic.
- (3) The Planning Board may require space reserved for future streets (shown on said plan as paper streets) to provide for interconnecting ways and to avoid excessive dead-end streets. All portions of the tract being subdivided shall be taken up in lots, streets, public lands, or other proposed uses, so that remnants and landlocked areas shall not be created.
- (4) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.
- (5) Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Board, such strips shall be in the public interest.
- (6) Roadways, culs-de-sac, detention facilities, sidewalks, and other required infrastructure or improvements shall not be placed within easements but within the right-of-way or on parcels not buildable for residential, commercial or industrial structures. Sewer, water, and drainage lines may be exempted from this position by the express waiver of the Board. All such land parcels, common land, or waived easements shall be bounded with concrete bounds at all corners.
- (7) Where the street system within the proposed subdivision does not intersect with or have adequate access, in the opinion of the Planning Board, from an existing public way or approved subdivision way, the Board may require, as a condition of approval, that such adequate access be provided by the applicant through physical improvements from the proposed subdivision ways to the nearest public way or approved subdivision way most suitable in terms of width, grade and construction.

D. Width, alignment and grades of streets.

- (1) The following standards shall govern the design of streets:

Type of Street	Width of Way* (feet)	Width of Roadway* (feet)	Minimum Center-Line Radii	Maximum Center-Line Grade	Design Speed (mph)
Secondary	50 to 60	26	200	6%	33
Residential "D"	52	24	100	10%	29
Residential "C"	46	20	100	10%	23
Residential "B"	40	20	100	10%	23
Residential "A"	40	18	100	10%	23

Type of Street	Minimum Center-Line Grade	Minimum Curb Radius at Street Intersections (feet)	Minimum Length of Tangents Between Reverse Curves (feet)
Secondary	0.8%	30	100
Residential**	0.5%	30	—

NOTES:

* The Board may require that the traveled way be separated by a raised median strip with a width, minimum 20 feet, to be determined by the Board. In this case, the traveled way shall consist of two roadways, each with a minimum width of 20 feet or such greater width as the Board may specify.

** No area of single access, as defined in Article II, shall provide access for more than eight dwellings total.

- (2) Street intersection with center-line offsets of less than 150 feet shall not be permitted without a specific waiver from the Board.
- (3) Proposed subdivision streets shall intersect existing and other proposed streets at ninety-degree right angles whenever feasible for a distance of at least 100 feet from the intersecting street lines. Up to a ten-degree variation from the ninety-degree design objective will be allowed by the Board if the applicant demonstrates that a right angle is not feasible or practical.
- (4) All changes in grade exceeding 0.5% shall be connected by vertical curves meeting the following criteria for the purpose of ensuring suitable sight distances and to avoid harmful application of road

salts and undue acceleration of vehicles and stormwater runoff velocities:

Type of Street	Minimum Stopping and Sight Distance (feet)	Crest Vertical Curve, Minimum K Value	Sag Vertical Curve, K Value
Arterial	275	60	60
Secondary	225	40	50
Collector	200	30	40
Minor residential	156	20	30

- (5) No center-line gradient is to exceed 6% on any curve having a center-line radius of less than 500 feet or 8% on one having a center-line radius of more than 500 feet.
- (6) Way lines shall be parallel or concentric, and the roadway shall be centered in the layout. Details and dimensions shown in the typical road cross sections in Appendix A shall be complied with.⁵²
- (7) Layout radii concentric with required curb radii shall be required at all street intersections.
- (8) Leveling areas having a maximum slope of 2% for 100 feet at every intersection or terminus of secondary streets shall be provided. Leveling areas having a maximum slope of 2% for 50 feet at the intersection or terminus of a residential street shall be provided.
- (9) Solar access. The Planning Board may require orientation of ways and lots to be designed for preservation of maximum solar access opportunities for future residents of the subdivision, based on information as to existing topography and vegetative cover.
- (10) The above standards are based further on the typical roadway cross sections hereby incorporated as part of these regulations and street design standards as follows.

E. Dead-end streets.

- (1) Dead-end streets shall not be longer than 600 feet unless, in the opinion of the Planning Board, a greater length is necessitated by the topography or other local conditions. In general, maximum lengths are governed by the most stringent of the following performance standards:
 - (a) Frequency of vehicular conflicts (passing vehicles): more than eight dwelling units.

52. Editor's Note: Appendix A is included as an attachment to this chapter.

- (b) Convenience of design speed (to ensure observance of posted speed): 25 miles per hour, 1/4 mile (1,320 feet).
- (c) Stagnation of water lines, and user convenience during repair: 800 feet.
- (d) Child safety; elementary:
 - [1] Walkers: 1,320 feet.
 - [2] Bus pickup: 600 feet.
- (2) Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 120 feet in diameter with a property line diameter of at least 140 feet, the configuration of which is to conform to the typical cul-de-sac detail drawing.⁵³
- (3) Upon construction of an extension of a dead-end street, the turnaround shall be removed by the extending applicant.
- (4) All culs-de-sac shall include a landscaped center island. A landscape plan for islands shall be provided. The only stormwater management facilities allowed within the center island of culs-de-sac are landscaped bio-retention areas. The use of cul-de-sac islands for stormwater bio-retention areas is encouraged and should be considered in the design process.

F. Construction of roadway.

- (1) Construction of the roadway shall conform to the applicable typical cross section as shown and the hereinafter listed requirements.⁵⁴
- (2) The entire roadway area shall be cleared and grubbed of all growth, and unsuitable material shall be removed to the required depth and as required by the Planning Board Engineer. Where sidewalks are provided, the grass strips may remain undisturbed. Applicants are not required to clear the entire right-of-way where wooded areas are provided in lieu of grass strips.
- (3) All fill and undisturbed soils within four feet of the finished subgrade shall be non-frost-susceptible and shall not contain more than 3% passing the 0.02 millimeter sieve to a minimum depth of four feet below the finished grade.
- (4) The roadway shall consist of a minimum of 10 inches of well-graded gravel within the following gradation range as established by the Department of Public Works, topped with a minimum of three inches of dense graded crushed stone (see typical cross section):
[Amended 7-24-2017]

53. Editor's Note: See Appendix B included as an attachment to this chapter.

54. Editor's Note: See Appendix A included as an attachment to this chapter.

Sieve Size	Percent Passing by Weight
3"	100%
1/2	50% to 85%
No. 4	40% to 75%
50	8% to 28%
200	0% to 8%

- (5) The subgrade shall be prepared to required lines and grades, and all fill shall be constructed in six-inch lifts. The subgrade shall be compacted to a minimum of 92% of maximum dry unit weight and at or near optimum moisture content as determined by the ASTM D 1557-66T, Method D. Preparation of the subgrade shall be approved by the Planning Board Engineer before any subsequent construction is permitted. All soil samples for testing purposes must be selected from the subject material by a qualified testing laboratory in a manner and quantity which will permit it to certify that they are representative of the material as a whole. Samples selected by anyone else will not be allowed as valid for the purpose.
 - (6) After approval of the subgrade, the above-specified base course shall be prepared to lines and grades. Prior to paving of the base course, the project engineer shall certify in writing to the Planning Board that the location of survey controls is accurate and in accordance with the approved plan so as to minimize corrective work and changes required in the as-built plans. The base course shall be constructed in maximum lifts of six-inch lifts and shall be compacted to a minimum of 95% of maximum dry unit weight and at, or near, optimum moisture content as determined by the ASTM D 1557-66T, Method D.
 - (7) The approved base course shall be paved with a minimum of three inches of Massachusetts Highway Department Type I-1 binder course and 1 1/2 inches of top course to lines and grades as required. The application of the top course shall be delayed for six months after binder course is applied. The pavement shall be placed and constructed in accordance with the specifications of the Marshfield Department of Public Works, shall be compacted to a minimum of 95% of laboratory density, and surface irregularities greater than 1/4 inch as measured with a ten-foot straight edge shall be corrected as determined by the Planning Board Engineer. Paving operations shall not start or continue without permission of the Planning Board Engineer, who will determine whether preparation, weather conditions, etc., are suitable. Notwithstanding, all paving operations are to be concluded for the season by November 20, regardless of weather conditions.
- G. Construction of lots. Lots shall not be clear-cut and shall not be cleared prior to the establishment of a base course of pavement on the roadway.

All clearing shall be done in accordance with that shown on the definitive plan and with the approved erosion control and construction management plan.

§ 405-10. Utilities.

- A. General requirements. All utilities, including drainage, ponds, watercourses, swales, and lines, which service more than one dwelling unit must be located within street layouts or on properties set aside expressly for utility purposes rather than on building lots. Such utility areas shall have the boundaries defined by concrete bounds at all corners and shall be furnished with gated vehicle accessway for maintenance purposes to the proposed subdivision roadway or an existing accepted way. Such accessway shall be constructed to the satisfaction of the Planning Board and provided with permanent monumentation to inform abutters of location of said accessway on the ground. All utility line and accessway properties shall be a minimum of 20 feet in width.
- B. Drainage. The applicant shall demonstrate to the satisfaction of the Planning Board that the project is designed to have no measurable or significant impact as to existing vegetation, topography, wetlands, and other natural or man-made features.
 - (1) Criteria. The applicant shall review best available drainage systems for the appropriate application on the proposed development site. The development suitability of the site shall be based on natural features, such as soil types, slope, vegetative cover, water table, etc. Drainage plans shall be developed in consultation with the Planning Department and the Board's consultants with the following objectives and criteria in mind: **[Amended 7-24-2017]**
 - (a) Protection of surface water and groundwater quality.
 - (b) Public safety.
 - (c) Protection of existing abutting homes and septic systems.
 - (d) Enhancement of and connection to natural drainage systems, including streams, floodplains, and associated wetlands.
 - (e) Attractiveness of the plan, minimizing disruption to existing features, and successful imitation of natural systems.
 - (f) Minimizing of long-term maintenance and/or reconstruction obligations to ensure the natural operation of the system and conserve manpower, energy, and fiscal resources.
 - (2) Large developments; off-site mitigation. For developments in excess of 50 dwelling units, 50 acres, or which create more than three acres of impervious surfaces of all kinds, the Planning Board may require a storm drainage design analysis for the one-hundred-

year storm at the watershed level, from drainage divide to tidal water, which demonstrates the adequacy of existing and proposed structures. If no measurable impact is shown, no off-site mitigation measures will be required by the Board. Said analysis shall include at least the following information: consideration of the entire watershed and the calculations used in designing the drainage system, including area calculations, intensity of rainfall, coefficient of runoff, time of concentration, discharge, pipe coefficients of roughness, and quantity and velocity of flow under design conditions at buildout capacity allowed under current zoning. Additionally, the following information shall be supplied:

- (a) Soil map for the sub area watershed.
 - (b) Topographic map for the sub area watershed.
 - (c) Land use map for the sub area watershed.
 - (d) Pre-development drainage patterns on the site.
 - (e) Post-development drainage patterns on the site.
- (3) All developments; on-site mitigation. In addition to the above watershed area analysis, the Planning Board shall require an on-site storm drainage design analysis for all proposed developments that mitigates the ten-, twenty-five-, and one-hundred-year storm events in accordance with the standards contained herein. The following information shall be required:
- (a) Calculations of wetland areas on site.
 - (b) Analysis of soil conditions throughout the site.
 - (c) Analysis of the square footage and percent of impervious coverage in relation to the square footage and percent of area devoted to drainage proposed.
 - (d) Considerations of density of development appropriate to the above conditions.
 - (e) Proposed use and assessment of effectiveness of water pollution and erosion control devices (e.g., absorption pillows, hay bales, swales, etc.).
 - (f) Conformance with DPW standards for maintenance and performance.
 - (g) Consideration of existing or potential public water supplies on or near the site.
 - (h) Design calculations shall be based on the ten-, twenty-five-, and one-hundred-year storm event for all ponding areas and twenty-five-year storm event for pipe sizing.

- (i) TR-55 or TR-20 model calculations as deemed appropriate by the Town Engineer for the project design.
 - (j) Demonstration of no increase in the rate of discharge from pre-development to post-development conditions.
 - (k) Demonstration that post-development runoff volume shall not exceed pre-development volumes.
- (4) On-site drainage systems, including detention areas, must meet the following performance standards: A fifty-foot buffer zone of existing vegetation shall be retained between all detention or siltation structures and adjacent uses or structures for protection of scenic corridors, surface water and wetlands subject to MGL c. 130 and c. 131 and/or local wetland bylaws. A thirty-foot buffer zone of existing vegetation shall be retained between all point source discharges of stormwater and surface waters and wetlands. However, the provision of this subsection shall not prohibit the selective clearing of trees and shrubs, the establishment of new vegetation better suited to the proposed conditions, or the discharge of stormwater across such buffer areas as any of these actions may be permitted by the Conservation Commission under an order of conditions.
- (5) Use of retention basins shall not be permitted except in combination with detention facilities and for the express purpose of containing the design storm for a twenty-four to forty-eight-hour period, or in Water Resource Protection Districts where the stormwater management system includes measures to abate the contaminants prior to recharge and where, in the Board's opinion, retention facilities will promote recharge that will benefit surface water or groundwater resources. Detention facilities shall be permitted insofar as such systems are designed to function as natural wetlands, having characteristics of side slopes, gradients, vegetation and topographic location which follow naturally occurring wetland types. Use of such artificial storm drainage systems shall not substitute for proper erosion control measures, including appropriate design for soil and slope conditions. Design of such facilities shall observe the following guidelines:
- (a) Side slopes of wetland/detention areas shall be no steeper than 3:1 horizontal to vertical relationship.
 - (b) A maximum of 2% slope shall be permitted for the bottom of the wetland/basin.
 - (c) Where clearing and/or regrading of the site may be unavoidable for installation of the basin and necessary structures, vegetation shall be reestablished in conformance with the proposed landscape plan.

- (d) The prohibition of undesirable or unnatural accumulation of water shall refer to stagnant, pond waters, but not to wet systems, which are designed to have continuous stream flow through the basin. Ground infiltration by means of leaching pits, leaching catch basins or similar facilities is not allowed as a means of calculating or mitigating stormwater disposal.
- (6) Drainage outfalls shall be designed in conformance with this subsection and shall further provide rip-rapped aprons in accordance with typical details shown in the appendix of these regulations,⁵⁵ and in every case shall provide a minimum of 30 feet of vegetation swale before the property line and above the high-water line of any stream, swamp, bank or wetlands. As with other drainage structures, detention areas shall have a positive outfall and connection to an existing water body, including wetlands as defined above, except in Water Resource Protection Districts where the stormwater management system includes measures to abate the contaminants prior to recharge and where, in the Board's opinion, retention facilities will promote recharge that will benefit surface water or groundwater resources. Basins and swales shall be incorporated into separate land parcels for this exclusive purpose rather than be shown as easements over areas required for other uses, or required to serve purposes of other bylaws or regulations of the Town of Marshfield.
- (7) Subsurface drains or subdrains. In areas where the finished grade of the roadway is less than four feet above the water table or in areas where less than four feet of fill is placed above water in swampy places, or any standing water, or in other areas where, in the opinion of the Board, the subgrade must be drained, a system of subdrains shall be designed for such areas. In addition, laterals may be required as directed by the Board in areas in which an undue amount of water could accumulate in the subgrade. The system of subdrains shall be discharged into the storm drainage system or otherwise disposed of in a manner satisfactory to the Board.
- (8) Storm drains.
 - (a) Storm drainage design is to conform to specifications of the Master Drainage Plan when applicable. Design shall be on the basis of a twenty-five-year storm. A complete storm drain system shall be designed for each street in the subdivision and shall be so laid out and of sufficient size to permit unimpeded flow of all natural waterways, to provide adequate drainage of all portions of the street system so that water does not accumulate thereon, to intercept stormwater runoff from the adjacent lots of the subdivision, and to eliminate undesirable or unnatural accumulation of water on any portion of the

55. Editor's Note: See Appendix B included as an attachment to this chapter.

subdivision or surrounding property to the satisfaction of the Board. The storm drain system shall include gutters, catch basins, manholes, culverts, drain lines, head walls and such other items as may be required to complete the system to the satisfaction of the Board.

- (b) Catch basins and manhole structures shall be preferably reinforced, precast concrete. Structures are not to be backfilled until inspected by the subdivision inspector.
- (c) Catch basins shall be located in pairs, one on each side of the road, at all low points or sag curves in the roadway, at intervals of 300 feet for grades up to 4%, 250 feet for grades from 4% to 6% and 200 feet for grades more than 6% and at or near corners of the way at intersecting streets. Catch basins will be in conformance with Marshfield DPW standards. Double-grate catch basins should be provided where warranted by runoff conditions.
- (d) Manholes shall be located at all changes in direction, either horizontally or vertically, of a drain line, or so located that no drain line greater than 300 feet in length would exist without either a catch basin or manhole. Manholes shall conform to Marshfield DPW standard. **[Amended 7-24-2017]**
- (e) Culverts shall be designed on the basis of a one-hundred-year storm and on the assumption that the entire drainage area is built up to the density and in the manner which the applicable section of the Zoning Bylaw allows. The calculations (or a copy thereof) necessary to determine the size of any culvert which carries a brook, stream, river or other natural waterway shall be submitted to the Board for review. Such calculations shall be based on a method (Rational Method or Talbot's Formula) acceptable to the Board for determining the size of waterway openings. All culverts shall have a head wall at each end, and any culvert over 36 inches in diameter shall include additional protection as approved by the Board for the roadway side slopes at the upstream end.
- (f) All the drains shall be a minimum of 12 inches in diameter and shall be laid on a slope of not less than 1/2 of 1%. If the system is designed as a self-cleaning system, the Board may accept a lesser minimum slope for the drain lines. A maximum pipe velocity of 10 feet per second shall be allowed, with a minimum velocity of 2 1/2 feet per second required. All final outfalls within or serving the subdivision shall extend to a natural waterway, or to drainage easements or pipe systems leading to waterways, and such pipe shall have a capacity of 25% greater than required by the calculations. Provisions shall be made for the disposal of surface water intercepted or collected by the system in such a manner that no flow is conducted

over Town ways or over the land of others unless a drainage easement is obtained or unless such flow, in essentially the same quantity, previously existed in the same location. Where adjacent property is not subdivided, provision shall be made for extension of the system by continuing appropriate drains to the boundary of the subdivision at such size and grade as will allow their proper projection.

- (g) A head wall with wing walls shall be provided at the outfall end of all drains. Use of pre-formed flared end sections for this purpose is also acceptable.
 - (h) No drainage outfall shall discharge at an elevation below the high-water line of a swamp, stream, or body of water as defined in Article II.
 - (i) Pipe outfalls shall be located away from dwellings a distance down grade equivalent to the required lot depth in the applicable zone.
 - (j) In the event that no specific requirement is given in these regulations, Massachusetts Highway Department standards shall apply.
- (9) Calculations. The calculations (or a certified copy thereof) to determine the sizes of all pipes and culverts in the drainage system shall be submitted to the Board for review. Such calculations should be based on the Rational Method and prepared by a registered professional engineer. A drainage analysis map shall show the tributary watershed area and downstream area affected by runoff, and drainage computations shall consider the entire watershed area. Where excessive poor soils or disturbed cover exists, calculations shall give consideration to frozen ground conditions, soil types and cover for all affected areas, including but not limited to lawns, base ground, graveled ways, etc.
- C. Sewer. Sewer pipes and related equipment, such as manholes and connecting Y's, shall be constructed in conformity with Marshfield DPW standards. Sewer pipes shall be installed where sewerage is proposed by the Sewerage Master Plan.
- D. Water. Preliminary approval for availability of adequate water supply must be obtained from the Board of Public Works. Design of the proposed installations of water distribution lines and appurtenances must also be approved by that Board. Water pipes and related equipment, such as hydrants and main shutoff valves, and service boxes, shall be installed within the subdivision as necessary to provide all lots on each street with adequate water supply for domestic and fire protection use and in conformity with specifications of the Department of Public Works (Marshfield). Pipe size shall be as specified by the Board of Public Works, but in no case shall be less than eight inches in diameter. The entire cost of installation, including connection to the

Town system and wages of the inspector, shall be borne by the owner. The Water Supervisor shall approve all materials. Taps on water mains shall be made and located as directed by the Water Division. Titles to mains and hydrant will not be accepted until at least six months after pressure has been put onto them, all measurements have been turned over to the Water Division, and all lines proven tight, after which 10% of the cost of the entire water installation or a minimum of \$500 will be held out for an additional year. No services shall be connected at the property line until an application has been filed at the Water Division office. Final approval of water system specifications shall be given by the Department of Public Works. Water lines in excess of 800 feet shall be required to be looped. **[Amended 7-24-2017]**

E. Pipes.

- (1) Sewer, water, gas and other underground utilities, if any, together with all connections to the proposed subdivision lots on both sides of the street, shall be laid after the roadway is subgraded but before application of the gravel base occurs. All such pipes shall be given a definite location as per the typical cross sections contained in the appendix of these rules and regulations.⁵⁶
- (2) Drainage pipes shall be of not less than 12 inches reinforced concrete, coated corrugated aluminum or plastic construction. All drainpipes shall have a minimum of 2 1/2 feet of cover, except that reduced cover may be permitted at the discretion of the Board if Class V reinforced concrete pipe is specified. Each length shall be laid true to line and grade as shown on the plan. Each length shall have a full firm bearing throughout.
- (3) The backfilling of all trenches shall be thoroughly tamped in accordance with Article IV, Design Standards and Required Improvements, and shall not be puddled.

F. Underground utilities.

- (1) All electrical, telephone, cable television and other utility wires shall be placed below ground in every subdivision unless the Board determines that such placement is not feasible or is not in the best interest of the Town. Such utilities shall be constructed according to the information contained in the appendix.
- (2) All service connections for utilities shall be clearly marked at the lot line and shall be installed so that electric, telephone, sewer, and water services are located perpendicular to the street at the lot line. Telephone and electric utilities shall be located at alternate side lot lines (at every other lot corner).

G. Easements. All easements shall comply with the following requirements:

56. Editor's Note: See Appendix A included as an attachment to this chapter.

- (1) If a waiver is granted allowing utility pipe lines to be placed in easements, said easements shall be 20 feet (or more if deemed necessary) in width and shall be adjacent to or centered on property lines unless otherwise permitted. Concrete bounds shall be set at all corners and angle points for the information of the landowners.
 - (2) Where a subdivision is traversed by a watercourse, drainageway, wetland, stream, or channel, the Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainageway, wetland, stream or channel and to provide for construction, maintenance, access or other necessary purposes.
 - (3) All easements must be of a form acceptable to the Town Clerk.
- H. Stone walls. Any removal or alteration of trees/stone walls on Town-designated scenic roads shall require an application and public hearing pursuant to the Scenic Road Act.⁵⁷

§ 405-11. Erosion control facilities; criteria and objectives.

As required under § 405-8 above, an erosion control plan shall be submitted which meets the following objectives and criteria:

- A. Keep disturbed areas small. No more than 50 feet wide, 100 feet long, and 20% of a single lot, or five acres of the overall tract, are recommended guidelines. Consideration of topographic, soil, and vegetative characteristics shall be demonstrated through identification of erodible soils, steep slopes, stream banks and drainageways, and measures designed to limit disturbance of these areas.
- B. Stabilize and protect disturbed areas quickly. Exposed areas and stockpiles should be revegetated within 30 to 60 days. Two methods are available for stabilizing disturbed areas, mechanical (or structural) methods and vegetative methods. In some cases, both are combined in order to retard erosion. The selected measure should be identified in a construction management plan submitted with the subdivision application.
- C. Keep stormwater runoff velocities low. Acceptable velocities are in the two to 10 feet per second range. The removal of existing vegetative cover during development and the resulting increase in impermeable surface area after development will increase both the volume and velocity of runoff. These increases must be taken into account when providing for erosion control. **[Amended 7-24-2017]**

57. Editor's Note: See MGL c. 40, § 15C, and Ch. 250, Streets and Sidewalks, Art. VII, Scenic Roads, of the Town General Bylaws.

- D. Protect disturbed areas from stormwater runoff. Conservation measures can be utilized to prevent water from entering and running over the disturbed area. Diversions and other control practices to intercept runoff from higher watershed areas, store or divert it away from vulnerable areas, and direct it toward stabilized outlets should be utilized. Selected measures should be identified in the proposed construction management plan.
- E. Retain sediment within site area. Sediment can be retained by two methods, filtering runoff as it flows and detaining sediment or detaining runoff for a period of time so that the soil particles settle out. The best way to control sediment, however, is to prevent erosion.

§ 405-12. Other facilities.

- A. Sidewalks. The Planning Board shall require sidewalks of such width and construction to be constructed in accordance with the typical cross section.⁵⁸ In no case shall sidewalks be less than five feet in width. They shall be of broom-finished portland cement concrete with one-inch-deep score lines spaced five feet apart on centers. Sections shall be a maximum of 30 feet in length, with sections separated from each other and from driveway sections by one-half-inch-thick premolded bitumastic filler. The depth (thickness) of concrete and of filler shall be four inches except at driveways where it shall be six inches. Portland cement concrete driveway aprons from the sidewalk to the gutter line shall be constructed to the same specifications as the sidewalk where it crosses the driveway.
- B. Driveways. Proposed driveways shall be shown on the road construction plan and topographic plan and shall be designed to intersect the street at a grade not greater than 3% for a distance of 25 feet back from the edge of the traveled way and shall intersect generally at right angles and in locations having proper sight distances. Curb cuts for driveways shall not be placed within 50 feet of street intersections. Driveways within the lot shall not contain grades greater than 15%.
- C. Vegetation.
 - (1) Every effort shall be made to preserve the existing trees on the right-of-way and on the lots to be sold. Filling and cutting of roadways shall be done in such a manner as to preserve the trees and existing soil cover whenever possible. The Planning Board shall require that the applicant shall provide and plant suitable shade trees spaced not less than 40 feet apart along the way, variety to be approved by the Planning Board. Trees to be planted shall have a minimum height of 12 feet with eight-foot head clearance and shall be of at least three-inch caliper at the height of 42 inches from ground level. All trees shall be planted within the way lines, except

58. Editor's Note: See Appendix A included as an attachment to this chapter.

that, with written consent of the owner, trees may be planted up to 20 feet from the exterior lines of the way if deemed desirable by the Planning Board.

- (2) On slopes along the way where stabilization is required, or where lawn maintenance and moving may be unfeasible, a combination of ground covers and shrub plantings may be required by the Board. The landscape plan shall specify species, quantities and sizes of proposed plantings.
- D. Streetlighting. Streetlighting shall be provided only for the purpose of vehicular and pedestrian safety as recommended by the Police Safety Officer at locations that may present particular hazards, e.g., street intersections. Illumination for general residential purposes or security is not intended in single-family residential areas. The Board of Selectmen shall approve proposed streetlighting prior to endorsement of the definitive plan.
 - E. Fire alarm systems. Before approval of a plan, the Board may require the plan to show location and type of fire alarm system in accordance with recommendations of the Marshfield Fire Chief. The developer shall pay the cost of installation.
 - F. Parks and open spaces. Before approval of a plan by the Board, it may require the plan to show a park, or parks, suitably located for playground or recreation purposes or for providing light and air, and not unreasonable in area in relation to the land being subdivided and the prospective uses of such land, and make the appropriate endorsement on the plan, requiring that no building be erected upon such park or parks without its approval.
 - G. Slope stabilization.
 - (1) Slope is defined as the ratio of vertical rise over horizontal distance. Upon completion of grading and replacement of topsoil, slopes shall be appropriately stabilized to prevent erosion. Excessive slopes shall not be permitted. The Board shall approve an adequate slope stabilization plan.
 - (2) The following guide is recommended:
 - (a) Slopes more than 1 in 2: riprap or terracing. Not allowed where alternative layouts permit lesser slopes.
 - (b) Slopes of 1 in 8 to 1 in 2: sod or establishing vegetation or seedlings in association with webbing or approved mulch placed over the soil. Not allowed where alternative layouts permit lesser slopes.
 - (c) Slopes of 2 in 20 to 1 in 8: plant seed in association with webbing or approved mulch placed over the soil.

- (3) Appropriate temporary measures should be taken to prevent erosion of bankings and slopes during construction.

H. Retaining walls.

- (1) Wherever retaining walls may be required, design and type of wall construction shall be submitted to the Board for approval prior to installation.
- (2) All retaining walls shall be constructed on the line of the street layout.
- (3) Retaining wall shall have a maximum individual height of four feet and a total combination of no more than 12 feet in height.
- (4) Where several retaining walls are used, a minimum five-foot separation shall be provided between walls.

I. Dwellings per lot. Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town, without the consent of the Planning Board, and such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision.

J. Impediments to access. In order to provide safe access and egress for all subdivisions, no temporary or permanent gate, fence or other obstruction may be erected on any portion of the right-of-way unless permitted by the Board.

ARTICLE V
Completion of the Way

§ 405-13. Monuments. [Amended 7-24-2017]

Stone or approved reinforced concrete bounds shall be placed on both sides of the street at all angle points, at the beginning and end of all curves, and at all intersections of streets and ways. Intermediate bounds must be set where the distance between bounds would otherwise exceed 500 feet. Bounds shall be not less than three feet in length and not less than six inches in width and breadth. No permanent monuments or bounds shall be installed until all construction, which would destroy or disturb the monuments, is completed and the top of the bounds shall be set to finished grade. The bounds are to be set by a land surveyor who shall certify in writing that they conform to the approved subdivision plan. Bounds shall also be set for all front lot corners before utilities are installed to ensure accurate measurement for utility location. All street monuments are to be accurately tied into three or more suitable objects selected for their durability and prominence. This information is to be provided to the Town Engineer on a copy of the street layout or the subdivision plan.

§ 405-14. Curbs.

When vertical or slope block granite street curbing is required, it shall be in accordance with the standards set forth below, and all culs-de-sac and curves with a radius of 60 feet or less shall be of vertical granite only. Cape Cod berm when specified shall be used throughout, except that vertical granite curb inlets with appropriate inclined transition sections (of vertical granite) shall be provided at all catch basins. The curb inlet and catch basin installation shall conform to the typical curb inlet detail drawing.⁵⁹

- A. Granite curbs; general. Curbstone shall be of hard and durable granite, or a light color satisfactory to the Engineer, free from seams which impair its structural integrity, and of a good smooth splitting appearance. Granite shall come from approved quarries and, when tested, shall have a Los Angeles percentage of wear not more than 32. Test samples shall be hand broken.
- B. Slope granite curbing.
 - (1) Dimensions.
 - (a) The stones for the several types of slope curb shall be cut to the dimensions given in the following table:

59. Editor's Note: See Appendix B included as an attachment to this chapter.

Depth of Slant Face Type (inches)	Thickness (inches)	Length* (feet)
SB 12	3 to 6	3 to 6

* Minimum lengths do not apply to radial slope curb.

- (b) Maximum lengths of stones shall be as directed by the Engineer, when the curb is used on curves of 100 feet radius or less.
- (2) Finish. Finish and surface dimensions for the several types of stone curb shall conform to the following requirements:
- (a) Exposed face shall be smooth quarry split to an approximately true plane having no projections or depressions which will cause over one inch to show between a two-foot straight edge and the face when the straight edge is placed as closely as possible on any part of the face. If projections on the face are more than that specified, they shall be dressed off. Drill holes will be permitted on the exposed face, but only along the bottom edge.
 - (b) Arris line, top front, shall be pitched to a line, which shall not show over 1/2 inch in any direction between the stone and a straight edge laid the full length of the stone.
 - (c) Arris line, bottom front, shall be pitched so that not over 1/2 inch shall show between the stone and a straight edge, the full length of the stone, when viewed at right angles to the plane of the face.
 - (d) Arris lines at ends shall be pitched with no variation from the plane of the face more than 1/4 of an inch.
 - (e) Ends shall be square to the plane of the face and so finished that when stones are placed end to end, as closely as possible, no space more than 3/4 of an inch shall show in the joint for the full depth of the face.
 - (f) Tops and bottoms shall not be under the square more than four inches or over the square at the back more than one inch.
- (3) Mortar.
- (a) Mortar for pointing joints shall be composed of equal parts of air-entraining cement and sand with sufficient water to form a workable mixture. Materials shall conform to the requirements of ASTM C-91 and C-144.
 - (b) Setting methods. Slope granite curb shall be set at line and grade required. Top line of curb shall be set straight and true

allowing natural variations in depth of curb to occur at the bottom of the face. Spaces under the stones shall be filled with approved material and so tamped that the slope granite curb will bear and be completely supported throughout its entire length and width at the required line, grade and slope. Curbstones shall not fit closer to each other than 1/4 of an inch; otherwise, they shall be fitted together as closely as possible.

- (c) Pointing joints. Joints shall be primed and caulked with a beak of Thiokol or approved equal. Joints shall be filled with mortar when necessary, to provide adequate base for caulking.
- (d) Protection. The contractor shall protect slope granite curb and keep stones in first-class condition until completion of the entire contract. Particular care shall be exercised to prevent any discoloration of exposed surfaces.

C. Vertical granite curbing.

- (1) Dimensions. The stones for several types of curb shall be cut to the dimensions given in the following table:

Type:	VA
Width at top:	5 inches
Depth:	17 to 19 inches
Minimum length:	6 feet
Minimum width at bottom:	5 inches (for 2/3 length)

- * Minimum lengths do not apply to radial curb and closures. Type VA-4 curbstones to be set on a radius of 160 feet or less shall be out to the curve required, unless otherwise directed by the Engineer.

- (2) Finish. Finish and surface dimensions for the several types of curb shall conform to the following requirements: Type VB curb:
 - (a) Top surface of curbstones shall be sawed to an approximately true plane.
 - (b) Exposed arris lines shall be pitched straight and true with no variation from a straight line greater than 1/8 of an inch.
 - (c) Back surfaces of curbstones shall have no projection for a distance of three inches down from the top, which would exceed a batter of four inches in 12 inches.
 - (d) Front face shall be at right angles to the plane of the top and shall be smooth quarry split. Drill holes in exposed part of face will not be permitted.

- (e) Front face shall have no projections greater than $\frac{3}{4}$ of an inch or depressions greater than $\frac{1}{2}$ inch measured from the vertical plane of the face through the top arris line for a distance down from the top of eight inches. Remaining distance shall have no projections greater than one inch measured in the same manner.
 - (f) Ends of all stones shall be square with the planes of the top and face and so finished that when stones are placed end to end, as closely as possible, no space more than $\frac{1}{2}$ inch shall show in the joint for the full width of the top or down on the face for eight inches. Remainder of end may break back not over eight inches from the plane of the joint.
- (3) Mortar. Mortar for pointing joints shall be composed of equal parts of air-entraining cement and sand with sufficient water to form a workable mixture. The materials shall conform to the requirements of ASTM C-91 and C-144.
- (4) Setting curbstones.
- (a) Curb shall be set at line and grade required, and it shall project seven inches above the shoulder grade or pavement, unless otherwise directed or called for on the plans.
 - (b) Curbstones for Type VA-4 curb shall not fit closer to each other than $\frac{1}{8}$ of an inch; otherwise they shall be fitted together as closely as possible.
- (5) Granite curb inlets.
- (a) Granite for curb inlets shall meet the requirements of Subsection A.
 - (b) Curb inlets shall not be less than five feet, 11 inches, or more than six feet, one inch, in length, from 17 inches to 19 inches in depth, and match other curbing in width.
 - (c) Finish of curb inlets shall meet the requirements of Subsection C.
 - (d) Mortar shall conform to Subsection B(3).
 - (e) Pointing shall conform to Subsection B(3)(c).

§ 405-15. Driveways.

A driveway opening is to be left in front of each lot at the best suited location and is to be shown on the road detail plan. A five-foot minimum inclined transition section of vertical granite curbing is to be set at each side of the driveway opening whenever granite curbing is installed. Minimum curb opening is to be 15 feet. Abandoned curb cuts must have required curbing installed and sealed. Changes in the location of curb cuts

from that shown on the definitive plan may be considered a modification of the approved plan and must receive the approval of the Board in writing, whether a major or minor change (see § 405-8I).

§ 405-16. Street signs.

Street signs to specification of the Superintendent of the DPW are to be furnished and installed for every intersection by the developer. The developer shall maintain street signs until the Town accepts the ways. Said signs are required to be installed by the developer following the installation of the base course of the roadway, and prior to issuance of building permits. In the event that the covenant is released by the posting of surety, the applicant shall place at least temporary street signage at all intersections until the base course, as required above, is completed. In addition to the sign stating the name of the street, the applicant shall be responsible for installing a sign beneath the street name that reads "Not a Town Way." This sign shall remain in place until the Town accepts the street.

§ 405-17. Street acceptance.

- A. Approval of the definitive plan does not constitute the layout or acceptance by the Town of streets shown on the plan.
- B. The developer shall provide a street layout plan suitable for recording containing all necessary information for Town acceptance of the streets. This street layout plan shall be provided prior to the release of security for the subdivision.
- C. After completion of construction, the developer shall execute an instrument, in a form acceptable to Town Counsel, transferring to the Town, without cost, valid unencumbered title to the right-of-way and all utilities installed therein, the drainage system, including any drainage lots and/or easements, and any other easements associated with the subdivision.
- D. The Board shall retain a minimum of \$10,000 surety or one lot for a period not to exceed 24 months after completion of the subdivision and the submittal of as-built and street acceptance plans acceptable to the Planning Board and Town Engineer or until the streets are accepted by the Town, whichever comes first. After this date, the Board shall return the remainder of the security to the person or persons who furnished the same.
- E. Once street acceptance plans have been submitted and approved by the Town, the developer shall be responsible for petitioning the Board of Selectmen and Department of Public Works to accept the streets. The developer shall be responsible for repairing all damage to constructed ways and municipal services within the roadway layout and shall be responsible for maintaining all landscaping for the time periods set forth in Subsection D.

§ 405-18. As-built plans.

Prior to final release of his security, the developer shall provide the Town with as-built plans of all roads, drainage systems, etc., on durable material from which contact print copies can be made. These plans shall show the precise location, size, type, etc., of all required construction, as built, and shall include, but not be limited to, the components of water, sewer, and drainage system, other public utilities, elevations, slopes, street layout monuments, etc., as necessary to show that design requirements have been met and changes documented. These plans shall be certified by the designing engineer that the information shown correctly represents the construction as built.

§ 405-19. Site cleanup.

The entire area of the subdivision shall be cleaned of all dirt, debris, construction materials, etc., leaving a neat and presentable appearance. The complete storm drainage system, including catch basins, manholes and pipes, shall be properly cleaned and free of debris.

§ 405-20. Certificate of occupancy. [Amended 7-24-2017]

No certificate of occupancy may be applied for, or issued by the Building Commissioner, with respect to any structure erected on any lot located in an approved subdivision until the Board has certified that the ways and municipal services designed to serve such lot have been constructed and installed in accordance with these rules and regulations.

§ 405-21. Streets of record.

No new subdivision which will relocate or eliminate existing streets of record will be approved until the applicant has provided proof that said streets are clear in title and free of all encumbering rights of others.

ARTICLE VI
Administration

§ 405-22. Waivers; Subdivision Control Law.

- A. The Board may, when appropriate, waive such portions of these rules and regulations when, in its judgment, such action is in the public interest and not inconsistent with the purpose of the Subdivision Control Law. **[Amended 7-24-2017]**
- B. For matters not covered by these rules and regulations, reference should be made to MGL c. 41, §§ 81K through 81GG, inclusive, as amended.

§ 405-23. Supervision and inspection.

All work required by these rules and regulations shall be under the supervision of and with the approval of the respective Town departments involved hereunder. It shall be the responsibility of the applicant and/or contractor to give one week's written notice to the pertinent agency in order that inspection may be scheduled. Costs of all inspectors shall be borne by the developer.

§ 405-24. Pre-construction meeting.

The applicant shall request a pre-construction meeting through the Planning Board office prior to commencement of any work within an approved subdivision.

§ 405-25. Responsibility of owner.

- A. All work performed under these rules and regulations shall be the responsibility of the owner.
- B. The purpose of inspection is to assure that good practices are followed in constructing the project in accordance with the designs and specifications, and not to establish these practices.
- C. Inspection does not relieve the owner of his responsibility to do the work properly in accordance with the rules and regulations.
- D. The owner should maintain his own quality control staff. Inspection by the Town of Marshfield is only to ascertain that this quality control is being maintained.
- E. Inspection by the Town of Marshfield will be on a sampling technique basis and does not guarantee freedom from failure. Only conscientious and capable effort by the owner and/or contractor produces desired end results.

Chapter 408

AGE-RESTRICTED ADULT VILLAGE

GENERAL REFERENCES

Zoning — See Ch. 305.

Subdivision of land — See Ch. 405.

§ 408-1. General provisions.

- A. Purpose and authority. The following rules are hereby adopted by the Marshfield Planning Board as provided in MGL c. 40A for the purpose of establishing uniform procedures for the granting of special permits for the development of elderly and handicapped housing. These regulations were amended on December 15, 2003, in order to encourage the production of housing units that are affordable in perpetuity to elderly and handicapped persons of low or moderate income.
- B. Adoption and amendment. These rules and regulations may be adopted and from time to time amended by majority vote, provided such adoption or amendment is submitted in writing at a meeting of the Board and action thereon taken after a public hearing.
- C. Effective date. These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as date of adoption, date filed with Town Clerk, and dates of amendments.

§ 408-2. Applicant.

An application or petition for a special permit may be brought by a property owner, agent or prospective purchaser who submits certification of property interest and authority to file.

§ 408-3. Pre-application conference.

The Planning Board may hold pre-application conferences at any regular or special meeting of the Board. If the applicant proposes to include affordable units within the development, the applicant is encouraged to attend a pre-application conference with the Marshfield Housing Authority. Concept plans may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of the Zoning Bylaw for the special use.⁶⁰

§ 408-4. Application for special permit.

60. Editor's Note: See Ch. 305, Zoning, § 305-11.08, Age-Restricted Adult Village.

A. Official application form. Application for special permits shall be made on an official form, which shall be furnished by the Town Clerk or the staff of the Planning Board upon request. This will include a copy of the monitoring agreement to be signed upon completion of construction with the Marshfield Housing Authority. Any communication not on an official form shall be considered as a notice of intention to apply and not as an application. All information indicated on the form shall be accurately and fully supplied by the applicant. Failure to meet this requirement will be considered a failure to submit an application, and no public hearing will be scheduled.

B. Certified list of abutters.

- (1) The applicant shall obtain from the Board of Assessors a certified list of the names and addresses of all owners of land abutting the proposed development as appearing in the most recent tax list. The applicant shall mail the notice to abutters by certified mail, return receipt requested, not less than 10 days before the date of the hearing. The prepared notice shall be verified by the Planning Board or its agent before being mailed by the applicant. The applicant shall submit envelopes addressed to each abutter along with certified mail, return receipt requested slips, to be filled out for each abutter. Return receipts are to be addressed to the Planning Board for further verification:

Marshfield Planning Board

Town Hall

870 Moraine Street

Marshfield, MA 02050

- (2) Failure to comply with the requirements of this section will result in the continuation of the public hearing.

C. Contents of an application. The completed application form, original plan and 17 copies shall be submitted to the Planning Board with an additional copy filed with the Town Clerk by the applicant. The following information shall be furnished by the applicant:

- (1) A site plan drawn at a scale of one inch equals 40 feet, unless another scale is previously requested and found suitable by the Board.
- (2) A professional engineer, registered architect or registered landscape architect shall prepare the site plan.
- (3) The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury.

- (4) The scale, date and North arrow shall be shown.
- (5) Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
- (6) Easements within the lot and abutting thereon.
- (7) The location of existing or proposed buildings on the lot shall be shown with the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. The information shall be sufficient so that the Board may make recommendations regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.
- (8) The total number and breakdown of elderly and/or handicapped dwelling units, including designation of dwelling units reserved in perpetuity for occupancy by persons or families of low or moderate income. Affordable housing units shall be of comparable design and construction and shall not be segregated from market-rate or larger dwelling units in the development in which they are proposed.
- (9) The location of existing wetlands, vernal pools, water bodies, wells, one-hundred-year floodplain elevation, streams, vistas, slope areas, geological features, unique vegetation, historic features, and other natural features that may be important to the site. Where wetland delineation is in doubt or dispute, the Planning Board shall require the applicant to submit to the Conservation Commission a request for determination of applicability pursuant to MGL c. 131, § 40, and 310 CMR 10.05(3), the Wetlands Protection Act.
- (10) The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
- (11) Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property.
- (12) Existing and proposed topographical lines at two-foot intervals on tract and within 50 feet thereof.
- (13) Height of all buildings above average finished grade of abutting streets, including architectural details.
- (14) A landscape plan to include the total square feet of all landscape and recreation areas and depiction of materials to be used and the quantity, size, and species of plantings.

- (15) Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as an elderly and handicapped residential development, and that the land is in single or consolidated ownership at the time of final plan application.
- (16) The applicant shall submit information to address the following: measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; and projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours; the information and proposed mitigation measures shall apply to both on-site and related off-site conditions, as identified in § 305-11.08B, Required performance standards, of the Marshfield Zoning Bylaw. The scheduling of mitigation measures shall ensure that said remedies are in place and functioning properly at the time of project occupancy. The Planning Board reserves the right to require additional information as may be necessary to protect the public interests outlined in § 305-11.08 and relevant sections of the Zoning Bylaw.
- (17) The location and acreage of areas to be devoted to specific principal and accessory uses.
- (18) Existing and proposed street, parking, drainage, and utility system shall be prepared by a Massachusetts registered professional engineer and the property line plan by a Massachusetts registered land surveyor.
- (19) A locus plan at a scale of one inch equals 100 feet, 200 feet, or 400 feet showing the location, names, and present widths of the secondary streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography from Assessor's plans or field survey, if available, of properties therein.
- (20) The application shall also furnish a summary of the vital statistics of the project. Such statistics shall include: total gross and net square footage, number of parking spaces, estimated water consumption and sewage discharge, and total number and location of affordable units demonstrating compliance with required performance standards.
- (21) One copy of all local, state, and federal approvals, if obtained prior to site plan approval, including any variances obtained prior to site plan approval.

- (22) Applicants seeking an affordable housing density bonus shall demonstrate in their application that the affordable units comply with the requirements of 760 CMR 45.03, Local Initiative Units. The applicants shall complete and return with their application the attached worksheet titled "Local Initiative Program - Units Only Application" dated 2003, or as amended.⁶¹

D. Performance standards for affordable housing developments.

- (1) Applicants are required to include a minimum of 10% of the total number of dwelling units as affordable to households at or below 80% of the area median income as published by the Department of Housing and Urban Development.
- (2) Applicants shall include with their application a copy of the proposed resale restrictions for the affordable units. The restrictions shall remain in force in perpetuity and shall be approved as to form by legal counsel to the Planning Board, and the right of first refusal upon the transfer of such restricted units shall be granted to the Marshfield Housing Authority for a period not less than 120 days after notice thereof.
- (3) Applicants shall include with their application a copy of the proposed monitoring agreement with the Marshfield Housing Authority which will be signed upon completion of construction. The monitoring agreement shall remain in force for 99 years and shall be approved as to form by legal counsel to the Planning Board.
- (4) The applicant shall affirmatively take steps to utilize the Marshfield Housing Authority, a public agency, a nonprofit agency, limited dividend corporation, or other appropriate entity, and through a Local Initiative Program petition or other similar mechanism or program, cause application to be made to the Department of Housing and Community Development (DHCD), so as to timely furnish all forms and information necessary to promote the designation of those units designated as affordable as affordable units qualifying as part of the Subsidized Housing Inventory. The Planning Board shall require submission of application forms and appropriate information to the DHCD as a condition of approval.
- (5) Affordable units created through this special permit shall be marketed in a manner consistent with the affirmative marketing plan of the Marshfield Housing Authority.

§ 408-5. Fees. [Amended 7-24-2017]

All applications shall be accompanied by a certified check made payable to the order of the Town of Marshfield. All payments must be made within 30

61. Editor's Note: The worksheet is available at the Planning Board office.

days of billing date. Fees can be waived for applications from the Town of Marshfield and religious and nonprofit organizations, at the discretion of the Planning Board, on a case-by-case basis.

A. Administrative fees.

- (1) A minimum administrative fee as provided in Chapter 420, Fee Schedule, for a special permit application shall be charged to defray the expenses incurred by the Town for administrative costs.
- (2) The applicant will be charged an additional fee as provided in Chapter 420, Fee Schedule, if the application requires technical assistance from the Local Initiative Program staff. Review fees for eligibility for the affordable housing density bonus shall be deposited with and administered by the Planning Board.
- (3) Approved development applications will be assessed a monitoring fee as provided in Chapter 420, Fee Schedule, to support the work of the Marshfield Housing Authority to run a housing lottery and to ensure that the unit remains affordable in perpetuity. Developers will be required to pay all advertising costs for affordable units.

B. Consultant fees. Where normal in-house engineering services are unavailable and/or where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, hydrologic, or other consultant, the Planning Board may engage such consultant services to assist the Board in its review at the applicant's expense. The Board shall so notify the applicant in writing, along with an estimate provided by the Board's consultant of the cost of such studies the Board has determined to be necessary. Prior to commencement of such studies, the applicant shall post a minimum performance guarantee of \$5,000 in an interest-bearing escrow account with the Town Treasurer/Collector in the name of the Marshfield Planning Board. The consultant shall provide monthly invoices to the Planning Board for approval of services and shall report directly to the Planning Board as to his findings, investigations, scope of work, and action. The Planning Department shall inform the applicant of the need to deposit additional funds if at any time the Town's obligation to its consultant shall exceed the funds held in escrow for review purposes. Release of approved plans and building permits shall not be given until the Town has been compensated in full for review costs as outlined herein.

C. Other costs and expenses. The applicant is responsible for preparing addressed notices to abutters by certified mail, return receipt requested. The prepared notice shall be then verified by the Planning Board or its agent before being mailed by the Planning Board agent. Return receipts are to be addressed to the Planning Board for further verification. The prepared notices/certified mailing shall be delivered to the Planning Board agent with the application at the time of filing. Upon final action (filing of a decision with the Town Clerk) the Planning Board

shall return the balance of funds in escrow to the applicant but shall retain sufficient funds to cover any unpaid portion of any approved, outstanding invoice until such payment is made and shall so notify the applicant in writing.

- D. Special permit modification. The administrative fee to modify an existing special permit is as provided in Chapter 420, Fee Schedule. The applicant shall submit a check made out to the Town of Marshfield at the time of the request to modify the special permit.

§ 408-6. Planning Board review. [Amended 7-24-2017]

Upon a filing of application and plans with the Town Clerk, the Planning Board shall distribute copies of the plans and supporting information to the following Town departments: Planning Board, Planning Board Engineering Consultant, Planning Board Water Scientist (if within the Water Resource Protection District), Assessors, Town Clerk, Conservation Commission, Engineering Division, Water Division (two), Highway Division, Housing Authority, Board of Health, Building Department, Historical Commission, Police Department and Fire Department. Said distribution shall be completed within 10 days of the receipt of the plans and application by the Planning Board. In addition, where the property abuts or is accessed within 100 feet of a state highway (Route 3A or Route 139), the Planning Board shall mail a copy of plans and supporting application materials in a pre-addressed envelope, certified mail, to the District 7 office, Massachusetts Department of Transportation, to serve to alert both the applicant and the Department of Transportation of potential curb cut permit issues. These departments shall have 35 days to review and submit written comments to the Board. Failure of the various boards and commissions to make comments or recommendations within the thirty-five-day time frame shall be deemed by the Planning Board as a lack of opposition thereto.

- A. Decision report. If a special permit does not incorporate the suggestion of requirements of any properly filed report(s), or is issued contrary to its recommendations, the Planning Board shall issue a written decision stating the reasons for not following the recommendations or requirements of such report(s).
- B. Procedural review.
- (1) The Board, acting as the SPGA, shall follow all procedural requirements of MGL c. 40A, § 9.
 - (2) Public hearing. The Planning Board shall schedule a public hearing within 65 days of receipt of an application. Notice of said hearing shall be advertised and mailed to parties of interest as required.
 - (3) Action by the Board. Within 90 days of the close of the public hearing, the Planning Board shall file a decision with the Town Clerk, indicating approval, conditional approval, or denial of a special permit.

§ 408-7. Disposition of application.

- A. Withdrawal of application.
 - (1) An application may be withdrawn without prejudice by an applicant by notice in writing to the Clerk of the Board at any time prior to the first publication of the notice of the public hearing.
 - (2) After such notice, withdrawal of an application shall be permitted only by majority vote of the Board.
- B. Reconsideration. No vote on an application may be reconsidered after the meeting at which the decision was rendered has been adjourned.
- C. Appeals. Any person aggrieved by a decision of the Board as special permit granting authority may appeal such decision as provided in MGL c. 40A, § 17, within 20 days after such decision has been filed in the office of the Town Clerk.
- D. Reapplication. No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a special permit within two years after the date of the said final unfavorable action, unless the Board finds by vote of four members specific and material changes in the conditions upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in § 408-6 of these rules and regulations.
- E. Lapse of special permit. Per Subsection E(4) of § 305-11.08 of the Zoning Bylaw, every special permit authorized by the Board shall contain the express condition that it will lapse if substantial use under the permit is not commenced within two years from the date of final action by the Board, except for good cause, or the final determination of an appeal.
- F. Extension of special permits. No special permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Registry of Deeds and indexed under the name of the record owner of the land.

§ 408-8. Performance bond.

As a condition to a special permit, the applicant shall post a performance bond to cover the period of construction or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the expiration of the twenty-day appeal period, unless the Board shall specify otherwise. The purpose of the bond is to assure correction of drainage, erosion control or safety problems which may affect abutters or the public. If the applicant is not the owner and must purchase to assume such obligations, he shall comply within 20 days following the date of purchase.

Upon completion of construction work, and satisfactory inspection by the Planning Board or its agent, the bond shall be returned to the applicant. In the event of any dispute, the Planning Board shall have the right to require as-built plans certified by the appropriate registered architect, professional engineer, or surveyor as a basis for its findings.

§ 408-9. Severability.

The provisions of these rules and regulation are severable. If any provision of these rules and regulations is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations or any of their provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

§ 408-10. Waiver of full compliance.

Full compliance with these regulations may be waived by the Board, provided such waivers are deemed to serve the public interest and are not conflicting with MGL c. 40A.

Chapter 411

OPEN SPACE RESIDENTIAL DEVELOPMENT

GENERAL REFERENCES

Zoning — See Ch. 305.

Subdivision of land — See Ch. 405.

§ 411-1. General provisions.

- A. Purpose and authority. The following rules and regulations are hereby adopted by the Marshfield Planning Board as provided in MGL c. 40A for the purpose of establishing uniform procedures for the granting of special permits for the development of open space residential developments pursuant to § 305-11.04 of the Marshfield Zoning Bylaw.
- B. Adoption and amendment. These rules and regulations may be adopted and from time to time amended by majority vote, provided such adoption or amendment is submitted in writing at a meeting of the Board and action thereon taken after a public hearing.
- C. Effective date. These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as date of adoption, date filed with Town Clerk, and dates of amendments.

§ 411-2. Applicant.

An application or petition for a special permit may be brought by a property owner, agent or prospective purchaser who submits certification of property interest and authority to file such application.

§ 411-3. Pre-application conference.

The Planning Board may hold a pre-application conference at any regular meeting of the Board. Concept plans may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of the Zoning Bylaw for the application.

§ 411-4. Application for special permit.

- A. Application form. Application for special permits shall be made on an official form, which shall be furnished by the Town Clerk or the Planning Board office upon request. All information indicated on this form and listed under § 411-4B of these rules and regulations shall be supplied by the applicant at the time of application. Failure to meet this requirement will be considered a failure to submit an application and no public hearing will be scheduled. The special permit application shall be submitted concurrently with a fully completed application under the Subdivision Control Law.⁶²
- B. Contents of an application. The completed application form, original plan and nine copies of all information shall be submitted to the Planning Board with an additional copy filed with the Town Clerk by the applicant. The following information shall be furnished by the applicant:
 - (1) Plans meeting the requirements of the Marshfield Subdivision Rules and Regulations showing proposed ways, lots, utilities, street trees, erosion controls, etc. The plans shall also depict the proposed open space required by the Zoning Bylaw and the cover sheet shall include the open space calculations required by the Zoning Bylaw.⁶³ **[Amended 7-24-2017]**
 - (2) Drainage calculations meeting the requirements of the Subdivision Rules and Regulations.
 - (3) Proof of ownership of all property subject to the application or a notarized statement by the owner(s) of the property authorizing the applicant to file an application for the property.
 - (4) A narrative describing the method of calculation of the number of proposed building lots and a sketch plan, as necessary, to demonstrate that the number of building lots does not exceed those that would be permitted under a conventional subdivision that

62. Editor's Note: See MLG c. 41, § 81k et seq.

63. Editor's Note: See Ch. 305, Zoning, and Ch. 405, Subdivision of Land.

complies with the Marshfield Zoning Bylaw and the Subdivision Rules and Regulations and other applicable laws.

- (5) A narrative describing any requested modifications of setback requirements as specified in § 305-11.04E(4) and noting the proposed lots for which setback reductions are being sought.
- (6) A narrative describing the manner in which the open space will be permanently protected [from the options provided for in § 305-11.04G(1) and (2) of the Zoning Bylaw] and any uses and facilities proposed within the open space. If several uses are proposed, the plans shall specify what uses will occur in what areas. The narrative shall also address compliance of the open space with the design requirements in § 305-11.04H of the Zoning Bylaw.
- (7) A draft copy of any proposed declaration of covenants and restrictions and/or conservation restrictions governing the land subject to the application.
- (8) A draft easement for the maintenance of the open space, if applicable, as specified in § 305-11.04G(4) of the Marshfield Zoning Bylaw.
- (9) A traffic study if the land subject to the application will meet the thresholds specified in § 305-11.10 of the Marshfield Zoning Bylaw.

§ 411-5. Fees.

- A. Application fee. Applicants shall pay the administrative and consulting review fee required by the Subdivision Rules and Regulations.⁶⁴ This consulting review fee may be expended as specified in the Subdivision Rules and Regulations for review of the combined subdivision/special permit application. No additional fee is associated with the special permit application.
- B. Other costs and expenses. The applicant is responsible for mailing notices to abutters by certified mail, return receipt requested. Return receipts are to be submitted to the Planning Board prior to the public hearing.
- C. Fee waiver. Fees can be waived for applications from the Town of Marshfield and religious and nonprofit organizations, at the discretion of the Planning Board, on a case-by-case basis. **[Amended 7-24-2017]**
- D. Special permit modification. The administrative fee to modify an existing special permit is established in Chapter 420, Fee Schedule. The applicant shall submit a check made out to the Town of Marshfield at the time of the request to modify the open space residential development (OSRD) special permit. **[Amended 7-24-2017]**

64. Editor's Note: See Ch. 405, Subdivision of Land.

§ 411-6. Planning Board review.

- A. Distribution of plans. Upon filing of a complete application, the Planning Board shall distribute copies of the plans and supporting information to the following Town departments: Conservation Commission, Department of Public Works, Board of Health, Building Department, Historical Commission, Police Department and Fire Department. Such distribution shall be completed within five days of the receipt of the plans and application by the Planning Board. In addition, where the property abuts or is accessed within 100 feet of a state highway (Route 3A or Route 139), the Planning Board shall mail a copy of plans and supporting application materials, by certified mail, to the regional office of the Massachusetts Department of Transportation. **[Amended 7-24-2017]**
- B. Submittal of comments. These departments shall have 35 days to review and submit written comments to the Board. Failure of the various boards and commissions to make comment or recommendations within the thirty-five-day time frame shall be deemed by the Planning Board as lack of opposition thereto. Notwithstanding this deadline, the Planning Board reserves the right to request comments from boards that have failed to do so based on issues raised at the public hearing and to consider those comments in making its final decision.
- C. Decision report. If the special permit does not incorporate the suggestions or requirements of any reports from Town departments or is issued contrary to their recommendations, the Planning Board shall in its written decision state the reasons for not following the recommendations or requirements of said reports.

§ 411-7. Hearing and decision.

The Planning Board, acting as the special permit granting authority, shall follow all procedural requirements for special permits set forth in MGL c. 40A, § 9. In addition, the Board shall render its decision within the time frame for definitive subdivision plans specified in MGL c. 41, § 81U, whenever this time frame is shorter. Public hearings for the subdivision and special permit shall be held concurrently. Applicants are encouraged to file any necessary applications for special permits under the Water Resource Protection District Bylaw⁶⁵ so that this hearing may also be held concurrently. Appeals of the special permit decision shall be in accordance with MGL c. 40A, § 17.

§ 411-8. Reapplication.

No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a special permit within two years after the date of such unfavorable action, unless the Board finds by a vote of four

65. Editor's Note: See Ch. 305, Zoning, § 305-13.03.

members specific and material changes in the conditions upon which the previous unfavorable action was based, and such changes are described in the record of the Board's proceedings, and after notice is given to parties in interest of the time and place of the proceedings to reconsider said application.

§ 411-9. Effective date of special permit.

No special permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeal has been filed is recorded in the Registry of Deeds and indexed under the name of the record owner of the land.

§ 411-10. Performance guarantee.

A performance guarantee shall be required in accordance with MGL c. 41 and the Marshfield Subdivision Rules and Regulations.⁶⁶

§ 411-11. Severability.

The provisions of these rules and regulations are severable. If any provision is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations or any of their provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

Chapter 414

PLANNED MIXED-USE DEVELOPMENT OVERLAY DISTRICT

GENERAL REFERENCES

Zoning — See Ch. 305.

Subdivision of land — See Ch. 405.

§ 414-1. General provisions.

- A. Purpose and authority. The following rules and regulations are hereby adopted by the Marshfield Planning Board as provided in MGL c. 40A for the purpose of establishing uniform procedures for the granting of special permits for development within the Planned Mixed-Use Development (PMUD) Zoning Overlay District pursuant to § 305-11.05 of the Marshfield Zoning Bylaw. The purpose of the district, as stated in the Zoning Bylaw, is as follows:

66.Editor's Note: See Ch. 405, Subdivision of Land.

- (1) To provide an opportunity to comprehensively plan a large tract of land in a pedestrian-friendly, campus-like setting, around a public green.
 - (2) To ensure high-quality site planning, architecture and landscape design to create a distinct visual character and identity for the development that provides an environment with safety, convenience and amenity.
 - (3) To ensure any potential traffic impacts of the planned mixed-use development are properly mitigated and in keeping with the character of the Town of Marshfield.
 - (4) To generate positive tax revenue, while providing the opportunity for new business growth and additional local jobs.
- B. Adoption and amendment. These rules and regulations may be adopted and from time to time amended by majority vote of the Planning Board, provided such adoption or amendment is submitted in writing at a meeting of the Board and action thereon taken after a public hearing.
- C. Effective date. These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as date of adoption, date filed with Town Clerk, and dates of amendments.

§ 414-2. Applicant.

An application or petition for a special permit may be brought by a property owner, agent or prospective purchaser who submits certification of property interest and authority to file such application for the area of land comprising the application locus.

§ 414-3. Pre-application conference.

It is recommended that an applicant meet with the Planning Board staff and Building Department prior to submitting either a subdivision and land classification plan or a special permit application. The applicant should provide a concept plan (for discussion purposes) for said meeting. A pre-application conference is to assist in the identification of issues and in determining information necessary to meet the requirements of the Zoning Bylaw for the application. If determined necessary by staff and requested by the applicant the Planning Board may hold a pre-application conference at any regular meeting of the Board.

§ 414-4. Planned mixed-use development application process.

A planned mixed-use development is a two-step process, which allows the Town and an applicant greater flexibility in the development of the land within the overlay district. These rules and regulations are intended to establish specific guidelines regarding submittal requirements, review procedures, and required performance standards.

- A. Phase I. The applicant files a definitive subdivision and land classification plan as described in § 414-5 for a phase or combination of phases for land within the PMUD Overlay District. The plan locus for each phase must include at least 30 contiguous acres within the PMUD Overlay District as shown on the Town of Marshfield Zoning Map, as amended. Additional land can be added to or substituted within a phase, from time to time, provided that the thirty-acre minimum locus is preserved and that a revised definitive subdivision plan is filed. The definitive subdivision plan and land classification plan for each phase shall contain the overall road network, roadway drainage, location of the public green, bike and pedestrian ways, lots and proposed uses by phase.
- B. Phase II. The applicant files a special permit application as described in § 414-6 with the Planning Board, serving as the special permit granting authority (SPGA), for an element (or combination of elements) within a phase. An element may be a single use or group of uses within a phase of the overlay district.

§ 414-5. Phase I: definitive subdivision and land classification plan.

- A. Application form.
 - (1) Application for special permits shall be made on an official form, which shall be furnished by the Town Clerk or the Planning Board office upon request. All information indicated on this form and listed under § 414-5B of these rules and regulations shall be supplied by the applicant at the time of application. Failure to meet this requirement will be considered a failure to submit a complete application and the Planning Board will open and close the public hearing without testimony and shall deny the proposal. Such denial shall not subject the project to MGL c. 40A, § 16, relative to repetitive petitions.
 - (2) Applicants are encouraged to file any necessary applications for special permits under the Water Resource Protection District Bylaw⁶⁷ so that this hearing may be held concurrently.
- B. Contents of an application. The completed application form, original plan and 16 copies of all information shall be submitted to the Planning Board with an additional copy filed with the Town Clerk by the applicant. The following information shall be furnished by the applicant:
 - (1) The applicant or applicants must demonstrate proof of ownership of all property subject to the application or a notarized statement by the owner(s) of the property authorizing the applicant to file an application for the property.

67. Editor's Note: See Ch. 305, Zoning, § 305-13.03.

- (2) A locus plan at a scale of one inch equals 100 feet, 200 feet, or 400 feet showing the location, names, and present widths of the streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography from Assessor's plans or field survey, if available, of properties within the plan locus.
- (3) A conceptual site layout drawn at a scale of one inch equals 40 feet, unless another scale is previously requested and found suitable by the Board. The approximate locations of the buildings, setbacks and all other required dimensions, elevations and measurements and may be shown on the site layout.
- (4) Plans shall meet the requirements of the Marshfield Subdivision Rules and Regulations, § 405-8B(1)(a) to (w), and including the following required elements:
 - (a) The location of existing wetlands, streams and rivers, water bodies, wells, one-hundred-year floodplain elevation, slope areas, vistas, geological features including topography (two-foot contours), stone walls, fire trails, unique vegetation, historic features, and other natural features that may be important to the site.
 - (b) Existing and proposed street, parking, drainage, and utility systems prepared by a Massachusetts registered professional engineer.
 - (c) Property line plan by a Massachusetts registered land surveyor.
 - (d) Drainage calculations for proposed roadways meeting the requirements of § 405-10 of the Subdivision Rules and Regulations, including measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding.
 - (e) A landscape plan for all proposed roadway rights-of-way to include the total square feet of all landscaped areas, including a depiction of materials to be used, and the quantity, size, and species of plantings.
 - (f) A narrative describing the manner in which the land designated on the plans as public green(s) will be either placed under a permanent conservation restriction or deeded to the Town of Marshfield. The narrative shall also describe any uses and facilities proposed within the public green(s). If several uses are proposed, the plans shall specify what uses will occur in what areas. The narrative shall also address compliance of the public green(s) with the design requirements in § 305-11.05D(14) of the Zoning Bylaw.

- (g) A draft copy of any proposed declaration of covenants and restrictions and/or permanent conservation restrictions governing the public green(s) within the application or, if the public green(s) will be deeded to the Town, a statement to that effect.
- (h) A draft easement for the maintenance of the public green(s), as specified in § 305-11.05E(2) of the Marshfield Zoning Bylaw.
- (i) The application shall also furnish a summary of the vital statistics of the project. Such statistics shall include: total gross and net acreage of locus; total length of new roadways; area and maintenance plan for public green(s); and the acreage of land within the proposal, including the percentage of the total PMUD Overlay District dedicated to the allowable land uses listed in the required performance standards in § 305-11.05D(3) of the Marshfield Zoning Bylaw.
- (j) A traffic study for the land subject to the subdivision and land classification plan application. Said traffic study shall include information as specified in § 305-11.10 of the Zoning Bylaw. This overall traffic study will assist the Town and applicants (within the PMUD) to determine the overall impact of the development of each phase of the PMUD and determine the best mitigation package for the Town and development. It is also to provide the Planning Board and the applicant(s) a method to determine a fair share of the required mitigation package by element.
- (k) The proposed traffic mitigation measures shall apply to each element as approved under the special permit application (Phase II). Any changes to the anticipated traffic impacts, size or proposed uses of individual elements shall require updating and revising the traffic study. The Planning Board under the special permit application shall determine if said changes are acceptable.

C. Subdivision and land classification plan design objectives.

- (1) Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. Buildings shall be oriented around the public green and not Route 139 (Plain Street).
- (2) Except as the Planning Board may otherwise determine, access to Route 139 (Plain Street) from a PMUD shall be through a secondary street as defined in the Planning Board Subdivision Rules and Regulations⁶⁸ at a signalized intersection.
- (3) A public green shall be required for each phase of development within the PMUD, and a public green can serve more than one

68.Editor's Note: See Ch. 405, Subdivision of Land.

development phase. The public green(s) shall be a minimum of 1 1/2 acres in size per phase and be designed as a pedestrian-friendly park. The public green(s) shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. Each green shall be used solely for active and passive recreation purposes and shall be open to the public. The total acreage of the green in each phase may be used toward the land area calculations to determine allowable density for one of the uses within that phase.

- (4) The Board shall review all submittals for compliance with the required performance standards under § 305-11.05D of the Zoning Bylaw and with the criteria for review and approval under § 305-11.05F of the Zoning Bylaw.

§ 414-6. Phase II: special permit application.

Upon approval of a subdivision and land classification plan application under the Phase I regulations, an applicant may submit a special permit application for an individual element or group of elements. Phase I and Phase II plans may be filed and reviewed concurrently, but the Planning Board may continue the public hearing on a Phase II application until a decision has been issued and the appeal period has passed for the Phase I approval.

A. Application form.

- (1) Application for special permits shall be made on an official form, which shall be furnished by the Town Clerk or the Planning Board office upon request. All information indicated on this form and listed under § 414-6B of these rules and regulations shall be supplied by the applicant at the time of application. Failure to meet this requirement will be considered a failure to submit an application and no public hearing will be scheduled.
- (2) Applicants are encouraged to file any necessary applications for special permits under the Water Resource Protection District Bylaw⁶⁹ so that this hearing may be held concurrently.

B. Contents of an application. Any person desiring approval of a site plan under this section shall submit 16 copies of said plan, with application for approval thereof, directly to the Planning Board with an additional copy filed with the Town Clerk. The Board shall, within 10 days after receipt thereof, distribute such plans as provided in § 414-8A herein. Applicants are encouraged to meet informally with the Planning Board staff and the Building Commissioner prior to making a formal submission of plans to discuss site plan requirements and design objectives. The Board may provide a set of guidelines to assist applicants in meeting site plan, architectural and landscaping

69. Editor's Note: See Ch. 305, Zoning, § 305-13.03.

objectives. The site plan submitted to the Board shall show, among other things as may be required by the Board in the proper administration of this section: **[Amended 7-24-2017]**

- (1) All existing and proposed buildings, structures, parking areas, loading areas, driveway openings, driveways, walkways, access and egress points, service areas, recreation areas and other open spaces, including dimensions and all elevations.
- (2) Existing and proposed easements within the lot.
- (3) Existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems.
- (4) Wetlands, streams, bodies of water, and drainage swales.
- (5) The location and description of all existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot, including two-foot contours, walks, fences, walls, planting areas, and greenbelts.
- (6) Percent of building lot coverage.
- (7) Height of all buildings above average finished grade of abutting streets, including architectural details, and the amount(s) in square feet of proposed building(s).
- (8) Impervious surface area and open space (natural and landscaped) of the lot.
- (9) A traffic study if the land subject to the application will meet the thresholds specified in § 305-11.10 of the Marshfield Zoning Bylaw. Include projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
- (10) Proposed traffic mitigation measures applying to both on-site and related off-site conditions, as identified in § 305-11.05F(3), required performance standards, of the Marshfield Zoning Bylaw. The scheduling of mitigation measures shall ensure that said remedies are in place and functioning properly at the time of project occupancy.
- (11) The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
- (12) The location of existing or proposed buildings on the lot shall be shown with the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. The information shall be sufficient so that the Board may make recommendations regarding, among other things, the

architectural value and significance of the site, building or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.

- (13) Design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.
 - (14) Number of parking spaces, and estimated water consumption and sewage discharge.
 - (15) The Board reserves the right to require additional information as may be necessary to protect the public interests outlined in § 305-11.05 and relevant sections of the Zoning Bylaw.
- C. Special permit review standards. In exercising its jurisdiction under this section, the Board shall conform to all requirements applicable to the Board when deciding requests for special permits as set forth in MGL c. 40A, § 9, and Article X of the Marshfield Zoning Bylaw. The Board during its site plan review shall utilize the following objectives, in addition to any standards prescribed elsewhere in these rules and regulations. These objectives are intended to provide specific guidelines for the Board and the applicant:
- (1) Architectural details. Architectural details of new buildings and additions, and textures of walls and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.
 - (2) Building articulation. Building facades in excess of 40 feet shall incorporate recesses and projections, of a minimum of two feet in depth, to break up the building's mass. A minimum of 60% of the building's public green(s) and/or street side facade shall contain windows and other appropriate architectural elements. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building facade; metal awnings are discouraged. Facades shall emphasize architectural elements (including windows, balconies, porches, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces. This standard may be waived for building facades fronting on Route 139 (Plain Street) where, in the opinion of the Planning Board, the elevated vegetated buffer provides adequate screening.
 - (3) Building form and features. The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves.

- (4) Building location. Proposed buildings and structures shall be integrated as much as possible within the existing building locations, landscape and terrain. Building location shall be oriented parallel or perpendicular to the public green(s) and/or street and shall be oriented around the public green and not Route 139 (Plain Street). Where the minimum setback cannot be maintained, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements which will maintain the street line. Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. The large retail establishment shall either provide an entrance to the public green or side facade to the public green shall be lined with uses to enhance the pedestrian activities and the use of the public green(s).
- (5) Building design. The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roofline, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
- (6) Spatial definition. Define various areas both public and private with walks, plantings, walls, fences and other elements that are in keeping with the overall architectural design.
- (7) Parking design. The majority of the parking shall be located to the rear or sides of buildings. All parking and loading areas shall be completely screened from Route 139 (Plain Street) by a minimum fifty-foot-wide raised and landscaped buffer. Parking lots and loading areas shall be appropriately screened from roadways within the overlay district by a minimum twenty-foot-wide raised and landscaped buffer. Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.
- (8) Parking spaces. Applicant shall demonstrate adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment. Reduction in parking space requirements may be permitted where by design and use it is shown to the Board's satisfaction that the parking is compatibly shared by multiple uses. However, in no case shall a parking requirement reduction exceed 20% of those parking spaces required under normal application of requirements for the nonresidential uses proposed.
- (9) Special features. Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets as deemed necessary by the SPGA.

- (10) Lighting. All lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties. Lighting should match the architectural style of the building and comply with the Zoning Bylaw, § 305-8.09.
- (11) Pedestrian furnishings. The Board shall evaluate convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements. Benches, bicycle racks, bollards, pedestrian-scale lighting, street trees, refuse containers, flower boxes, and canopies shall be provided where deemed appropriate by the SPGA and shall be consistent with the character of the development.
- (12) Disposal. The Board shall review adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site and the methods of drainage for surface water, including consideration of groundwater recharge.
- (13) Protection. The Board shall ensure protection of adjoining premises against detrimental or offensive uses on the site.
- (14) Submittals compliance. The Board shall review all submittals for compliance with the required performance standards under § 305-11.05D of the Zoning Bylaw and with the criteria for review and approval under § 305-11.05F of the Zoning Bylaw.

§ 414-7. Fees. [Amended 7-24-2017]

- A. Administrative expenses. Fees for the review and staff time required to process the application by the Planning Department, Conservation Commission, Board of Health, Fire Department, Police Department, Building Department and Highway, Sewer and Water Divisions, or consultants used in lieu of departmental staff, shall be as provided in Chapter 420, Fee Schedule.
- B. Review fees/special accounts.
 - (1) Applicants for Phase I subdivision and land classification plans shall deposit review fees as provided in Chapter 420, Fee Schedule, into a special account subject to guidelines set forward in § 405-8A(6) of the Subdivision Rules and Regulations. The consulting review fee may be expended as specified in the Subdivision Rules and Regulations for review of the special permit application. No additional fee is associated with the special permit application.
 - (2) Applicants for Phase II special permits shall deposit review fees in the amount as provided in Chapter 420, Fee Schedule, into a special account subject to guidelines set forward in § 405-8A(6) of the Subdivision Rules and Regulations. The consulting review

fee may be expended as specified in the Subdivision Rules and Regulations for review of the special permit application. No additional fee is associated with the special permit application.

- C. Other costs and expenses. The applicant is responsible for mailing public hearing notices to abutters by certified mail, return receipt requested. Return receipts are to be submitted to the Planning Board prior to the public hearing.
- D. Special permit modification. The administrative fee for a modification to an existing special permit is as provided in Chapter 420, Fee Schedule. The applicant shall submit a check made out to the Town of Marshfield at the time of the request to modify the PMUD special permit.
- E. Fee waiver. Fees can be waived for applications from the Town of Marshfield and religious and nonprofit organizations, at the discretion of the Planning Board, on a case-by-case basis.

§ 414-8. Planning Board review.

- A. Distribution of plans. Upon filing of a complete application, the Planning Board shall distribute copies of the plans and supporting information to the following departments: Planning Board, Planning Board Engineering Consultant, Planning Board Water Scientist (if within the Water Resource Protection District), Assessors, Town Clerk, Conservation Commission, Engineering Division, Water Division (two), Highway Division, Housing Authority, Board of Health, Building Department, Historical Commission, Police Department and Fire Department. Such distribution shall be completed within 10 days of the receipt of the plans and application by the Planning Board. In addition, where the property abuts or is accessed within 100 feet of a state highway (Route 3A or Route 139), the Planning Board shall mail a copy of plans and supporting application materials, by certified mail, to the regional office of the Massachusetts Department of Transportation. **[Amended 7-24-2017]**
- B. Submittal of comments. These departments shall have 35 days to review and submit written comments to the Board. Failure of the various boards and commissions to make comment or recommendations within the thirty-five-day time frame shall be deemed by the Planning Board as lack of opposition thereto. Notwithstanding this deadline, the Planning Board reserves the right to request comments from boards that have failed to do so based on issues raised at the public hearing and to consider those comments in making its final decision.
- C. Decision report. The Board shall, within 90 days of the close of the public hearing, issue a decision pertaining to each complete application. Each decision shall include an approval, an approval with conditions, or a denial with specific citations stating where the application did not comply with the required performance standards

and/or the criteria for review and approval. If the special permit does not incorporate the suggestions or requirements of any reports from Town departments or is issued contrary to their recommendations, the Planning Board shall in its written decision state the reasons for not following the recommendations or requirements of said reports.

- D. Modification. The Board shall have the power to modify or amend its approval of a Phase I subdivision and land classification plan or Phase II site plan review on application of the owner, lessee or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of these rules and regulations and § 305-11.05 of the Marshfield Zoning Bylaw shall, where apt, be applicable to such modification or amendment.

§ 414-9. Disposition of application.

- A. Withdrawal of application. An applicant may withdraw an application without prejudice by notice in writing to the Clerk of the Board at any time prior to the first publication of the notice of the public hearing. After such notice, withdrawal of an application shall be permitted only by majority vote of the Board.
- B. Reconsideration. No vote on an application may be reconsidered after the meeting at which the decision was rendered has been adjourned.
- C. Appeals. Any person aggrieved by a decision of the Board as special permit granting authority may appeal such decision as provided in MGL c. 40A, § 17, within 20 days after such decision has been filed in the office of the Town Clerk.
- D. Reapplication. No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a special permit within two years after the date of the said final unfavorable action, unless the Board finds by vote of four members specific and material changes in the conditions upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in these rules and regulations.
- E. Effectiveness of special permit. No special permit shall take effect until certification by the Town Clerk is recorded in the Registry of Deeds and indexed under the name of the record owner of the land that 20 days have elapsed after the filing of the decision and no appeal has been filed.
- F. Lapse of special permit. Every special permit authorized by the Board shall contain the express condition that it will lapse if substantial use under the permit is not commenced within two years from the date of final action by the Board, except for good cause, or the final determination of an appeal.

§ 414-10. Waiver of full compliance.

Full compliance with these regulations may be waived by the Board, provided such waivers are deemed to serve the public interest and are not conflicting with MGL c. 40A.

§ 414-11. Performance guarantee.

- A. As a condition to a subdivision and land classification plan, the applicant shall post a performance guarantee as described in the Subdivision Rules and Regulations, § 405-8E, to cover the period of construction or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the commencement of construction, unless the Board shall specify otherwise. The purpose of the guarantee for Phase I subdivision and land classification plans is to assure completion of roadways, landscaping, drainage, erosion control or safety measures which may affect abutters or the public. **[Amended 7-24-2017]**
- B. As a condition to a special permit, the applicant shall post a performance guarantee as described in the Subdivision Rules and Regulations, § 405-8E, to cover the period of construction or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the issuance of a building permit, unless the Board shall specify otherwise. The purpose of the guarantee for Phase II special permits is to assure completion of parking lots, landscaping, public green(s) or safety measures which may affect abutters or the public. **[Amended 7-24-2017]**
- C. If the applicant is not the owner and must purchase to assume such obligations, he shall comply within 20 days following the date of purchase. Upon completion of construction work, and satisfactory inspection by the Planning Board or its agent, the bond shall be returned to the applicant. In the event of any dispute, the Planning Board shall have the right to require as-built plans certified by the appropriate registered architect, professional engineer, or surveyor as a basis for its findings.

§ 414-12. Severability.

The provisions of these rules and regulations are severable. If any provision is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations or any of their provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

Chapter 417**WATER RESOURCE PROTECTION DISTRICT****GENERAL REFERENCES**

Water — See Ch. 285.

Subdivision of land — See Ch. 405.

Zoning — See Ch. 305.

§ 417-1. General provisions.

- A. Purpose and authority. The following rules are hereby adopted by the Planning Board as provided in MGL c. 40A for the purpose of establishing uniform procedures for administering permitting requirements within the Water Resource Protection District as established in § 305-13.03 of the Zoning Bylaw.
- B. Adoption and amendment. These rules and regulations may be adopted and from time to time amended by majority vote of the Planning Board members present and voting, provided such adoption or amendment is taken after a public hearing.
- C. Effective date. These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as date of adoption, date filed with Town Clerk, and amendments.

§ 417-2. Applicant.

An application or petition for a special permit may be brought by a property owner, agent, or prospective purchaser who submits certification (such as an executed purchase and sales agreement) of property interest and authority to file.

§ 417-3. Reoccupation certification.

Pursuant to § 305-13.03E(5) of the Zoning Bylaw, a party seeking to reoccupy an existing structure in the Water Resource Protection District (WRPD) with a use that would ordinarily require a special permit pursuant to § 305-13.03E(4) of the Zoning Bylaw may do so without filing a special permit application if the party receives a positive determination from the Building Commissioner through a WRPD reoccupation certificate. It is the responsibility of any party requesting such a determination from the Building Commissioner to provide information and plans that verify the information on the associated certificate. Site plans developed for the prior use may be used as part of a submittal to the Building Commissioner as long as they accurately reflect existing conditions. The Building Commissioner may reasonably request additional materials from the submitting party in order to make an accurate determination.

§ 417-4. Application for special permit.

- A. Official application form. Application for special permits shall be made on an official form which shall be furnished by the Planning Department upon request.
- B. Contents of an application. The completed application form, original plan, and 15 copies shall be submitted to the Planning Board with an additional copy filed forthwith with the Town Clerk by the applicant. Survey and engineered site plans shall be drawn at a scale of one inch equals 40 feet, unless another scale is previously requested by the applicant and found suitable by the Board. A professional engineer shall prepare and stamp all plans. The plans shall be stamped by the registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the building, setbacks and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury. The Board may engage a Massachusetts professional engineer or hydrogeologist experienced in groundwater evaluation, hydrogeology, or hazardous and toxic materials to review the application for completeness and correctness and shall require the applicant to pay for the cost of the review. The following information shall be furnished by the applicant:
 - (1) A locus plan at a scale of one inch equals 100 feet, 200 feet or 400 feet showing the location, names, and present widths of the streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography taken from Assessor's plans or field survey if available.
 - (2) Name and complete contact information of the applicant, property owner and all members of the design and development team.
 - (3) The scale, date and North arrow.
 - (4) Assessor's map and parcel numbers, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
 - (5) The location of existing wetlands, water bodies, wells, one-hundred-year floodplain elevation, and other natural features including streams, wetlands, vistas, slope areas, geological features, unique vegetation, historic features, and others that may be important to the site.
 - (6) Easements within the lot and for properties abutting thereon.
 - (7) Identification of zoning districts, including any overlay districts.
 - (8) The location of existing or proposed building(s) on the lot with the total square footage and dimensions of all buildings.

- (9) Where storage of hazardous materials in excess of household quantities is proposed, building elevations and floor plans shall be provided.
- (10) A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, methods, and species of plantings.
- (11) Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property. For the purposes of this calculation, any areas that are designated for regular vehicle traffic or parking shall be counted as impervious regardless of how the surface is finished.
- (12) Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50 feet thereof. Where an applicant cannot gain access to adjacent property in order to satisfy this requirement, topography can be provided based on USGS quadrangles.
- (13) The location and a description of proposed open space or recreation areas.
- (14) Existing and proposed street, parking, drainage, and utility systems.
- (15) Information regarding all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding.
- (16) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/fertilizers from vandalism, corrosion and leakage, and to provide for control of spills (during and after construction).
- (17) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods (during and after construction).
- (18) Evidence of application to the Massachusetts Department of Environmental Protection (DEP) for a groundwater discharge permit associated with any industrial waste treatment or disposal system and/or wastewater treatment system (during and after construction).
- (19) Projections of downgradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on site, at property boundaries and at other locations deemed pertinent by the Board, prepared by a hydrogeologist or registered professional

engineer possessing experience and education in water supply protection and hydrology.

- (20) A narrative summary of the vital statistics of the project. Such statistics shall include: Total gross and net square footage, number of parking spaces, and estimated amounts of water consumption and sewer discharge.
- (21) Direction of groundwater flow and the distance to all public water supply wells within the Zone 2.
- (22) Any additional information which the Board may require in order to determine compliance with the applicable standards of the Zoning Bylaw.

§ 417-5. Nitrogen loading regulation.

- A. Findings and purposes. The Town of Marshfield requires industrial, commercial, community facilities, and residential uses (except existing one-family detached dwellings) to provide documentation that demonstrates that the concentration of nitrate-nitrogen in groundwater resulting from these uses shall not exceed five parts per million (ppm) at the downgradient property boundary. These requirements are based on the following findings:
 - (1) Whereas the Town of Marshfield does not have a sewer system to treat wastewater from development within its Water Resource Protection District, the disposal of this wastewater through septic systems within the district poses a threat to the drinking water quality of the public supply wells the district is designed to protect. The primary contaminant of concern coming from the septic systems is nitrogen.
 - (2) Once nitrogen released from septic systems reaches groundwater, it is not attenuated, but it is diluted with recharge from precipitation, road and roof runoff, and lawn irrigation. These dilution waters also transport some nitrogen, though not as concentrated as septic system wastewater. Wastewater contributes between 70% and 80% of the nitrogen in groundwater in developed areas.
 - (3) Excessive nitrogen in drinking water has been linked to serious health effects. Consumption of excessive nitrate-nitrogen by infants has been linked to methemoglobinemia (blue baby syndrome); nitrate occupies the hemoglobin site on red blood cells limiting the transport of oxygen through the blood. There is also a concern that excessive nitrogen in drinking water can be converted to excessive nitrosamines (carcinogenic nitrogen forms) in stomach acid. Excessive nitrogen in groundwater has also been linked to excessive levels of other contaminants.

- (4) Due to these health concerns, the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (DEP) have adopted maximum contaminant levels in drinking water. If these levels are exceeded in a drinking water supply well, utilization of the well must cease and an alternative supply must be found. Treatment technology to remove excessive nitrogen from drinking water prior to its use is currently prohibitively expensive.
 - (5) Since the Town of Marshfield has invested significant public funds in the development of its current drinking water supply and wishes to avoid the expense and potential health and economic concerns that excessive nitrogen in its drinking water would cause, the Town of Marshfield has adopted a nitrogen loading assessment requirement in its Zoning Bylaw for development in its Water Resource Protection District.
 - B. Applicability. The following projects which require a special permit in accordance with the Table of Uses in the Marshfield Zoning Bylaw⁷⁰ shall be subject to the provisions of this regulation:
 - (1) New commercial and industrial development;
 - (2) New community facilities;
 - (3) New residential uses, including residential subdivisions of five or more new lots; and
 - (4) Existing commercial, industrial, or community facilities where a change of use is proposed that will increase the concentration of nitrogen on the site.
 - C. Nitrogen loading assumptions and calculations.
 - (1) Nitrogen loading. For the purposes of this regulation, nitrogen loading shall be calculated using the attached form titled "Town of Marshfield - Planning Board Nitrogen Loading Calculation Form."⁷¹
 - (2) Nonresidential wastewater flow. Although Title 5 wastewater flows will be used conventionally in the calculation of nitrogen loading, commercial and industrial development and community facilities may use measured water use flows to calculate nitrogen loads from wastewater. In order to use measured water use flows, an applicant must present annual water bills or equivalent information to support the use of these flows. It is recommended that measured water use information from at least three comparable developments or three years worth of water records be provided. The Town of Marshfield Planning Board shall determine the validity

70. Editor's Note: See § 305-5.04.

71. Editor's Note: The form is available at the Planning Board office.

of supporting information and may reject or modify the use of wastewater flows other than Title 5 wastewater flows.

- (3) Residential wastewater flow. Residential developments may use a wastewater flow that is the mean of standard Title 5 wastewater flows and modified Title 5 flows based on occupancy data. Modified Title 5 flows shall be calculated by multiplying actual Title 5 flows by the fraction represented by dividing the average single-family residence occupancy in the Town by two times the number of proposed bedrooms. Average occupancy shall equal total Town population divided by occupied housing units (both values from the most recent U.S. census) unless the Planning Board determines that alternative values should be used.

Sample Calculation for a three-bedroom home:

Base Statistics

Number of bedrooms = 3

Standard Title 5 flow = 330 gpd

Average occupancy = 2.5 people¹

Step One: Calculate Modifying Fraction

Average occupancy divided by 2 times number of bedrooms:

$$2.5/(2 * 3) = 0.42$$

Step Two: Calculate Modified Title 5 Flow

Modifying fraction times Title 5 flow:

$$0.42 * 330 = 138.6 \text{ gpd}$$

Step Three: Calculate Mean Estimated Flow

Mean of standard Title 5 flow and modified Title 5 flow:

$$(138.6 + 330)/2 = 234.3 \text{ gpd}$$

¹ For illustration purposes only. Does not necessarily represent the actual average occupancy rate in the Town of Marshfield.

- (4) Nitrogen concentrations. Nutrient concentrations applied to nitrogen loading calculations shall follow the following schedule:

Source of Nitrogen	Concentration of Nitrogen (milligrams per liter)
Wastewater effluent from a standard on-site system	35
Wastewater effluent from a DEP approved denitrification system	19

Source of Nitrogen	Concentration of Nitrogen (milligrams per liter)
Wastewater effluent from a centralized wastewater treatment facility	10
Runoff from roadways and driveways	1.5
Runoff from rooftops	0.75
Rainfall (runoff on natural surfaces)	0.05

- (5) Nutrient loading from turf fertilization.
- To calculate the loading of nitrogen from turf areas, the applicant shall first multiply the area of turf by the estimated application rate of 3.0 pounds of nitrogen per 1,000 square feet of turf. The applicant shall then multiply this value by 0.25 assuming a 25% leaching rate to groundwater.
 - The area of turf associated with a residential development shall be equal to 50% of the lot area. The Planning Board may allow for a reduction in this value based upon area calculations performed from an engineered site plan. Where landscaped areas are proposed to be unfertilized on a site plan, the burden of proof will be on the applicant to provide assurance that the area will not be fertilized in the foreseeable future based on plant selection and landscape design.
- (6) Recharge rates. Recharge rates assigned to the site shall be based on preexisting hydrologic soils groups in accordance with the following table:

NRCS Hydrologic Soils Group	Recharge Rate (inches per year)
A Soils	24
B Soils	18
C Soils	10
D Soils	3
Wetlands and surface waters	0

- (7) Nutrient loading from impervious surfaces. Nitrogen loading from impervious surfaces will be calculated by multiplying the appropriate nitrogen loading coefficient by the recharge rate associated with the soil that will be covered by the impervious surface. This approach is based on the assumption that post-development recharge volumes shall approximate pre-development recharge rates pursuant to the Massachusetts Stormwater

Standards. Where an alternative approach is used specifically for redevelopment pursuant to the Massachusetts Stormwater Standards, the Planning Board may accept annual recharge volume calculations associated with impervious cover that are provided and stamped by the applicant's engineer.

- (8) The final average concentration of nitrogen. The final average concentration of nitrogen in groundwater shall be calculated by dividing the total annual mass load of nitrogen by the total annual volume of recharge and shall be expressed as milligrams per liter (mg/l).
- D. Aggregate concentration calculations. For those applicants who require a special permit pursuant to § 305-13.03E(4)(d) of the Zoning Bylaw, an aggregate concentration calculation shall be developed to demonstrate that the concentration of nitrogen in groundwater shall not exceed five mg/l at the boundary of the Zone I for the public water supply.
- (1) Description of calculation. The aggregate concentration calculation is used to examine the aggregate effect of adding larger individual wastewater systems to the district. These analyses determine the area that the wastewater effluent will occupy on its way to the Zone I boundary, and the extent to which the flow is or is not diluted by overlying land use activity. Similar to on-site nitrogen loading calculations, the aggregate concentration calculations will use a mass balance approach, dividing the total load of nitrogen from overlying land uses by the annual volume of recharge to determine an average downgradient concentration.
 - (2) Area of impact (AOI). The nitrogen aggregation calculation shall first determine the AOI created by the plume from the leach field of the on-site wastewater treatment system. The applicant shall develop a flow net analysis that includes a groundwater mounding analysis to delineate the wastewater plume as it travels from the leach field to the edge of the Zone I.
 - (3) Calculating nitrogen concentration. The concentration of nitrogen at the Zone I boundary shall be calculated using the same assumptions as those provided in § 417-4B of these regulations. To estimate the different land use categories for areas within the AOI that are off site, the applicant shall use best available information from readily available GIS databases. Interpretation of aerial photography to estimate the coverage of different land features may be allowed along with any vector files that represent impervious cover. The Planning Board shall make the final determination as to which data is the best suited for the analysis.

§ 417-6. Fees.

All applications shall be accompanied by two certified checks made payable to the order of the Town of Marshfield. One check shall be for administrative

fees and the second check shall establish an individual special account. Any additional payments required shall be made within 30 days of the billing date.

- A. Administrative fees. The filing fee shall be as provided in Chapter 420, Fee Schedule, for a special permit application. **[Amended 7-24-2017]**
- B. Consultant review fee/special account.
 - (1) Every special permit application shall be required to file the minimum review fee to establish an individual special account. If, in addition, this minimum amount is not sufficient to cover the entire cost of the review, the Board shall adjust said special account. The minimum fee and the adjustment schedule are as provided in Chapter 420, Fee Schedule. **[Amended 7-24-2017]**
 - (2) Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, hydrologic or other consultant(s), the Planning Board may engage such consultant services to assist the Board in analyzing the project to ensure compliance with all relevant laws, bylaws, regulations, good design principles and state of the art technology. The Board may require that applicants pay a review fee consisting of the reasonable costs to be projected to be incurred by the Board for the employment of consultants engaged by the Board to assist in the review of the application.
 - (3) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer/Collector who shall establish a special individual account for this purpose. Expenditures from this special account may be made at the direction of the Board, without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay all review fees shall be grounds for denial of the application or permit. **[Amended 7-24-2017]**
 - (4) Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including any interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. The applicant must submit a written request for these funds. A final report for said account shall be made available to the applicant, upon request, or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with the documentation establishing such succession in interest.

- (5) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, provided that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications as may be set by the Board. The minimum qualifications shall consist either of a four-year college level educational degree in, or one related to, the field of knowledge at issue or three or more years of practice in the field at issue or a closely related field. Minimum qualifications may be increased at the Board's discretion depending upon the complexity and importance of the proposed project. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.
- C. Other costs and expenses. The Planning Board shall write the public hearing notice and furnish the notice to the applicant. The applicant is responsible for paying the cost of the legal advertisement in the newspaper. The notice of public hearing shall be mailed certified delivery by the applicant to all parties in interest not less than 10 days before the date of the public hearing. The applicant is responsible for the costs associated with mailing the notice to abutters and any parties in interest by certified mail, return receipt requested. Return receipts are to be addressed to the Planning Board for further verification.
- D. Modification. The administrative fee to modify an existing special permit is established in Chapter 420, Fee Schedule. The applicant shall submit a check made out to the Town of Marshfield at the time of the request to modify the WRPD special permit. **[Amended 7-24-2017]**
- E. Fee waiver. Fees can be waived for applications from the Town of Marshfield and religious and nonprofit organizations, at the discretion of the Planning Board, on a case-by-case basis. **[Amended 7-24-2017]**

§ 417-7. Planning Board review.

- A. Review by other Town agencies. Prior to its formal review, the Planning Board shall distribute copies of the plans and supporting documents and information (within five business days of the receipt of the complete application) to the following Town departments: Conservation Commission, Department of Public Works, Board of Health, and Police and Fire Departments. These departments shall have 35 days to review and submit written comments to the Board. Failure of the various boards and commission to make comments within the thirty-five-day time frame shall be deemed lack of opposition thereto.
- B. Report on special permit decision. If a special permit decision does not incorporate the suggestions and/or requirements of any properly filed

report(s) from other Town departments or boards, or from other entities commissioned by the Planning Board, or is issued contrary to advisory reports, the Planning Board shall issue a written decision stating the reasons for not following the recommendations or requirements of said report(s).

C. Procedural report.

- (1) The Board, acting as the special permit granting authority, shall follow all procedural requirements of MGL c. 40A, § 9. All applicants are advised to review this chapter in order to understand the special permit granting process.
- (2) Public hearing. The Planning Board shall schedule a public hearing within 65 days of receipt of an application. Notice of said hearing shall be advertised in newspapers of general circulation in the Town of Marshfield and mailed to parties of interest as required.
- (3) Action by the Board. Within 90 days of the close of the public hearing, the Planning Board shall file a decision with the Town Clerk, indicating approval, conditional approval, or denial of the special permit. When a petition or application has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision for that application by the Board.

§ 417-8. Disposition of application.

- A. Withdrawal of application. An application may be withdrawn without prejudice by an applicant by notice in writing to the Planning Board, which notice the applicant shall also deliver to the Town Clerk, at any time prior to the first publication of the notice of the public hearing. After such notice, withdrawal of an application shall be permitted only by Board vote, which shall consist of a majority present and voting.
- B. Reconsideration. No vote on an application may be reconsidered after the meeting has adjourned.
- C. Appeals. Any person aggrieved by a decision of the Board as special permit granting authority may appeal such decision as provided in MGL c. 40A, § 17, within 20 days after such decision has been filed in the office of the Town Clerk.
- D. Reapplication. No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a special permit within two years after the date of the said final unfavorable action, unless the Board finds, by vote of four members, specific and material changes in the condition upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is hereby given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in § 417-6C of these rules and regulations.

- E. Lapse of special permit. No special permit shall be authorized by the Board without the express condition that it will lapse if substantial use under the permit is not commenced within two years from the date of final action by the Board, except for good cause, or the final determination of an appeal.
- F. Extension of special permit. Approval in all cases is granted for a two-year period from the date of the filing of such approval with the Town Clerk. If a development is not completed in its entirety in that time, the applicant must again petition the Planning Board for an extension of time to complete the project. The applicant shall apply for the extension 30 days prior to the lapse of the special permit. In the event that the project has not been completed within two years of approval and the Planning Board has not granted an extension of the time to complete the project, the special permit approval will have expired. If the special permit has expired, the applicant will be required to request a reinstatement of the special permit approval. The process for reinstatement of the special permit is the same as the process required for a new special permit as specified in these rules and regulations, in § 305-13.03 of the Zoning Bylaw and as required in MGL c. 40A, § 9. All applications under this section must comply with the bylaw and its rules and regulations in force at the time of application. **[Amended 7-24-2017]**
- G. Recording. No special permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Registry of Deeds and is indexed under the name of the record owner of the land. Proof of recording at the Registry of Deeds or in Land Court as applicable shall be provided to the Planning Board.

§ 417-9. Severability.

The provisions of these rules and regulations are severable. If any provision of these rules and regulations is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations or any of their provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

§ 417-10. Waiver of full compliance.

Full compliance with these rules and regulations may be waived by the Planning Board, provided such waivers are deemed to serve the public interest and are not conflicting with MGL c. 40A. Requested waivers shall be submitted in writing at the time of the application. Waivers may only be granted through a majority vote of the Planning Board.

§ 417-11. Notice of violation. [Amended 7-24-2017]

Written notice of any violation of these rules and regulations shall be provided by the Building Commissioner to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or modification of a plan for longer-term compliance. In the enforcement of these rules and regulations, the Building Commissioner shall notify the Health Inspector of any violations and seek the Health Inspector's and/or Agent's assistance.

Chapter 420**FEE SCHEDULE****§ 420-1. Planning Board Fee Schedule.**

Planning Board Fee Schedule			
Type	Administrative Fee	Consultant Fee	Monitoring Fee
Preliminary Subdivision	\$600	\$2,000	
Definitive Subdivision			
0 to 10 lots	\$500 + \$100 per unit	\$2,000	
11 to 20 lots	\$700 + \$100 per unit	\$4,000	
21 to 30 lots	\$900 + \$100 per unit	\$6,000	
31+ lots	1,200 + \$100 per unit	\$8,000	
Reinstatement and Repetitive Petitions	\$300		
Modifications	\$400		
Approval Not Required Plans	\$100 plus \$150 per buildable lot		
Special Permits			
ARAV	\$750 plus \$50 per affordable unit	\$5,000	\$7,000 per affordable unit

Planning Board Fee Schedule

Type	Administrative Fee	Consultant Fee	Monitoring Fee
OSRD	Same as subdivision fees	Same as subdivision fees	
PMUD	\$750 Phase I \$900 Phase II	\$7,400 Phase I \$9,400 Phase II	
WRPD	\$500		
0 to 10 acres		\$2,000	
11 to 20 acres		\$4,000	
21 to 30 acres		\$6,000	
31 + acres		\$8,000	
Inclusionary Zoning	Same as subdivisions plus \$7,000 per affordable unit	Same as subdivision fees	
Special Permit Modifications	\$400		
Scenic Road Applications	\$200		
Street Determinations	\$250		
Street Improvements	\$500	\$1,200	

Division 5: Conservation Commission

Chapter 500

GENERAL PROVISIONS, CONSERVATION COMMISSION

ARTICLE I

Approval of Codification

[The codification of the Wetlands Protection Bylaw as Chapter 294 and the Wetlands Protection Regulations as Chapter 505 of the Town Code was approved by the Conservation Commission 6-20-2017.]

Chapter 505**WETLANDS PROTECTION REGULATIONS****GENERAL REFERENCES****Wetlands protection — See Ch. 294.****Subdivision of land — See Ch. 405.****Zoning — See Ch. 305.**

§ 505-1. Authority; amendments.

These regulations are promulgated by the Town of Marshfield Conservation Commission pursuant to the authority granted to it under § 294-4C of the Town of Marshfield Wetlands Protection Bylaw, Town of Marshfield General Bylaws Chapter 294 (hereinafter referred to as "the bylaw"). These regulations shall complement the bylaw by setting forth controls in addition to those already promulgated by the Department of Environmental Protection (DEP) under MGL c. 131, § 40. After a public hearing, these regulations may be amended from time to time by majority vote of the Town of Marshfield Conservation Commission.

§ 505-2. Purpose.

- A. These regulations provide definitions, procedures and standards for work within those areas subject to protection under the bylaw. Any project subject to regulation shall comply with all applicable regulations.
- B. The bylaw sets forth a public review and decision-making process by which activities affecting areas subject to protection under the bylaw are to be regulated in order to contribute to the protection of the following interests:
 - (1) Public water supply.
 - (2) Private water supply.
 - (3) Groundwater.
 - (4) Flood control.
 - (5) Erosion control.
 - (6) Sedimentation control.
 - (7) Recreation.
 - (8) Public safety.
 - (9) Aquaculture.

- (10) Fish.
 - (11) Shellfish.
 - (12) Wildlife.
 - (13) Wildlife habitats.
 - (14) Fish habitats.
 - (15) Shellfish habitats.
 - (16) Prevention of water pollution.
 - (17) Prevention of storm damage.
 - (18) Agriculture.
- C. These regulations seek to control those activities within the jurisdiction of the Marshfield Conservation Commission, as set forth under the bylaw, and prevent any activities from having adverse impact upon any of the interests protected by the bylaw.
- D. These regulations will define and clarify the process by establishing standard definitions and uniform procedures by which the Marshfield Conservation Commission may carry out its responsibilities under the bylaw.
- E. These regulations are intended solely for use in administering the bylaw; nothing contained herein should be construed as preempting or precluding other protections afforded to wetlands or other natural resource areas by other Marshfield Town boards, regulations or bylaws.

§ 505-3. Jurisdiction.

- A. Areas subject to protection. The following areas are subject to protection under the bylaw:
- (1) Any bank; freshwater wetland; coastal wetland; beach; dune; flat; marsh; wet meadow; bog; swamp; lands adjoining the ocean or any estuary, creek, river, stream, pond, or lake; or any land under said waters; or any land subject to tidal action, coastal storm flowage or flooding.
 - (2) Land at or below elevation 11 feet above mean sea level.
- B. Activities subject to regulation.
- (1) Any activity proposed or undertaken within 100 feet (buffer zone) of an area specified in § 505-3A(1) of these regulations or within an area specified in § 505-3A(2) of these regulations which will remove, fill, dredge, or alter that area is subject to regulation under the bylaw and will require a notice of intent and approval of the Conservation Commission.

- (2) Any activity proposed or undertaken which is not set forth in § 505-3B(1) but which in the opinion of the Marshfield Conservation Commission will alter an area subject to the bylaw will require the filing of a notice of intent.

§ 505-4. Procedures.

- A. Any person who proposes to commence an activity subject to regulation under the bylaw shall submit a notice of intent (Exhibit 1 attached hereto), as most recently amended.⁷²
- B. The notice of intent shall be filed in accordance with the submittal requirements set forth in the general instructions for completing a notice of intent (Exhibit 2 attached hereto), as most recently amended.⁷³
- C. The applicant must also submit a list of abutters, with names and mailing addresses, along with evidence that this list has been reviewed and verified by the Marshfield Board of Assessors.
- D. Failure to provide any of the information required in completing a notice of intent shall be deemed an incomplete filing and, as such, the application will be deemed to not have been received by this Commission until such filing is complete.
- E. A new notice of intent for a project that was denied may not be filed (and will be rejected if filed) for a period of two years from the date of denial, unless substantial changes have been made to the plan and those changes are responsive to and attempt to resolve those issues causing the Commission to previously deny the project. The Commission shall solely determine whether or not the changes are substantial and address the issues for denial and shall solely determine whether to accept or reject the notice of intent.

§ 505-5. Fees.

- A. Effective date. In accordance with the Town of Marshfield Wetlands Protection Bylaw, as amended, the following regulations with respect to the payment of fees shall be effective as to those notices of intent and all other matters filed with the Conservation Commission as of May 1, 2008. The Conservation Commission establishes these fee regulations to defray costs incurred by the Commission with respect to specific applications and hearings held under the Wetlands Protection Bylaw.
- B. Rules.
 - (1) Fees are payable at the time of application and are nonrefundable.

72. Editor's Note: Exhibit 1 is available at the office of the Conservation Commission.

73. Editor's Note: Exhibit 2 is available at the office of the Conservation Commission.

- (2) Fees shall be calculated by the Conservation Commission per the schedule established below in Subsection C.
 - (3) Any notice of intent fee received as a result of the Commission issuing an enforcement order for a violation of the Wetlands Protection Bylaw shall be doubled.
- C. Filing fees. Filing fee for a notice of intent under the Marshfield Wetlands Protection Bylaw shall be equal to and in addition to the fee required by 310 CMR 10.03(7), set forth as follows: **[Amended 6-20-2017]**

Wetland Fee Category Summary

Category 1: (\$110)

- a) Work on single-family lot: addition, pool, etc.
- b) Site work without house
- c) Control vegetation single-family house (SFH): removal, herbicide, etc.
- d) Resource improvement
- e) Work on septic system separate from house
- f) Monitoring well activities minus roadway

Category 2: (\$500)

- a) Construction of single-family house (SFH)
- b) Parking lot
- c) Beach nourishment
- d) Electric generating facility activities
- e) Inland limited projects minus road crossings
- f) New agricultural or aquacultural projects
- g) Each crossing for driveway to SFH
- h) Any point source discharge

Category 3: (\$1,050)

- a) Site preparation (for development) beyond NOI scope
- b) Each building (for development) including site
- c) Road construction not crossing or driveway
- d) Hazardous cleanup

Category 4: (\$1,450)

- a) Each crossing for development or commercial road
- b) Dam, sluiceway, tide-gate work
- c) Landfill
- d) Sand and gravel operation
- e) Railroad line construction

Wetland Fee Category Summary

- f) Control vegetation in development (SFH)
 - g) Bridge (SFH)
 - h) Water level variation
 - i) Hazardous waste alterations to resource area
 - j) Dredging
 - k) Package treatment plant and discharge
- Category 5: (\$4 per linear foot) (minimum \$50, maximum \$1,000)
- a) Docks, piers, revetments, dikes, etc. (coastal or inland)
- Category 6: (\$2 per linear foot) (maximum \$200 for SFH, maximum \$2,000 for any other)
- a) Delineation of wetland resources
- D. Cost of publication in the local newspaper. Check shall be made payable to the designated newspaper in an amount required by said newspaper and delivered to the Commission.
- E. Cost of notice to abutters. Cost of delivering notice of hearings by certified mail to abutters shall be paid for by applicant.
- F. Other fees.
- (1) Extension of order of conditions: \$50.
 - (2) Amending order of conditions: \$50.
 - (3) Certificate of compliance: \$50.
 - (4) Wetland delineation by Conservation Administrator: \$60 per half day; \$120 per day.
 - (5) Request for determination of applicability: \$50.
 - (6) Request for copy of order of conditions: \$10.
 - (7) Request for deviation: \$50.
- G. Consultant fee.
- (1) The applicant shall pay for the cost and expense of expert consultants to review the application or to gather additional information as deemed necessary by the Commission. Such consultants shall work for and represent the interests of the Commission.
 - (2) Upon receipt of a permit application or RFD, or at any point in its deliberations, the Commission may deem it necessary to obtain expert engineering or other outside consultant services in order to reach a final decision on the application. The specific consultant services may include but are not limited to resource area survey

and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law. In such instances the Commission shall notify the applicant of this need and the estimated costs and provide the opportunity for the application to be amended or withdrawn. Should an applicant choose to proceed the Commission shall require the applicant to pay the reasonable costs and expenses borne by the Commission for these consulting services as listed below. This fee is called the "consultant fee."

- (3) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
- (4) Consultants must meet the minimum qualifications of:
 - (a) An educational degree in or related to the field at issue; or
 - (b) Three or more years of practice in the field at issue or a related field.
- (5) An applicant may appeal the choice of the consultant selected by the Commission to the Board of Selectmen. Such an administrative appeal is limited to claims that:
 - (a) The consultant has a conflict of interest.
 - (b) The consultant does not possess the minimum required qualifications.
- (6) The time required for action by the Commission on the application for a permit or approval is extended pending the appeal. The selection by the Commission stands unless the Board of Selectmen decides otherwise within one month following the filing of the appeal.
- (7) The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a special revolving fund consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.
- (8) The Commission shall return any unused portion of the consultant fee, along with any interest accrued during the time the funds were deposited in the special revolving fund consultant services account, to the applicant.
- (9) The estimated required consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Estimated Deposit Fee*
Up to \$100,000	\$1,200
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

* The amount is an estimate only. Applicant is responsible for all overages.

- (a) Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 estimated required fee per increment.
- (b) The project cost means the estimated entire cost of the project, including but not limited to building construction, site preparation, landscaping, roadway and drainage construction, utilities, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities affecting all resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

§ 505-6. Public hearing.

- A. The Conservation Commission shall hold a public hearing within 21 days of receipt of a complete notice of intent by the Commission. The hearing may be continued in accordance with the regulations set forth in 310 CMR 10.05(5)(b).
- B. The public hearing shall be conducted as follows:
 - (1) A public hearing officer shall call the meeting to order and shall read the notice as published.
 - (2) Applicant shall make presentation.
 - (3) The Commissioners shall question the applicant.
 - (4) Questions from other Town boards shall be addressed to the applicant through the hearing officer.
 - (5) Questions from the public to the applicant shall be addressed through the hearing officer.
 - (6) The hearing shall then be continued or closed by vote of the Commission.

§ 505-7. Order of conditions.

- A. Within 21 days of closing the public hearing, the Commission shall either:
 - (1) Determine the proposed activity is not significant to any of the interests identified by the bylaw; or
 - (2) Make a determination that the proposed activity is significant to one or more of the interests identified by the bylaw and shall issue an order of conditions for the protection of said interests.
- B. The order of conditions shall impose such conditions as are necessary to protect one or more of the interests identified by the bylaw. If the Commission finds that the proposed activity cannot be regulated so as to protect the interests identified in the bylaw, then the order may prohibit the proposed activity.
- C. If the Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the bylaw, it may issue an order of conditions prohibiting the work. The order shall specify the information lacking and why it was necessary.
- D. The order of conditions shall be valid for three years from the date of its issuance. The order may be extended by majority vote of the Commission.
- E. The order of conditions shall be voted and approved by a majority of a quorum of the Conservation Commission and shall be signed by a majority of the Commission.
- F. The order of conditions shall be recorded in the Plymouth County Registry of Deeds or Registry District of the Land Court, where appropriate, prior to the commencement of any of the proposed activities regulated by the order of conditions. No work shall commence until proof of recording is provided to the Commission.

§ 505-8. Certificate of compliance.

- A. Upon completion of the activity described in the notice of intent in accordance with the order of conditions, the applicant or his or her successor in interest shall request the Commission, in writing, that a certificate of compliance be issued stating that the work has been satisfactorily completed in compliance with all conditions set forth in the order of conditions. Unless exempted by the Commission, said request shall be accompanied by an as-built plan, certified by a professional engineer or surveyor who is registered in the commonwealth, certifying that the work conforms to the plans, or specifying how the completed work differs from that shown on the submitted plans.

- B. In all other respects, the procedure for granting a certificate of compliance shall be identical to those procedures set forth in 310 CMR 10.05(9).

§ 505-9. Appeals.

Any person aggrieved by the Commission's issuing of an order of conditions or a certificate of compliance may file an appeal in accordance with Massachusetts General Laws. Presently, the party aggrieved may file a complaint in the Plymouth County Superior Court within 60 days of the date of said order of conditions or certificate of compliance in accordance with MGL c. 249, § 4.

§ 505-10. Performance standards.

- A. There shall be no habitable space in any structure wherein the top of any floor elevation of the habitable space is below 11 feet above mean sea level (MSL) or below the flood surge height as determined by the most recent FEMA flood insurance maps. No utilities for any structure shall be placed below 11 feet above MSL or below the flood surge height as determined by the most recent FEMA flood insurance maps, whichever is higher.
- B. A setback zone shall be created so that no disturbance or alteration shall occur within 50 feet and no building or structure shall be placed within 75 feet of any area set forth in § 505-3A(1) for any new construction or development. No activity, including but not limited to landscaping, mowing, or removal of vegetation, is allowed in the no disturbance zone.
- (1) A setback zone shall be created so that no disturbance or alteration shall occur within 25 feet of any area set forth in § 505-3A(1) for existing lots with existing buildings.
 - (2) The following activities shall be exempt from the setback zone of any area set forth in § 505-3A(1):
 - (a) Work related to the public water supply or municipal sewer systems.
 - (b) Structures related to stormwater management such as swales, retention and detention basins, drainage pipes and headwalls.
 - (c) Work related to maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, or telephone service, provided that the written notice has been given to the Conservation Commission prior to commencement of work.
 - (d) Public open space nature trails, observation platforms, boardwalks, or footbridges.

- (e) Seawalls, bulkheads, and revetments.
 - (f) Docks, piers, and associated ramps.
 - (g) Repairs or improvements to existing on-site septic systems and their related structures in order to comply with current standards where there is no viable alternative. No increase in the design flow of the dwelling shall be permitted.
- C. A vernal pool setback zone shall be created where no disturbance or alteration shall occur within 100 feet of a vernal pool.
- D. Any proposed way or pavement within 100 feet of an area subject to protection under these regulations must be constructed with a surface approved by the Conservation Commission. Construction of any way which is built in an area subject to protection under these regulations, which constitutes a limited project as defined in the Code of Massachusetts Regulations, 310 CMR 10.53(3), must not be constructed in a manner which restricts the flow of water or restricts or endangers the movement of local wildlife. Every way in an area subject to protection must provide throughways accessible to local wildlife. The total width of said throughways shall not be less than 5% of the length of that portion of the way which passes through the area subject to protection.
- E. There shall be no removing, filling, dredging, or altering of isolated wetland subject to flooding in the Polder, which is that area identified as the Green Harbor Reclamation Area on the plan titled "Plan Showing Boundaries of Green Harbor Reclamation District," dated February 1925, Plymouth Registry of Deeds, Plan Book 1, Page 142.
- F. Any alteration of a vegetated wetland may be allowed up to but not to exceed 5,000 square feet; provided, however, that the wetland so altered is replaced in kind by an area not less than 200% of the area so altered and the replication is conducted in accordance with the regulations set forth in 310 CMR 10.55(4)(b). The exception provided in 310 CMR 10.55(4)(c) is not allowed under the bylaw. Therefore, any alteration of any bordering vegetated wetlands is subject to this provision. **[Amended 6-20-2017]**
- G. There shall be no destruction or removal of woody vegetation, shrubs, trees, and the like within 100 feet of an area subject to protection, as set forth in these regulations at § 505-3A(1), without first obtaining the permission of the Commission.
- H. Breakaway walls (constructed in accordance with the State Building Code) will be required in all structures built in areas subject to flooding or coastal storm flowage, unless specifically exempted by the Commission.
- I. Any project, whether it is within 100 feet of an area subject to protection under these regulations or not, where there exists a

reasonable likelihood that stormwater runoff or drainage will be discharged into or adversely affect an area subject to protection will be subject to the Wetlands Protection Bylaw, and the proponent must file a notice of intent with the Commission and take action necessary to prevent such adverse effects on the areas protected by the bylaw.

- J. Where any structure is proposed within land subject to tidal action, coastal storm flowage or flooding, adequate access to and egress from said structure must be proven by the applicant to be available so that individuals can leave the structure and emergency vehicles can access the structure during the entire course of a one-hundred-year storm. Failure on the part of the proponent to meet such a burden shall be reasonable cause for the Commission to conclude that the health, welfare and safety of individuals in the community are endangered and, therefore, it may deny the application.

§ 505-11. Emergencies.

- A. Where activity is necessary to protect public health and safety, the Commission may certify an emergency situation and allow the activity.
- B. Any person requesting permission to do an emergency project shall specify why the project is necessary for the protection of the public health or safety and what agency of the commonwealth or subdivision thereof is to perform the project or has ordered the project to be performed. If the project is certified to be an emergency by the Commission, the certification shall include a description of the work which is to be allowed and shall not include work beyond that necessary to abate the emergency. A site inspection shall be made prior to certification.
- C. An emergency certificate shall be issued only for the protection of public health or safety.
- D. The time limitation for performance of emergency work shall not exceed 30 days.

§ 505-12. Enforcement orders.

- A. When the Commission determines that an activity is in violation of the bylaw, these regulations or an order of conditions, the Commission may issue an enforcement order. Violations include, but are not limited to:
- (1) Failure to comply with an order of conditions, such as failure to observe a particular condition or time period specified in the order;
 - (2) Failure to complete work described in an order of conditions, when such failure causes damage to the interests identified in the bylaw;
- or

- (3) Failure to obtain a valid order or extension permit prior to conducting an activity subject to regulation under the bylaw as defined in § 505-2C of these regulations.
- B. An order of conditions shall be enforceable by the Conservation Commission. The members, officers, employees and agents of the Commission may enter upon privately owned land for the purpose of performing their duties under the bylaw and these regulations.
- C. An enforcement order issued by the Conservation Commission shall be signed by a majority of the Commission. In a situation requiring immediate action, an enforcement order may be signed by a single member or agent of the Commission and must be ratified by a majority of the members at the next scheduled meeting of the Commission.

§ 505-13. Severability.

If any provision of any part of these regulations or the application thereof is held to be invalid, such invalidity shall not affect any other provision of these regulations.

§ 505-14. Variance.

- A. The Conservation Commission may, in its discretion, grant variances from the operation of one or more of these regulations pursuant to this section. Such variances are intended to be granted only in rare and unusual cases and shall be granted only in accordance with the provisions of this section.
- B. The applicant must request a variance in writing, filed with the notice of intent. The request shall set forth the reasons particular to the applicant's project which meet the requirements for a variance as set forth in Subsection C.
- C. A variance may be granted only for the following reasons and upon the following conditions:
 - (1) The Conservation Commission may grant a variance from these regulations upon a clear and convincing showing by the applicant that any proposed work, or its natural and consequential impacts and effects, will not have any adverse effect upon any of the interests protected in the bylaw. It shall be the responsibility of the applicant to provide the Conservation Commission with any and all information which the Commission may in writing request in order to enable the Commission to ascertain such adverse effects, and the failure of the applicant to furnish any information which has been so requested shall result in the denial of a request for a variance pursuant to this subsection; or
 - (2) The Conservation Commission may grant a variance from these regulations when it is necessary to avoid so restricting the use of the property as to constitute an unconstitutional taking without

compensation. It shall be the responsibility of the applicant to provide the Conservation Commission with any and all information necessary to determine if the enforcement of these regulations constitutes such an unconstitutional taking without compensation. No variance shall be granted unless and until the Conservation Commission has received from Town Counsel a written opinion that such enforcement of these regulations shall constitute an unconstitutional taking without compensation.

§ 505-15. Effective date.

These rules and regulations were first promulgated on May 15, 1990; they have been subsequently amended on December 18, 1990, December 17, 1991, June 19, 2002, October 2, 2002, September 17, 2003, December 1, 2004 and May 1, 2008, and shall apply, as amended, to all applications and requests filed after that date.

§ 505-16. Definitions.

As used in these rules and regulations, the following terms shall have the meanings indicated:

ENDANGERED SPECIES — Any plant or animal listed by the Massachusetts Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP) as endangered, threatened, or special concern.

ISOLATED LAND SUBJECT TO FLOODING — A freshwater wetland that is a confined basin or depression which does not support a minimum of 400 square feet of predominantly wetland plant vegetation and does not function as a vernal pool and is not contiguous with other wetland resources.

ISOLATED VEGETATED WETLAND — A freshwater wetland not bordering on the ocean or any estuary, creek, river, stream, pond or lake and having a minimum of 400 square feet of predominantly wetland vegetation.

RIVERFRONT AREA — The area of land between a perennial stream's annual high-water line and a parallel line measured horizontally and at a distance of 200 feet.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, including but not limited to a building, bridge, driveway, trestle, tower, framework, retaining wall, tank, tunnel, stadium, reviewing stand, shed, platform, deck, fence, sign, flagpole, windmill, solar devices, tennis courts, swimming pools, paved areas or anything requiring a building permit.

VERNAL POOL — A freshwater wetland that is a confined basin or depression (not occurring in existing lawns, gardens, or driveways) which, in most years, holds water for a minimum of two months in the spring and/or summer; is free of self-sustaining populations of adult predatory fish; and functions as breeding habitat for one or more obligate or two or more facultative amphibian, reptile, crustacean, mollusk or insect populations

listed by the Massachusetts Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP), regardless of whether the site has been certified by the NHESP and regardless of association with other resource areas. The presumption that any seasonal basin functions as a vernal pool shall prevail through a minimum of one spring/summer breeding season for the purpose of documenting the occurrence or lack of occurrence of breeding activity of one or more obligate or two or more facultative vernal pool species. The buffer zone for vernal pools shall extend 100 feet from the highest extent of flooding.

WETLAND DELINEATION — The line connecting test plots showing the upper limit of a plant community where 50% or more of the individual plants are included in facultative (FAC), facultative wetland (FACW), or obligate wetland (OBL) categories. Wetlands shall be delineated by qualified wetlands scientists using analysis of plant communities. For sites where plant communities have been altered, disturbed or modified, analysis of soils for hydric indicators may be used to augment or replace plant analysis.

WETLAND PLANTS — Any plant listed in the U.S. Fish and Wildlife Service "National List of Plant Species That Occur in Wetlands: Massachusetts 1988" and condensed by the Massachusetts Department of Environmental Protection, Division of Wetlands and Waterways, April 1995, having an indicator category of obligate wetland (OBL), facultative wetland (FACW), or facultative (FAC).

Division 6: Board of Health

Chapter 600

GENERAL PROVISIONS, BOARD OF HEALTH

ARTICLE I

Approval of Codification

[The codification of the rules and regulations of the Board of Health as Division 6 (Chapters 608 through 670) of the Town Code was approved by the Board of Health 6-12-2017.]

Chapter 608**BODY ART ESTABLISHMENTS AND PRACTITIONERS****§ 608-1. Findings and purpose.**

Whereas body art is becoming prevalent and popular throughout the commonwealth; and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner; now, therefore the Board of Health of the Town of Marshfield passes these rules and regulations for the practice of body art in the Town of Marshfield as part of our mission to protect the health, safety and welfare of the public.

§ 608-2. Authority.

These regulations are promulgated under the authority granted to the Board of Health under MGL c. 111, § 31.

§ 608-3. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

AFTERCARE — Written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

APPLICANT — Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

AUTOCLAVE — An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

AUTOCLAVING — A process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of 30 minutes at 20 pounds of pressure (psi) at a temperature of 270° F.

BLOODBORNE PATHOGENS STANDARD — Occupational Safety and Health Administration (OSHA) guidelines contained in 29 CFR 1910.1030, titled "Bloodborne Pathogens."

BOARD OF HEALTH or BOARD — The Board of Health of the Town of Marshfield, Massachusetts. **[Amended 6-12-2017]**

BODY ART — The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered

medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited procedures.

BODY ART ESTABLISHMENT or ESTABLISHMENT — Location, place, or business that has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

BODY ART PRACTITIONER or PRACTITIONER — A specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

BODY PIERCING — Puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewelry or other adornment in the opening. This definition excludes piercing of the earlobe with a presterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.

BRAIDING — The cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

BRANDING — Inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

CLEANING AREA — The area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art.

CLIENT — A member of the public who requests a body art procedure at a body art establishment.

CONTAMINATED WASTE — Waste as defined in 105 CMR 480.000, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, and/or 29 CFR 1910.1030, Bloodborne pathogens; contaminated items that would release blood or other potentially infectious material in a liquid or semiliquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials. **[Amended 6-12-2017]**

COSMETIC TATTOOING — Also known as "permanent cosmetics," "micro pigment implantation" or "dermal pigmentation," the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

DISINFECTANT — A product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).

DISINFECTION — The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING — The puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instruction.

EQUIPMENT — All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances, used in connection with the operation of a body art establishment.

EXPOSURE — An event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.

HAND SINK — A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

HOT WATER — Water that attains and maintains a temperature of 110° to 130° F.

INSTRUMENTS USED FOR BODY ART — Hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

INVASIVE — Entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.

JEWELRY — Any ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

LIGHT COLORED — A light reflectance value of 70% or greater.

MINOR — Any person under the age of 18 years.

MOBILE BODY ART ESTABLISHMENT — Any trailer, truck, car, van, camper or other motorized or nonmotorized vehicle, a shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event whereat, one desires to or actually does conduct body art procedures.**[Amended 6-12-2017]**

OPERATOR — Any person who individually or jointly or severally with others owns or controls an establishment but is not a body art practitioner.

PERMIT — Board approval in writing to either operate a body art establishment or operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within the Board's jurisdiction.

PERSON — An individual, any form of business or social organization or any other nongovernmental legal entity, including but not limited to corporations, partnerships, limited liability companies, associations, trusts or unincorporated organizations.

PHYSICIAN — An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to MGL c. 112, § 2.

PROCEDURE SURFACE — Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

SANITARY — Clean and free of agents of infection or disease.

SANITIZE — The application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

SCARIFICATION — Altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds which result in permanently raised wheals or bumps known as keloids.

SHARPS — Any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including but not limited to needle devices, lancets, scalpel blades, razor blades, and broken glass.

SHARPS CONTAINER — A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the international biohazard symbol.

SINGLE-USE ITEMS — Products or items that are intended for one-time, one-person use and are disposed of after use on each client, including but not limited to cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

STERILIZE — The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

TATTOO — The indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

TATTOOING — Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

TEMPORARY BODY ART ESTABLISHMENT — The same as "mobile body art establishment."

THREE-DIMENSIONAL "3D" BODY ART OR BEADING OR IMPLANTATION — The form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials beneath the surface of the skin of a person. This term does not include body piercing.

ULTRASONIC CLEANING UNIT — A unit approved by the Board, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high-frequency oscillations transmitted through the contained liquid.

UNIVERSAL PRECAUTIONS — A set of guidelines and controls published by the Centers for Disease Control and Prevention (CDC) as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

§ 608-4. Exemptions.

- A. Physicians licensed in accordance with MGL c. 112, § 2, who perform body art procedures as part of patient treatment are exempt from these regulations.
- B. Individuals who pierce only the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

§ 608-5. Restrictions.

- A. No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.
- B. Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.
- C. No body art shall be performed upon an animal.
- D. The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing of the penis, meaning piercing

through the shaft of the penis, or "trans-penis" piercing in any area from the corona glandis to the pubic bone; so called "deep" piercing of the scrotum, meaning piercing through the scrotum, or "transcrotal" piercing; so called "deep" piercing of the vagina.

- E. The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three-dimensional beading/implementation; tooth filing/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

§ 608-6. Operation of body art establishments.

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

A. Physical plant.

- (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, free of open holes or cracks, light colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- (2) Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- (3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- (4) Each operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a divider or partition at a minimum.
- (5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 footcandles three feet off the floor, except that at least 100 footcandles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled and all cleaning areas.
- (6) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.

- (7) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls, and supplied with liquid soap and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (8) There shall be a sharps container in each operator area and each cleaning area.
- (9) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board-approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.
- (10) The public water supply entering a body art establishment shall be protected by a testable, reduced-pressure backflow preventor installed in accordance with 248 CMR 10, as amended from time to time. **[Amended 6-12-2017]**
- (11) At least one covered, foot-operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak-proof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (12) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of noncontaminated liquid wastes in accordance with all applicable federal, state and local laws. Said sink shall be of adequate size, equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- (13) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- (14) The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
- (15) Every cleaning area shall have a sink used exclusively for the cleaning of instruments. Every instrument sink shall be of adequate

size and equipped with hot and cold water under pressure so as to permit the cleaning of instruments.

- (16) The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the establishment used for body art activity.
- (17) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- (18) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of nonalcoholic fluids being offered to a client during or after a body art procedure.

B. Requirements for single-use items, including inks, dyes and pigments.

- (1) Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.00.
- (2) All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposal.
- (3) Hollow bore needles or needles with cannula shall not be reused.
- (4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instruction.
- (5) Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

C. Sanitation and sterilization measures and procedures.

- (1) All nondisposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water (to remove blood and tissue residue) and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.
- (2) After being cleaned, all nondisposable instruments used for body art shall be packed individually in sterilizer packs and subsequently

sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six months.

- (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
 - (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three years and made available to the Board upon request.
 - (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
 - (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
 - (7) If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
 - (8) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
 - (9) Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160° F. or a temperature of 120° F. with the use of chlorine disinfectant.
- D. Posting requirements. The following shall be prominently displayed:
- (1) A disclosure statement, a model of which shall be available from the Board. A disclosure statement shall also be given to each client,

advising him/her of the risks and possible consequences of body art procedures.

- (2) The name, address and phone number of the Marshfield Board of Health.
 - (3) An emergency plan, including:
 - (a) A plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - (b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - (c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
 - (4) An occupancy and use permit as issued by the local building official.
 - (5) Current establishment permit.
 - (6) Each practitioner's permit.
- E. Establishment recordkeeping. The establishment shall maintain the following records in a secure place for a minimum of three years, and such records shall be made available to the Board upon request:
- (1) Establishment information, which shall include:
 - (a) Establishment name.
 - (b) Hours of operation.
 - (c) Owner's name and address.
 - (d) A complete description of all body art procedures performed.
 - (e) An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement.
 - (f) A Material Safety Data Sheet, when available, for each ink and dye used by the establishment.
 - (g) Copies of waste hauler manifests.
 - (h) Copies of commercial biological monitoring tests.
 - (i) Exposure incident report (kept permanently).
 - (j) A copy of these regulations.

- (2) Employee information, which shall include:
 - (a) Full legal names and exact duties;
 - (b) Date of birth;
 - (c) Home address;
 - (d) Home/work phone numbers;
 - (e) Identification photograph;
 - (f) Dates of employment;
 - (g) Hepatitis B vaccination status; and
 - (h) Training records.
 - (3) Client information.
 - (a) Client information, which shall include:
 - [1] Name;
 - [2] Age and valid photo identification;
 - [3] Address of the client;
 - [4] Date of the procedure;
 - [5] Name of the practitioner who performed the procedure(s);
 - [6] Description of procedure(s) performed and the location on the body;
 - [7] A signed consent form as specified by § 608-7D(2); and
 - [8] If the client is person under the age of 18, proof of parental or guardian identification, presence and consent, including a copy of the photographic identification of the parent or guardian.
 - (b) Client information shall be kept confidential at all times.
 - (4) Exposure control plan. Each establishment shall create, update, and comply with an exposure control plan. The plan shall be submitted to the Board for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to, 29 CFR 1910.1030, OSHA bloodborne pathogens standards, et seq., as amended from time to time. A copy of the plan shall be maintained at the body art establishment at all times and shall be made available to the Board upon request.
- F. No person shall establish or operate a mobile or temporary body art establishment.

§ 608-7. Standards of practice.

Practitioners are required to comply with the following minimum health standards:

- A. A practitioner shall perform all body art procedures in accordance with universal precautions set forth by the U.S. Centers for Disease Control and Prevention.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear-piercing systems must conform to the manufacturer directions for use and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear-piercing system on any part of the client's body other than the lobe of the ear.
- D. Health history and client informed consent. Prior to performing a body art procedure on a client, the practitioner shall:
 - (1) Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure:
 - (a) History of diabetes;
 - (b) History of hemophilia (bleeding);
 - (c) History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - (d) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - (e) History of epilepsy, seizures, fainting, or narcolepsy;
 - (f) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
 - (g) Any other conditions such as hepatitis or HIV.
 - (2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents him or her from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Subsection L.
- E. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash his or her hands in hot running water with liquid soap, then rinse hands and dry with

disposable paper towels. This shall be done as often as necessary to remove contaminants.

- F. Each body artist shall provide proof of having received the complete series of Hepatitis B vaccinations and have a current adult diphtheria/tetanus series and booster(s). A record of the immunizations shall be kept at the facility for review by the Board of Health.
- G. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Subsection E before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- H. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- I. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- J. Preparation and care of a client's skin area must comply with the following:
 - (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - (2) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
 - (3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.00.

- K. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- L. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site.
 - (1) The written instructions shall advise the client:
 - (a) On the proper cleansing of the area which received the body art;
 - (b) To consult a health care provider for:
 - [1] Unexpected redness, tenderness or swelling at the site of the body art procedure;
 - [2] Any rash;
 - [3] Unexpected drainage at or from the site of the body art procedure; or
 - [4] A fever within 24 hours of the body art procedure; and
 - (c) Of the address and phone number of the establishment.
 - (2) A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Board.
- M. Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII. A copy of a current contract with an infectious waste hauler serving the body art establishment shall be provided to the Board of Health.

§ 608-8. Exposure incident report.

- A. An exposure incident report shall be completed by the close of the business day during which an exposure has or might have taken place by the involved or knowledgeable body art practitioner for every exposure incident occurring in the conduct of any body art activity.
- B. Each exposure incident report shall contain:
 - (1) A copy of the application and consent form for body art activity completed by any client or minor client involved in the exposure incident;
 - (2) A full description of the exposure incident, including the portion of the body involved therein;

- (3) Instrument(s) or other equipment implicated;
- (4) A copy of the body art practitioner license of the involved body art practitioner;
- (5) Date and time of exposure;
- (6) A copy of any medical history released to the body art establishment or body art practitioner; and
- (7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

§ 608-9. Injury, infection complication or disease reports.

A written report of any injury, infection complication or disease as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator to the Board which issued the permit, with a copy to the injured client within five working days of its occurrence or knowledge thereof. The report shall include:

- A. The name of the affected client.
- B. The name and location of the body art establishment involved.
- C. The nature of the injury, infection complication or disease.
- D. The name and address of the affected client's health care provider, if any.
- E. Any other information considered relevant to the situation.

§ 608-10. Complaints.

- A. The Board shall investigate complaints received about an establishment or practitioner's practices or acts which may violate any provision of the Board's regulations.
- B. If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.
- C. If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate, and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this matter.

§ 608-11. Application for body art establishment permit.

- A. No person may operate a body art establishment except with a valid permit from the Board.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid from the date of issuance and for no longer than one year unless revoked sooner by the Board.
- D. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
 - (1) Name, address and telephone number of:
 - (a) The body art establishment;
 - (b) The operator of the establishment; and
 - (c) The body art practitioner(s) working at the establishment;
 - (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - (3) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
 - (4) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process;
 - (5) Exposure report plan; and
 - (6) Such additional information as the Board may reasonably require.
- E. The annual fee for the body art establishment permit shall be \$250.
- F. A permit for a body art establishment shall not be transferable from one place or person to another.

§ 608-12. Application for body art practitioner permit.

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The annual fee for the body art practitioner permit shall be \$100.
- B. A practitioner shall be a minimum of 18 years of age.
- C. A practitioner permit shall be valid from the date of issuance and shall expire no later than one year from the date of issuance unless revoked sooner by the Board.

D. Application for a practitioner permit shall include:

- (1) Name;
- (2) Date of birth;
- (3) Residence address;
- (4) Mailing address;
- (5) Phone number;
- (6) Place(s) of employment as a practitioner; and
- (7) Training and/or experience as set out in Subsection E below.

E. Practitioner training and experience.

- (1) In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
- (2) Approved training.
 - (a) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - [1] Bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand-washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - [2] Current certification in first aid and cardiopulmonary resuscitation (CPR).
 - (b) Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA).
 - (c) Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.
- (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that he or she completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the integumentary system (skin).
- (4) The applicant for a tattoo, branding or scarification practitioner permit shall provide documentation, acceptable to the Board, that he or she completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England

Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the integumentary system (skin). Such other course or program as the Board shall deem appropriate and acceptable may be substituted for the anatomy course.

- (5) The applicant for all practitioners shall submit evidence satisfactory to the Board of at least two years' actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the commonwealth.
- F. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

§ 608-13. Grounds for suspension, denial, revocation or refusal to renew permit.

- A. The Board may suspend a permit, deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:
- (1) Any actions which would indicate that the health or safety of the public would be at risk;
 - (2) Fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
 - (3) Criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (4) Any present or past violation of the Board's regulations governing the practice of body art;
 - (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (6) Being habitually drunk or being dependent on, or a habitual user of, narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 - (7) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
 - (8) Continuing to practice while his/her permit is lapsed, suspended, or revoked;

- (9) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
 - (10) Other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art.
- B. The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit if the applicant, establishment, or practitioner fails to comply after said seven days subject to the procedure outlined in § 608-15.
- C. Applicants denied a permit may reapply at any time after denial.

§ 608-14. Grounds for summary suspension of permit.

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

§ 608-15. Procedure for hearings.

- A. The owner of the establishment or practitioner shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested or by constable. The notice shall include the date, time and place of the hearing and the establishment owner's or practitioner's right to be heard. The Board shall hold the hearing no later than 21 days from the date the written notice is received.
- B. In the case of a suspension of a permit as noted in § 608-13, a hearing shall be scheduled no later than 21 days from the date of the suspension.

§ 608-16. Severability.

If any provision contained in the model regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

§ 608-17. Effective date.

These rules and regulations shall be effective as of July 16, 2001.

Chapter 630**MARINA AND BOATING FACILITIES****GENERAL REFERENCES**

Boating and waterways — See Ch. 34.

§ 630-1. Authority; purpose.

In accordance with MGL c. 111, §§ 31 and 122, MGL c. 91, §§ 59 and 59B, and MGL c. 90B, § 15, and under every other power thereto enabling, the Marshfield Board of Health adopted the following regulation at its regularly scheduled meeting held January 8, 1990, to further protect the public health and safety of the residents of the Town of Marshfield. This regulation will apply to marina moorings or other boating facilities as defined herein serving watercraft and/or serving boats with holding tanks.

§ 630-2. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

BOARD — The duly elected members of the Board of Health in the Town of Marshfield.

MARINA; BOATING FACILITIES — A location of safe refuge, moorage, slippage, storage or anchorage for five or more vessels, which may supply provisions, marine supplies, or chandlery, or at which these may be obtained, and at which a fee may be charged for the use of these facilities and/or services, and to include any or all wharfs, piers, pilings, dolphins, floats, fixed or portable, or any boat facilities either private or public used for the keeping of any vessels over five in number. This definition shall include municipal boating facilities, piers and moorings. See current listing of marinas/boating facilities supplied by the Harbormaster.

POTABLE WATER — A water supply of sufficient quantity and pressure that the Board of Health or agent has determined, by requiring the water to be tested, does not endanger the health of any potential user and is fit for human consumption. A source shall be deemed potable which meets, at a minimum, coliform testing. Other tests may be required, by the Board or agent, if it is deemed necessary. The costs of all testing will be borne by the applicant.

§ 630-3. Application for permit; inspections; general restrictions.

- A. Effective on May 1, 1990, application for permit by all marinas located in the Town of Marshfield shall be made in writing on a form provided by the Board of Health. Current specifications will be available after this date. The nonrefundable fee for such permit shall be set annually.

(See permits for marinas, boating facilities, and Town pier on current fee schedule.)

- B. An annual inspection shall be made by the Board's agent prior to issuance of the permit. All marinas in the Town must have an annual permit issued by the Board of Health. In order to obtain a permit the marina, boating facility or Town pier must provide the following where the Board or its agent determines it is applicable:
- (1) An adequate waste oil retention facility which complies with the provisions of MGL c. 21, § 52A, and the Marshfield Board of Health's Waste Oil Retention Facility Policy dated February 1, 1988. The retention facility is required where a marina/boating facility performs engine repairs and is licensed to sell gasoline/oil, to include any municipal boating facility or pier. Any storage facility shall be permitted by the Fire Department in accordance with its established policy and will be subject to periodic inspections to ensure continued compliance. All state, federal and local requirements should be met.
 - (2) Adequate and conveniently located toilet facilities for the use of the occupants of the watercraft. (MGL c. 91, § 59B)
 - (3) A potable supply of water.
 - (4) An adequate supply of trash or garbage receptacles with covers and/or lids with a sufficient collection schedule. Such schedule shall be posted in a prominent location.
 - (5) All marinas must have a holding tank and/or pump-out facility for the collection of sewage waste. Such holding tanks must meet all state, federal and local requirements and current specifications based on best management practices, including but not limited to MGL c. 91, §§ 59 and 59B, and Title 5 Policy Memorandum No. 89-1 and No. 87-7. The contents of the holding tank shall be disposed of in such a manner as not to be discharged into or near any waters of the municipality and shall be removed by a pumper currently licensed by the Board of Health. Disposal of sewage waste must be to an adequate approved sewage treatment facility. Documentation of proper disposal is a requirement of the permit. This subsection does not preclude more than one marina from utilizing a single pump-out facility if the marinas are located in the same general vicinity and obtain special Board of Health permission in accordance with § 630-7 of this regulation.
- C. The discharge of oil, raw or inadequately treated fish, garbage or debris of any sort into the waters, shores or beaches of the Town is prohibited.
- D. In 1988 the United States and Commonwealth of Massachusetts regulated the use of antifouling paints which contain tributyltin (TBT) in accordance with the U.S. Public Law 100-350 Stat 605 Organotin Antifouling Paint Control Act of June 16, 1988.

- (1) Both the U.S. and commonwealth regulations prohibit the use of antifouling paints on vessels of 25 meters (82 feet) or less. Aluminum hulled boats are excepted.
 - (2) Hosing, washing or removal of layers of paint containing TBT will transfer it to the area around the boat and has the potential to find its way into the aquatic environment.
 - (3) To decrease this risk the Board of Health will not permit any hosing, washing or removing paint from vessels coated with antifouling paints containing TBT. These vessels include aluminum-hulled boats, boats longer than 25 meters or boats whose owners/operators/servicers have applied paints containing TBT in defiance of the U.S. and commonwealth statutes.
- E. Houseboats used as either a permanent or temporary residence are prohibited from docking unless they receive prior written approval from the Board of Health.
- F. The Board requires the use of nonchemical, biodegradable or enzymatic products in boat holding tanks and porta-toilets. The above is one requirement of ultimate disposal of the effluent at the Marshfield wastewater treatment facilities.
- G. In addition to an annual inspection, the Board or its agent may make periodic inspections of any marina to determine whether a pollution violation exists.

§ 630-4. Time frame for compliance.

The requirements of this regulation where deemed applicable by the Board of Health must be met at all marinas, moorings, and boating facilities as defined herein on or before October 1, 1990.

§ 630-5. Permit required; conditions.

- A. All marinas must hold a valid permit from the Board of Health to operate in the Town of Marshfield. Permits shall be issued on or about January 1 each year. Inspections shall be made on or about October 15 through November 15 each year. Each applicant will be charged an annual nonrefundable marina/boating facility permit fee mentioned in § 630-3 which shall be paid in October for the permit period beginning the following January. **[Amended 6-12-2017]**
- B. No marina shall operate without a valid permit from the Board of Health. The annual permit is not transferable. A permit may be revoked in accordance with § 630-8 of this regulation. A permit will be issued for a specified number of total boats. Expansions will only be allowed under § 630-7.

§ 630-6. Violations and penalties.

Whoever violates the provisions of this regulation shall be punished for the first offense by a fine of not less than \$50 nor more than \$200 and for a subsequent offense by a fine of not less than \$300. For the purpose of this regulation, each day or part thereof of any violation shall be considered a separate offense.

§ 630-7. Variance; waiver; special permission.

- A. The Board of Health may vary the application of any provision of this regulation, by a majority vote of the Board, when in its opinion the enforcement thereof would do manifest injustice, provided that the decision of the Board shall not conflict with the spirit of this regulation and will provide the same amount of environmental protection. The applicant must request a variance, waiver or special permission in writing on a form provided by the Board of Health.
- B. Any variance, waiver, or special permission shall be granted or denied in writing, on this same form, and should contain a brief statement of the reason for denial.
- C. A copy of each variance shall be kept in the Board of Health office and available to the public during normal business hours while in effect.
- D. A nonrefundable variance filing fee shall be charged per application. (See marina variance filing fee on current fee schedule.)

§ 630-8. Revocation, modification of suspension of variance, waiver, special permission or permit. [Amended 6-12-2017]

Any variance, waiver, special permission or permit may be revoked, modified or suspended, in whole or part, by a majority vote of the Board, only after the holder thereof has been notified in writing by the Board or the Board's agent and has been given an opportunity to be heard at a hearing.

§ 630-9. Expansions of marinas.

A request for an expansion of the number of permitted boats will be made in writing and accompanied by a nonrefundable expansion request fee. In addition to the request a plan for increasing the size of the pump-out facility must also be submitted by a registered professional engineer and documentation of destination of sewage disposal.

§ 630-10. Independent consultant review.

If the Board, in the exercise of its discretion, deems it necessary to hire an independent expert consultant for any issue relative to this regulation, including but not limited to plan review, engineering information, determination of environmental impacts, and interpretation of data, the entire fee for the consultant will be paid for by the applicant. The mutually agreed upon consultant will be hired by the Marshfield Board of Health. The

applicant will pay the fee to the Board of Health, which in turn will pay the consultant. If requested, the consultant may qualify as a special employee of the Town by a vote of the Selectmen. The consultant's fee shall not exceed the prevailing rate for such service in the metropolitan Boston area.

§ 630-11. Severability; when effective; filing.

If any provision of this regulation is declared unlawful by a valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this regulation. This regulation shall take effect upon publication in a newspaper of general circulation in the Town of Marshfield and shall be filed with the Department of Environmental Protection, Division of Water Pollution Control, in Boston and Lakeville.

Chapter 645

SANITARY SEWAGE DISPOSAL

GENERAL REFERENCES

Sewers — See Ch. 223.

§ 645-1. Authority.

- A. In accordance with the provisions of Article 1, Regulation 2, of the State Sanitary Code and under the authority of MGL c. 111, § 131, and any other powers thereto enabling, the Board of Health of Marshfield hereby adopts the following regulations relative to the disposal of sanitary sewage in unsewered areas as supplements to Title 5 of the State Environmental Code to be effective as of April 21, 2006.
- B. All section numbers are derived from the sections of Title 5 to which they apply.⁷⁴

§ 645-2. Definitions. (Section 1)

- A. (1.1) The following abbreviations are used herein:
 - (1) SEC: Refers to the State Environmental Code.
- B. (1.2) The following definitions are in place of those shown in SEC Title 5, Regulation 1:

ABOVEGROUND SEPTIC SYSTEM — A system where any part of the leaching facility (including pits, fields, chambers, pipes, stone or peastone) is installed above the natural grade of the land on the lot.

74. Editor's Note: These numbers are now indicated in parentheses.

Access manholes by themselves do not cause a septic system to be considered an aboveground septic system.

APPLICANT — The person named on the disposal works construction permit application as the owner of the property which is the site of the proposed septic system.

BOARD — Board of Health in the Town of Marshfield, Massachusetts, or its agent.

DEWATERED PERCOLATION TEST — A percolation test done in accordance with the procedures outlined in Title 5, Section 15.03(5), except that some or all of the four feet of naturally occurring pervious soil is saturated by groundwater and some temporary dewatering of the soil is necessary so the water can drain away from the soil and a standard percolation test can be performed.

GROUNDWATER MONITORING WELL — Piping placed in the ground for the purpose of obtaining groundwater elevations or samples for testing.

MAXIMUM GROUNDWATER ELEVATION — The height of the groundwater table when it is at its maximum level or elevation. (See SEC Title 5, Regulation 3.3, of these local rules.)⁷⁵

POTABLE WATER SUPPLY — A water supply of sufficient quantity and pressure to meet the needs of the occupants of the dwelling, lot or building, connected with a public water system or with any other source that the Board of Health or agent has determined, by requiring the water to be tested, does not endanger the health of any potential user and is fit for human consumption. A source shall be deemed potable which meets, at a minimum, all the current primary drinking water standards. Other tests may be required, by the Board or agent, if it is deemed necessary.

PRIVATE DRINKING WATER WELL —

- (1) Any privately owned well supplying water for human consumption to any individual dwelling or building.
- (2) Any well, pit, pipe, excavation, shaft, spring casing, hole or other source of water to be used as a potable private drinking water supply.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, repair or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. "Substantial improvement" does not, however, include either:

75. Editor's Note: See § 645-4A.

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety codes which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Note 1: The following items can be excluded from the cost of improvement or repair: plans, specifications, survey, permits, and other items which are separate from or incidental to the repair of the damaged or improved building, i.e., debris removal/cartage.

Note 2: The latest Assessors' structure value may be used, provided that the Assessors certify that said value is based on 100% valuation, less depreciation.

WATER TABLE MAP — A map showing piezometric elevations of the water table compiled from known water table elevations in wells, borings, ponds, streams and wetlands. It shows general groundwater flow direction from high to low elevations.

§ 645-3. General requirements. (Section 2)

- A. (2.4) Application for disposal works construction permit (supplements SEC Title 5, Regulation 2.4).

- (1) An application for a construction permit shall be submitted on a form supplied by the Board of Health and shall be obtained at the office of the Board of Health.
- (2) Application requirements for all new construction, repairs to all systems and in all cases where fill is to be used:
 - (a) A plan of the lot must be submitted by a registered professional engineer or registered sanitarian, signed, dated and stamped with the seal of the person responsible for the design. The plan must be drawn to scale not less than one inch equals 40 feet and contain the following information:
 - [1] Lot dimensions.
 - [2] Location of street, house, garage, outbuildings, and driveway.
 - [3] Location of sewage system and expansion area.
 - [4] Dimensions of sewage system.
 - [5] Location of water lines and gas lines.
 - [6] Locations of observations pits and percolation tests.

- [7] Sources of water supply within 300 feet of the sewage system. In all cases where there are existing dwellings or structures on abutting properties, applicants for a disposal works construction permit shall make inquiry of those abutters to the property or properties to ascertain the presence or absence of a private well on such properties. The applicant shall supply this documentation to the Board and the Department of Public Works when applying for a disposal works construction permit.
- [8] Pertinent elevations, including elevation of road, cellar floor, top of foundations, garage floor, and elevation schedule for sewage disposal system, including invert elevations at house foundation, entrance to septic tank, entrance to distribution box, beginning of each leaching line, end of each leaching line, and bottom of leaching pit, trench or bed. Accompanying this schedule, the proposed final ground elevation at each of the called-for points along the disposal system shall be shown.
- [9] Sufficient additional elevations must be shown, including final grades at each or the four corners of the building, to indicate clearly how the surface drainage on the property is to be handled. Plan must be designed to drain the property satisfactorily to prevent adverse drainage to adjoining property.
- [10] All present elevations must be shown at true spot elevations. All proposed changes in elevation must be shown in the form of two-foot contour lines, clearly showing the proposed change in topography.
- [11] A benchmark must be established and maintained until after the final inspection by the design engineer. Its location must be shown in the plan.
- [12] Watercourses, streams, brooks, ponds, lakes and the twelve-foot tide line within 200 feet. Requirement by Engineering Department: the benchmark shall be on mean sea level or an elevation obtained from the Engineering Department.
- [13] A detail and sketch of any proposed retaining wall. All proposed retaining walls four feet in height or greater must be designed and certified by a structural engineer.
- [14] A statement as to whether the lot is located in the Marshfield Water Resource Protection District or any Interim Wellhead Protection District for a Zone II.
- [15] Any other pertinent information which the Board of Health may require.

- (b) Application shall be made before percolation tests, groundwater determination, and other on-site inspections are witnessed or performed by the Board of Health. All data from observation pits, percolation tests, and groundwater determinations shall be entered directly on the application form at the time such tests and observations are witnessed by the Board of Health. The representative of the Board of Health shall date and sign the results of the tests which he witnesses.
- (3) Any permit granted will not be valid if conditions set forth in the application have changed prior to or during actual construction of the sewage disposal system.
- (4) No permit will be issued until an adequate supply of water is assured. If a municipal well is the source, all applicants for a disposal works construction permit may be required to submit a written statement to the Board of Health, from the Department of Public Works, as to the availability of an adequate supply of water in sufficient quantity to provide adequate pressure to the occupants of the proposed building or dwelling. The applicant may also be required to provide a statement from the Fire Department that adequate fire flow will be provided to the dwelling or building. If a private well is the source, the well must be dug and the water tested before a permit will be issued.
- (5) Sewage system must be installed under the direct supervision of the designing engineer. At the time of final inspection he must submit a letter stating that this system has been installed according to his plan and provide measurements of tie-ins or an "as-built" plan of the system.
 - (a) The "as built" must include final contours for any plans in which the original contours over and around the septic system leaching area and/or any components of the system have been changed, or were designed to be changed. The "as built" must include distances from the septic system and/or any component of the system to the property line, in all cases where the distance from the septic system or component is less than 25 feet from the property line. "As built" must be submitted to the Board of Health office no later than 30 days after the design engineer completes the final inspection of the septic system.
 - (b) Special conditions for variances. All Title 5 variances, local upgrades, or local variances that are granted by the Board of Health with conditions that limit or prohibit increases in design flow or otherwise limit or prohibit alterations or repairs to the structure shall be subject to the following requirement prior to issuance of a certificate of compliance: The variance or upgrade form, with special conditions specified, must be

recorded at the Registry of Deeds. Proof of recording must be presented to the Board of Health.

B. (2.4h) Disposal systems with design flow in excess of 5,000 gallons per day.

(1) Purpose. To protect the groundwater used for drinking water purposes from contamination which may result from concentrated sewage disposal.

(2) Applicability. All proposed subsurface disposal systems with design sewage flows of 5,000 gallons per day or greater per lot.

(3) Procedure. The applicant(s) must demonstrate, by written report, to the satisfaction of the Board of Health that current drinking water standards will be met at the downgradient property limit and that current surface water quality standards will not be violated at downgradient lakes, ponds and streams due to the effluent from the system.

(a) The written report shall be based upon the following scope of work:

[1] Geologic borings.

[2] Water table map (one-foot interval contours) showing groundwater flow direction.

[3] Projections of downgradient concentrations of nitrate-nitrogen (or other chemicals as requested by the Board of Health). Projections of downgradient water quality will be determined utilizing two-dimensional solute transport models and input variables approved by the Board of Health. Currently approved models include: USGS Konikow and Bredegoeft (1978) and Random Walk, Prickett and Lonquist (1981). Other models may be approved by the Board upon request.

(b) Currently approved input variables include:

[1] Transmissivity to be determined by on-site pump test (minimum of four hours).

[2] Aquifer thickness to be determined by on-site boring locations of confining layers and estimated plume thickness.

[3] Dispersivity: determined by site-specific testing.

[4] Hydraulic gradient as determined by site-specific water table map.

[5] No retardation factor.

[6] Sewage flows as determined by Title 5 design flows.

- (c) Applicants who receive permits under this section shall install a minimum of three downgradient and one upgradient groundwater monitoring wells. Groundwater flow direction will be determined from the USGS (1987) water table map and from site-specific observation wells where necessary. Wells will be constructed of two-inch threader flush joint PVC pipes with locking caps. Groundwater samples will be obtained on an annual basis utilizing a bailer following standard well evaluation procedures (three well volumes will be removed prior to sampling).
- (d) Evacuation is most easily accomplished using a gasoline pump centrifugal. Water samples will be tested by a state-certified laboratory on an annual basis for nitrate-nitrogen, ammonia-nitrogen, Kjeldahl nitrogen, total phosphorus, chloride, specific conductance and volatile organic compounds (see separate current listing). Results are to be reported to the Marshfield Board of Health and shall meet Massachusetts Class I groundwater standards and appropriate advisory levels for organic chemicals at the downgradient property boundary. Baseline samples of all applicable testing parameters will be required. In the event that water quality standards are violated, the following action will be undertaken by the septic system owner:
 - [1] Report test results to the Marshfield Board of Health within 48 hours by certified mail.
 - [2] Resample and retest monitoring wells for the parameters which were above the water quality standards within five days.
 - [3] Notify the downgradient property owners who have a private drinking water well within 48 hours of the second testing round, if the results are above the current advisory levels, by certified mail.
 - [4] Decrease wastewater flows or increase the level of treatment within 45 days. Notify the Board of Health of these remedial measures.
 - [5] Initiate any remedial actions deemed necessary by the Board of Health.
 - [6] All costs of complying with this section will be borne by the applicant.

C. (2.4i) Perimeter, curtain, subsurface or french drains.

- (1) The effectiveness of a perimeter drain system must be demonstrated prior to the issuance of the disposal works construction permit. The effect of attempting to lower the ground or perched water table shall be monitored by installation of at least one upgradient and one downgradient groundwater monitoring well. The effectiveness of the underdrains shall be demonstrated by taking ground monitoring well readings one time during the month of March and one time during the month of April, for a period of two high-water seasons. All groundwater monitoring well readings must be observed by the Board's agent in order to be considered valid groundwater readings. A separate fee will be charged for each site visit (see separate current fee schedule for site work by agent beyond inspection of septic system charged per inspection).
 - (2) A perimeter, french, subsurface or curtain drain shall not serve more than one lot and shall not be allowed on more than three sides of a lot. They shall not cause accumulated water to drain onto any abutting properties or public or private road. All work shall be performed at the applicant's own expense and at their own risk. This monitoring does not guarantee issuance of the disposal works construction permit, either at the time of monitoring or at completion, since the Board does not give conditional pre-approval in matters relative to sewage disposal.
 - (3) In order to propose a perimeter, french, curtain, or subsurface drain system the groundwater table in question must be perched in a relatively impermeable soil layer, have no vertical upward flux component and be moving in a well-defined direction. If the drain meets these criteria then the drain must be placed upgradient of the proposed sewage system location, be of sufficient length and geometry to intercept all groundwater affecting the location, be keyed into the impeding layer upon which the groundwater is perched, and have a positive discharge to the surface or to soil from the location in question.
- D. (2.5.3) General policy. Any reconstruction, alteration or repair of a building to an extent of 50% or more of the assessed value of the building shall be treated by this Board as new construction, to which all Title 5 and Marshfield Board of Health rules and regulations for the disposal of sanitary sewage apply.
- E. (2.7.1) Repealed January 24, 1991.
- F. (2.9) Fees (supplements SEC Title 5, Regulation 2.9). See separate current fee schedule.
- G. (2.23) All sewage disposal systems must be located in their entirety on one lot or parcel of land, it being the same lot or parcel on which the facility producing the sewage is located.

§ 645-4. Location. (Section 3)

- A. (3.3) Subsoil and groundwater determination (adds to SEC Title 5, Regulation 3.3). The Board of Health shall require that one or more observation pits be dug to a depth of four feet below the bottom of the proposed leaching facility to determine the maximum groundwater elevation and the elevation of any impervious material. The Board may also require additional test holes in the area reserved for expansion of the disposal field.
- B. (3.4E) Leaching requirements. For new construction, if any percolation test in the primary or reserve area is equal to or exceeds 20 minutes per inch, a minimum of four percolation tests and four observation holes shall be performed.
- C. (3.5L) Percolation tests.
 - (1) In the event the Board's agent encounters soil conditions other than coarse sand, additional percolation tests may be requested by the Board or its agent to determine the consistency and naturally pervious soil beneath the entire proposed leaching and reserve areas.
 - (2) The Board reserves the right to request additional percolation tests at any time prior to the issuance of the disposal works construction permit. The reasons for additional testing shall be provided to the applicant in writing upon request.
- D. (3.5M) Dewatered percolation test.
 - (1) The practice of conducting dewatered percolation tests will only be allowed by a majority vote of the Board.
 - (2) The Board may require consultant review, in accordance with Section 15.28 of these regulations,⁷⁶ to assess the engineering aspects of the dewatered percolation test, to include but not be limited to the following: site-specific soil conditions, groundwater information, the destination of any discharged groundwater and safety factors.
- E. (3.5N) Percolation tests. The validity of a percolation test will not be limited to any specific number of years by the Board of Health. Percolation test will not be required to be repeated to determine its validity unless any of the following is applicable:
 - (1) The soil has been altered in any way.
 - (2) Title 5 or the Marshfield rules and regulations are amended to change any aspect pertaining to percolation tests.
- F. (3.7.1) Distances.

76. Editor's Note: See § 645-6G.

- (1) No disposal facilities shall be closer than the distances stated to the components listed in the following table. The distance shall be increased where required by conditions peculiar to a location.

Component	Septic Tank	Reserve Area	Leaching Facility	Building Sewer	Privy
Drinking water well or suction line	50	—	200	(3)	200
Water supply line (pressure)	(b)	—	(b)	(b)	(b)
Property line	10	—	10	—	50
Dwelling	10	—	20	—	50
Surface water supplies of tributaries to reservoirs including open and subsurface drains	200	—	200	200	200
Watercourse (see Title 5 definition)	75*	100	100	75*	100
Leaching catch basin or dry well	—	—	25	—	—

* 100 feet from sewage disposal systems of a multiple dwelling.

** Downhill slope. The applicant must be able to meet the slope requirements on the lot for which the permit is applied for, not including any adjacent property unless a valid slope easement is obtained. This must be reviewed by the Town's legal counsel prior to issuance of the disposal works construction permit.

(3) Ten feet if constructed of durable corrosion-resistant material with watertight joints laid in Class B bedding, or 50 feet if any other type of pipe is used.

(b) Disposal facilities must be installed at least 10 feet from and 18 inches below water supply lines. Whenever sewer lines must cross water supply lines, both pipes shall be constructed of mechanical joint cast-iron pipe and shall be pressure tested to assure watertightness.

- G. [3.7(6)] The lowest point of the leaching facility of any sewage disposal system located in a flood hazard zone (as defined on the Federal Flood Insurance Rate Maps) shall not be located below the flood elevation of the applicable zone.

§ 645-5. Building sewer in unsewered areas. (Section 4)

- A. (4.2.1) All piping for the entire septic system shall be of Schedule 40 grade or greater.
- B. (4.5) Grade (replaces second sentence of SEC Title 5, Regulation 4.5). A grade of 1/4 inch per foot is required.

§ 645-6. Minimum construction requirements for disposal fields. (Regulation 15)

- A. [15.02(19)] Maintenance.
 - (1) Septic tank, leaching field and cesspool cleaners shall be prohibited from being used by the homeowner or the sanitary pumper unless the product is contained on the Massachusetts Department of Environmental Protection's list of allowed additives titled "Septic System Additives Allowed for Use Under Title 5." Any pumper found using the above chemicals to treat any portion of a septic system shall be subject to license revocation or suspension by the Board of Health.
 - (2) The Board of Health recommends pumping the septic tank every two to three years.
- B. [15.05(10)] Septic tanks. A septic tank shall be located no further than 75 feet from the building it is intended to serve. The length of pipe between the septic tank and the leaching facility shall not exceed 75 feet unless all the following criteria are met:
 - (1) Class "C" bedding.
 - (2) SDR 35 PVC piping.
 - (3) Installation shall be under the direct supervision and inspection of the engineering firm and the Board's agent.
 - (4) An inspection fee will be assessed to the applicant (see current fee schedule for site work by agent beyond inspection of septic system charged per inspection).
- C. [15.05(11)] Septic tank filters and vents. All septic tanks shall be equipped with a Department of Environmental Protection (DEP) approved effluent filter, such as the Zabel, Polylok or other equivalent equal. All septic systems equipped with vents shall utilize a vent filter to mask odors, if any occupied building is located within 100 feet of the septic system.
- D. [15.05(12)] Tight tanks. All tight tanks approved by the Board of Health and DEP shall be subject to a twenty-four-hour test for determining that the tank is watertight. An agent of the Board shall make inspections as required to ensure that the tank is watertight.

- E. (15.6.1) Expansion area (adds to SEC Title 5, Regulation 15.6). An additional area shall be reserved for future expansion or replacement of the disposal fields. The Board of Health shall require observation pits and percolation tests to be taken in this expansion area.
- F. (15.27) Severability.
 - (1) If any provision of this regulation is declared unlawful by a valid judgment of decree or any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this regulation.
 - (2) This regulation shall take effect upon publication in a newspaper in the Town and shall be filed with DEP in Lakeville and Boston.
- G. (15.28) Consultant review. If the Board in the exercise of its discretion reasonably deems it necessary to hire an independent expert consultant for any issue relative to the installation of any portion of the subsurface sewage disposal system, to include but not be limited to plan review, performance of the percolation tests (dewatered or standard), interpretation of soil logs, engineering information and groundwater data, the entire fee for the consultant will be paid by the applicant. The applicant will pay the Board of Health, which in turn will pay the consultant. Such fee shall not be more than the prevailing rate for such review in the Boston metropolitan area.

§ 645-7. Variance from local rules and regulations. (Regulation 20)

The following requirements apply to all variances from these rules and regulations:

- A. Must be requested in writing.
- B. Must be granted, in writing, by a majority vote of the Board.
- C. A copy must be maintained in the permanent files, at the Board of Health office, and available to the public during normal business hours.
- D. A separate fee shall be charged per application (see current fee schedule).
- E. If a variance is requested from any portion of these regulations the applicant must demonstrate to the Board by clear and convincing evidence, supplied by an expert consultant, that there will be no adverse effect on the environment or the public health and safety if the variance is given. The consultant shall be mutually agreed upon by the Board and the applicant. All consulting costs shall be borne by the applicant.
- F. A variance filing fee will be charged (see current fee schedule).
- G. Any variance so granted may be revoked, modified or suspended only in accordance with SEC Title 5, Regulation 21.

§ 645-8. Title 5 inspections. (Regulation 21)

- A. The Board of Health reserves the right to request a soil evaluation as part of any Title 5 inspection to assist in determining the seasonal high groundwater determination.
- B. Upgrading of substandard on-site sewage disposal systems.
 - (1) Septic systems consisting of one cesspool shall be upgraded to conform to 310 CMR 15.00, the State Environmental Code, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, and the Town of Marshfield requirements.
 - (2) Cesspools with an overflow system or leaching pit(s) may continue but will require further evaluation by the Board of Health as specified by the following procedure: A cesspool with a leaching pit/system will require that a soil evaluation be conducted by a licensed soil evaluator to determine the seasonal high water determination. Systems with any part of the soil absorption area below the seasonal high groundwater shall constitute a failure. This regulation shall apply to any septic system inspection conducted in accordance with 310 CMR 15.301 of the State Environmental Code, Title 5. This regulation shall also be strictly enforced during the building permit application process.

Chapter 652**SOLID WASTE AND RECYCLING****GENERAL REFERENCES**

Solid waste — See Ch. 238.

§ 652-1. Authority.

In accordance with the authority vested in the Town of Marshfield Board of Health by MGL c. 111, §§ 31A and 31B, and every other power thereto enabling, the regulations set forth hereinafter are promulgated.

§ 652-2. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

ACCESS — The implementation of a recycling program which provides the opportunity to recycle for residents, tenants, or occupants of multifamily units five units and above and commercial businesses. The recycling program must be as convenient as trash collection whenever possible.

BUSINESS OWNERS AND MANAGERS — Individuals or managers of commercial businesses, responsible for providing waste management services for their businesses, located in the Town of Marshfield.

COMMERCIAL BUSINESS RECYCLING PLAN — The plan required by the Board of Health to be submitted by the business owner or manager or property manager of any office building, retail, wholesale establishments, restaurant, nonprofit organizations and industrial businesses. The plan will identify how they are complying with the requirement to provide access to recycling for their businesses, establishments and organizations. (See Appendix F.)⁷⁷

COMMERCIAL WASTE — Nonhazardous waste generated by businesses, such as office buildings, retail, wholesale establishments, restaurants and industrial businesses. It does not include waste generated by single-family or multifamily homes and apartments.

DESIGNATED HAULER — A permitted company in the business of collecting and transporting recyclables and solid waste.

DIRECTOR — The Director of Public Health or his/her duly authorized representative.

DROPOFF LOCATION — The transport and deposit of recyclable materials to a Board of Health approved location.

FACILITY — A licensed solid waste disposal or handling facility approved or licensed by the Department of Environmental Protection.

GREEN OR BLUE BOX or HOUSEHOLD RECYCLING CONTAINER — A rectangular plastic container of approximately 14 to 18 gallons, designed to be used as a curbside setout container for recyclable materials.

HAULER REPORTING FORMS — The forms required by the Board of Health to be submitted for multifamily and commercial business recycling collection programs by the permitted and contracted hauling company. (Reference Appendix C.)⁷⁸

MULTIFAMILY DWELLING UNIT — Any building or portion that contains living facilities (which provide for sleeping, eating, cooking and sanitation) of five households or more.

MULTIFAMILY HOUSING AGREEMENT FORM — The form required by the Board of Health to be submitted by each property owner or manager of a multifamily building or complex which identifies how they are complying with the requirement to offer their tenants/residents access to a recycling program. Also it is an agreement with the Marshfield Board of Health on the loan of wheeled carts and responsibility of property owners and managers. (See Appendix B.)⁷⁹

77. Editor's Note: Appendix F is on file with the Board of Health.

78. Editor's Note: Appendix C is on file with the Board of Health.

79. Editor's Note: Appendix B is on file with the Board of Health.

MULTIFAMILY HOUSING RECYCLING PLAN — The plan required by the Board of Health to be submitted by each property owner or manager of a multifamily housing complex which identifies how they are complying with the requirement to provide their tenants with access to a recycling program. (See Appendix D.)⁸⁰

MULTIPLE COMMUNITY LOADS — Mixed paper or commingled containers that have been collected from two or more municipalities.

PERMITTEE — Any person(s) or company which has applied for and obtained the appropriate permit to collect refuse within the corporate limits of Marshfield, Massachusetts.

RECYCLABLES — Those items listed in Appendix A.⁸¹

REFUSE COLLECTION VEHICLE — Any vehicle used for the transport of solid waste.

SOLID WASTE — Useless, unwanted or discarded solid, liquid or contained gaseous material resulting from commercial, industrial, municipal or household activities that is abandoned by being disposed or incinerated or is stored, treated or transferred pending such disposal, incineration or other treatment, but does not include:

- A. Hazardous wastes or regulated recyclable materials as defined and regulated pursuant to 310 CMR 30.00;
- B. Sludge or septage which is land applied in compliance with 310 CMR 32.00;
- C. Wastewater treatment plant residuals or sludge ash from publicly or privately owned wastewater treatment plants which is treated and disposed at a site regulated pursuant to 314 CMR 12.00;
- D. Septage, as defined and regulated pursuant to MGL c. 111, § 31D;
- E. Sewage;
- F. Ash produced from the combustion of coal when reused as prescribed pursuant to MGL c. 111, § 150A;
- G. Solid or dissolved materials in irrigation return flows;
- H. Solid or dissolved materials in domestic sewage;
- I. Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended;
- J. Those materials and by-products generated from and commonly reused within an original manufacturing process; and

80.Editor's Note: Appendix D is on file with the Board of Health.

81.Editor's Note: Appendix A is included as an attachment to this chapter.

- K. Compostable or recyclable materials when composted or recycled in a facility or operation not required to be assigned pursuant to 310 CMR 16.05(2) to (4).

WASTE BANS — The Commonwealth of Massachusetts has promulgated waste bans which restrict the disposal of certain recyclable items at solid waste landfills, transfer stations and incinerators in Massachusetts (310 CMR 19.017). (See Appendix E.)⁸²

WHEELED CART — A container of 65 to 68 gallons to 95 to 100 gallons for recyclable materials.

§ 652-3. General provisions.

- A. Any persons engaged in the collection of solid waste in the Town of Marshfield shall remove the same to an approved location or facility in accordance with these rules and regulations, as well as all other applicable rules and regulations.
- B. The permittee shall provide recycling service to allow compliance with the Commonwealth of Massachusetts Department of Environmental Protection solid waste bans and any other item deemed feasible by the Board of Health. Items required by the Town to be recycled are set forth in Appendix A.⁸³ In servicing establishments generating commercial waste, the permittee may limit recycling service to paper products, as listed in Appendix A. Appendix A is subject to amendment and revision by the Board of Health and the commonwealth as additional rules and regulations may be promulgated. The Board of Health may amend Appendix A upon written notice to all permittees following public hearing after reasonable notice to all permittees and current applicants.

§ 652-4. Mandatory recycling.

- A. Purpose and intent. The Town of Marshfield now participates in a municipal managed recycling program for households from one to four units, and the Commonwealth of Massachusetts has promulgated waste bans which restrict the disposal of certain recyclable items at solid waste landfills, transfer stations and incinerators in Massachusetts (310 CMR 19.017). The restricted materials are: lead batteries, leaf waste and yard waste, white goods, recyclable aluminum, metals, and glass bottles and jars, all grades of recyclable paper, single polymer plastics, and cathode ray tubes in televisions and computers. Compliance with the waste bans may be accomplished through reducing the amount of solid waste to the fullest and promoting public support for recycling and composting. (Reference Appendix E.)⁸⁴

82. Editor's Note: Appendix E is on file with the Board of Health.

83. Editor's Note: Appendix A is included as an attachment to this chapter.

84. Editor's Note: Appendix E is on file with the Board of Health.

- B. Declaration. Be it declared by the Marshfield Board of Health that the following policies are hereby adopted with respect to efficient management of solid waste, for the promotion of health and welfare of its citizens and for the protection of the environment; hereby declares its goal of requiring all multifamily housing and commercial businesses in the Town to implement recycling collection programs.
- C. Establishment of program. There is hereby established in the Town of Marshfield a program for the mandatory separation of recyclable materials from trash, which shall apply to all multifamily dwellings that are five units and above and commercial businesses in the Town.
- D. Mandatory separation of recyclable materials. It shall be mandatory in multifamily housing in the Town of Marshfield to separate all designated recyclable materials from other trash in accordance with the provisions in this section.
- (1) Buildings with five or more dwelling units. Materials to be collected include the following: mix paper which includes newspaper, corrugated cardboard, white paper, junk mail, magazines, catalogs, telephone books, cereal boxes (paper board), plastic containers No. 1 to No. 7, unbroken glass containers, clear, green and brown, steel (tin) cans and aluminum cans and foil.
 - (2) Commercial businesses: cardboard [also known as old corrugated cardboard (OCC)]. Owners are required to contract with their private hauler for the collection and recycling of cardboard and are responsible for program cost. Cardboard is a recyclable material and is a waste ban prohibited material.
- E. Collection of recyclable materials. The Board of Health will provide recycling wheeled carts, as long as the Department of Environmental Protection provides/awards municipal grants for recycling wheeled cart program. The wheeled carts come in the following sizes: 60 to 68 gallons or 90 to 100 gallons for multifamily dwelling units in those multifamily complexes which complete a Marshfield Board of Health Multifamily Housing Recycling Agreement. (Reference Appendix C.)⁸⁵
- F. Containers; educational materials; recycling plan. The Town of Marshfield shall retain ownership of its wheeled carts, and the building manager or owner(s) shall take proper care to protect such containers from loss or damage. If the containers are lost or stolen, it is the responsibility of the owner(s) or manager of the building to obtain a suitable replacement within 10 days in accordance with rules and regulations issued by the Board of Health under this section.
- (1) All recycling containers and receptacles shall be placed at designated recycling collection areas by 7:00 a.m. on the same collection day as trash pickup. The property owner will set up a recycling collection area next to the trash collection location or

85. Editor's Note: Appendix C is on file with the Board of Health.

another location with the approval of the Board of Health and the hauler shall mutually agree upon recycling collection schedules and collection locations.

- (2) Upon placement of recyclables in recycling containers, such recyclables shall become property of the private haulers.
- (3) Tenants will be provided with the following information by the Board of Health:
 - (a) Reasons to reduce and recycle solid waste.
 - (b) List of materials collected.
 - (c) Preparation instructions for all recyclable materials in order to meet the processing requirements.
 - (d) Collection methods and location of designated recycling collection site.
 - (e) Residential recycling contact person or private hauling company, including name, address and phone number.
- (4) The Board of Health and the property owner(s) or managers for multifamily buildings will provide recycling educational materials.
- (5) Property owner(s) and managers will provide the Board of Health with a multifamily housing recycling plan which indicates how they will provide their tenants access to a recycling program. This recycling plan will be done for each property for which the property owner(s) and manager(s) are responsible. Each recycling plan will cover the following items:
 - (a) Program contact person and phone number.
 - (b) Location of recycling containers.
 - (c) Frequency of collection.
 - (d) Name and phone number of hauler under contract.
 - (e) Any educational information provide to tenants.
- (6) Recyclable materials must be collected from each property at least once every two weeks. Recycling containers with adequate capacity must be provided.
- (7) Commercial businesses are required to establish an on-site recycling program for cardboard, also known as old corrugated cardboard (OCC), and identify their designated recycling hauler.

G. Business owner/manager and private hauler operations.

- (1) Schedules and locations. The commercial business and the hauler shall mutually agree upon recycling collection schedules and

pickup locations. The Town is not responsible for any problems, unauthorized collections, liabilities, or any other difficulties that arise between the hauler and the business.

- (2) Promotion and education. A business subject to this requirement is responsible for notifying and continually educating its employees on recycling of cardboard, and by posting guidelines on preparing cardboard boxes for recycling as required by private haulers.
- (3) Containers provided by haulers for recycling of materials shall be clearly labeled in English and in other languages if appropriate, including indicating the materials to be placed in the container and the word "Recycle" or "Recyclable" or the "Chasing Arrows" recycling symbol.
- (4) Containers used to collect the recyclable materials should have adequate capacity and durability to function efficiently and meet the spatial constraints of the building. The type of containers used for collection of recyclables will be established between the owner/manager and the hauler.
- (5) Containers located outdoors shall be covered or otherwise secured to prevent materials from blowing, leaking or falling out and to protect the materials from the elements and vector populations. The building property owner/manager shall maintain all recycling areas in a clean, sanitary and litter-free manner.
- (6) Indoor common area collection/storage areas shall be established in accordance with appropriate Town of Marshfield fire and/or safety codes.
- (7) Recycling containers at multifamily buildings shall be placed in a location or locations at least as convenient to tenants as the trash receptacles, insofar as is practical given space limitations.

§ 652-5. Permit procedure for solid waste collectors.

- A. All persons collecting solid waste in the Town of Marshfield shall obtain a permit from the Board of Health prior to commencing with collection.
- B. At the time of application or as otherwise specified, the applicant shall submit to the Board of Health the following:
 - (1) A nonrefundable permit fee of \$200 together with proof of property/liability insurance as required in § 652-6;
 - (2) A list of the residential, municipal and commercial/industrial customers, by street address, serviced by the applicant for each route (provided within 30 days of permitting). Said list shall remain confidential to the Board for Town purposes only;
 - (3) A description of the refuse collection vehicle(s) to be used, including the make, model, year, type and size of compactor,

registration number and the company name appearing on the vehicle(s);

- (4) Copies of all area Board of Health hauler permits held by applicant; and
 - (5) Names of all drivers to be employed by the applicant and current applicable driver's license numbers and expiration dates.
- C. The Board of Health reserves the right to require all refuse collection vehicles which are to be used in Marshfield to have affixed on them any markings concerning authorization to conduct refuse collection transportation and disposal of solid waste.
- D. The Board of Health will review applications for permits and will respond to applicants within 30 days.
- E. Applicants have the right to appear before the Marshfield Board of Health at a hearing to discuss their application by filing such hearing request in writing with the Board.

§ 652-6. Insurance.

- A. Each applicant shall furnish to the Board of Health certificates from an insurance company licensed to do business in the Commonwealth of Massachusetts showing the applicant carries public liability insurance in an amount not less than \$1,000,000 for the injury or death of more than one person, and \$50,000 for damage to property. Certificates of insurance shall be furnished each year upon renewal of permit.
- B. The applicant shall make certain that the above insurance policy is not canceled prior to notification of the Board of Health. This notification shall be not less than 30 days prior to such cancellation.

§ 652-7. Operational procedures.

- A. The permit will be valid for a period of not more than one year, renewable annually on the first day of June, subject to review and approval by the Board of Health.
- B. No permit shall be transferable except with the written approval of the Board of Health.
- C. The permittee shall provide recycling service to allow compliance with the Commonwealth of Massachusetts Department of Environmental Protection solid waste bans and any other item deemed feasible by the Board of Health, as set forth in Appendix A attached hereto.
- D. The permittee shall provide approved recyclable containers at a cost determined by the permittee.
- E. The tonnage of refuse and recyclables, or a reasonable estimation thereof, that the applicant has collected during each three-month

period of the license shall be submitted to the Board of Health quarterly, within one month following said three-month period. The tonnage of refuse and recyclables shall be listed on weight slips or tare weights, on hauler's letterhead. In cases of consolidated loads, divide the load by the percentage of households or businesses participating in Marshfield commercial, residential (including multifamily) or municipal solid waste/recycling program. Failure to provide this required information within the time period specified may result in revocation, suspension, or modification of this permit. This information shall be required after the permittee has operated for three months in the Town of Marshfield. Required customer lists shall be submitted to the Board of Health on a quarterly basis and shall indicate any changes in the number of customers served. All new customers shall be indicated, as well as those customers who have terminated their agreements with the collector.

- F. The permittee shall collect solid waste from its customers in Marshfield. Recyclables shall be placed at curbside or another approved location, on specified days, in their own reusable containers.
- G. The permittee shall refuse to collect any commercial/industrial, municipal or residential wastes if there is any indication that the material is not solid waste according to the definition provided in § 652-2 of these regulations, or if it is not properly packaged or bundled. The permittee shall notify such customers of the reason(s) for refusal to collect the waste. The permittee shall notify the Board of Health of any customer who continues with repeated offenses. Three offenses may constitute justifiable reason for termination of services by the permittee. Notification of such must be made to the Board of Health within two weeks of said termination.
- H. The permittee shall take all reasonable care in solid waste collection. Solid waste shall not be scattered about the streets or onto private property. Solid waste which is spilled shall be immediately picked up by the permittee and removed with other wastes.
- I. The Board of Health reserves the right to inspect collection vehicles and loads at reasonable times in order to ensure that they comply with all applicable state and local laws, bylaws and regulations.
- J. Any violation of these regulations or any other applicable laws or regulations by the permittee will be grounds for suspension, modification or revocation of said permit.
- K. The permittee shall provide at least one day, annually, for the collection of bulk items such as, but not limited to, couches, chairs, mattresses, etc.
- L. The individuals empowered to enforce the provisions of these regulations are any authorized agent of the Board of Health, any member of the Board of Health or any police officer of the Town.

- M. Permittees shall provide their customers with a list of acceptable waste types and recyclables according to § 652-2 of these regulations and with a list or description of proper packaging or bundling methods of the same. This will ensure fewer incidents of refusal by permittee to collect wastes and will provide for a more efficient and economic system of waste collection/disposal and recycling.

§ 652-8. Collection arrangements; indemnification.

- A. Permittees shall enter into arrangements for the collection of refuse and recyclables with individual residents, the municipality and commercial/industrial customers of the Town, in which the permittee will be paid directly by the customer.
- B. The permittee agrees to indemnify the Town from any loss that may arise from the improper treatment, storage or disposal of hazardous wastes collected within the Town.

§ 652-9. Suspension, modification or revocation of permits.

Any solid waste/recyclables collection permit may be suspended, modified or revoked by the Board of Health upon receipt of evidence satisfactory to the Board that the permittee has not conformed to the requirements of these regulations or such further regulations as may be adopted or to any applicable state or federal statute, regulation, rule or order regarding transportation or disposal of solid waste concerning the collection and disposal of rubbish. Appeals of such suspension, modification or revocation may be directed to the Board of Health within 10 business days of said suspension, modification or revocation.

§ 652-10. Severability.

Each of these regulations shall be construed as separate to the end that if any regulation, clause or phase thereof should be held invalid for any reason, the remainder of the regulation and all other regulations shall continue to be in force.

§ 652-11. Variances.

- A. Each variance must be requested in writing.
- B. Each variance that is granted must be in writing by a majority vote of the Board.
- C. A copy must be maintained in the permanent files, at the Board of Health office, and must be available to the public during normal business hours.
- D. A variance filing fee will be charged (see current fee schedule).
- E. If a variance is requested from any portion of these regulations, the applicant must demonstrate to the Board by clear and convincing

evidence that there will be no adverse effect on the environment or the public health and safety if the variance is given.

- F. Any variance so granted, after notice and hearing, may be revoked, modified or suspended by a majority vote of the Board at a Board of Health meeting.

§ 652-12. Phase-in of regulations.

All permittees shall provide recycling service in accordance with these regulations, for recyclable items outlined in Appendix A, beginning on the following dates:

- A. July 1, 2000: paper products.
- B. September 1, 2000: glass.
- C. November 1, 2000: metal cans and plastics.

Chapter 670

TOBACCO AND SMOKING

GENERAL REFERENCES

Smoking — See Ch. 232.

ARTICLE I
Tobacco Control
[Adopted effective 9-1-2015]

§ 670-1. Findings and intent.

A. Whereas:

- (1) There exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, and irritations to the eyes, nose and throat;⁸⁶
- (2) Among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e., convenience store, supermarket, or discount store) or gas station;⁸⁷
- (3) Nationally in 2009, 72% of high school smokers and 66% of middle school smokers were not asked to show proof of age when purchasing cigarettes;⁸⁸
- (4) The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin⁸⁹ and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development;⁹⁰
- (5) A Federal District Court, in a 2006 decision upheld by the United States Supreme Court, found that Phillip Morris, RJ Reynolds and other leading cigarette manufacturers violated federal racketeering laws, in part, because they "spent billions of dollars every year on their marketing activities in order to encourage young people to try and then continue purchasing their cigarette products in order to provide the replacement smokers they need to

86. Centers for Disease Control and Prevention (CDC) (2012), Health Effects of Cigarette Smoking Fact Sheet. Retrieved from: http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm.

87. CDC (2009), Youth Risk Behavior, Surveillance Summaries [Morbidity and Mortality Weekly Report (MMWR) 2010: 59, 11 (No. SS-55)]. Retrieved from: <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

88. CDC Office of Smoking and Health, National Youth Tobacco Survey, 2009. Analysis by the American Lung Association (ALA), Research and Program Services Division using SPSS software, as reported in "Trends in Tobacco Use," ALA Research and Program Services, Epidemiology and Statistics Unit, July 2011. Retrieved from: www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf.

89. CDC (2010), How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease. Retrieved from: http://www.cdc.gov/tobacco/data_statistics/sgr/2010.

90. U.S. Department of Health and Human Services. 2014. The Health Consequences of Smoking - 50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

survive" and that these companies were likely to continue targeting underage smokers;⁹¹

- (6) Despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major public health problem;
- (7) Research finds that raising the minimum legal drinking age to 21 has reduced alcohol consumption among youth and protected drinkers from long-term negative outcomes in adulthood, including alcohol and other drug dependence;⁹²
- (8) More than 80% of all adult smokers begin smoking before the age of 18, and more than 90% do so before leaving their teens;⁹³
- (9) Many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single "dose"; enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth;⁹⁴
- (10) Sales of flavored little cigars increased by 23% between 2008 and 2010,⁹⁵ and the top three most popular cigar brands among African-American youth aged 12 to 17 are the flavored and low-cost Black and Mild, White Owl, and Swisher Sweets;⁹⁶
- (11) The federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009,⁹⁷ prohibited candy- and fruit-flavored cigarettes, largely because these flavored products were marketed to youth and young adults,⁹⁸ and younger smokers were more likely to have tried these products than older smokers;⁹⁹

91. *United States v. Phillip Morris, Inc., RJ Reynolds Tobacco Co., et al.*, 449 F.Supp.2d 1 (D.D.C. 2006) at Par. 3301 and Pp. 1605-07.

92. DeJong W, Blanchette J 2013. "Case Closed: Research Evidence on the Positive Public Health Impact of the Age 21 Minimum Legal Drinking Age in the United States." *J. Stud. Alcohol Drugs*, Supplement 17, 108 - 115, 2014.

93. SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health.

94. CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

95. Delnevo, C., *Flavored Little Cigars memo*, September 21, 2011, from Neilson market scanner data.

96. SAMSHA, *Analysis of data from the 2011 National Survey on Drug Use and Health*.

97. 21 U.S.C. § 387g.

98. Carpenter CM, Wayne GF, Pauly JL, et al. 2005. "New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies." *Health Affairs*. 24(6): 1601-1610; Lewis M and Wackowski O. 2006. "Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands." *American Journal of Public Health*. 96(2): 244-251; Connolly GN. 2004. "Sweet and Spicy Flavours: New Brands for Minorities and Youth." *Tobacco Control*. 13(3): 211-212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

99. U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p.

- (12) Although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,¹⁰⁰ neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;
- (13) The U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be "starter" products that help establish smoking habits that can lead to long-term addiction;¹⁰¹
- (14) Data from the National Youth Tobacco Survey indicates that more than 2/5 of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;¹⁰²
- (15) The U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students doubled from 2011 to 2012;¹⁰³
- (16) Nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;¹⁰⁴
- (17) The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste" (310 CMR 30.136);
- (18) In a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had

539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

100 21 U.S.C. § 387g.

101 Food and Drug Administration. 2011. Fact Sheet: Flavored Tobacco Products, www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

102 King BA, Tynan MA, Dube SR, et al. 2013. "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students." *Journal of Adolescent Health*. [Article in press], www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract.

103 Centers for Disease Control and Prevention. 2013. "Electronic Cigarette Use Among Middle and High School Students — United States, 2011-2012," *Morbidity and Mortality Weekly Report (MMWR)* 62(35): 729-730.

104 Cameron JM, Howell DN, White JR, et al. 2013. "Variable and Potentially Fatal Amounts of Nicotine in E-cigarette Nicotine Solutions." *Tobacco Control*. (Electronic publication ahead of print.) <http://tobaccocontrol.bmj.com/content/early/2013/02/12/tobaccocontrol-2012-050604.full>; U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

low levels of nicotine present in all cartridges tested, except for one;¹⁰⁵

- (19) According to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days went from 11.8% in 2003 to 14.3% in 2011;¹⁰⁶
- (20) Survey results show that more youth report that they have smoked a cigar product when it is mentioned by name than report that they smoked a cigar in general, indicating that cigar use among youth is underreported;¹⁰⁷
- (21) In Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history;¹⁰⁸
- (22) Research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a ten-percent increase in cigar prices would reduce use by 3.4%;¹⁰⁹
- (23) Nicotine levels in cigars are generally much higher than nicotine levels in cigarettes;¹¹⁰
- (24) Nonresidential roll-your-own (RYO) produce inexpensive cigarettes, promote the use of tobacco resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of high tobacco prices;
- (25) The sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions

105Food and Drug Administration, Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA, available at: <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>.

106CDC (2011) Youth Risk Behavior, Surveillance Summaries [MMWR 2012: 87 (No SS-61)]. Retrieved from: www.cdc.gov; and CDC (2003), Youth Risk Behavior, Surveillance Summaries [MMWR 2004: 53, 54 (No. SS-02)].

1072010 Boston Youth Risk Behavior Study: 16.5% of Boston youth responded that they had ever smoked a fruit or candy flavored cigar, cigarillo or little cigar, while 24.1% reported ever smoking a "Black and Mild" cigar.

108Commonwealth of Massachusetts, Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009. Retrieved from: http://www.mass.gov/Eeohhs2/docs/dph/tobacco_control/adolescent_tobacco_use_youth_trends_1993_2009.pdf.

109Ringel, J., Wasserman, J., & Andreyeva, T. (2005) Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey. *American Journal of Public Health*, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?, *J. Prim. P.* 2011, Aug; 32(3-4): 161-70. Retrieved from: www.ncbi.nlm.nih.gov/pubmed/21809109.

110National Institute of Health (NIH), National Cancer Institute (NCI) (2010). Cigar Smoking and Cancer. Retrieved from: <http://www.cancer.gov/cancertopics/factsheet/Tobacco/cigars>.

undermines efforts to educate patients on the safe and effective use of medication, including cessation medication;

(26) Educational institutions sell tobacco products to a younger population which is particularly at risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

(27) The Massachusetts Supreme Judicial Court has held that "...[t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means."¹¹¹

B. Now, therefore it is the intention of the Marshfield Board of Health to regulate the sale of tobacco products.

§ 670-2. Authority.

This regulation is promulgated pursuant to the authority granted to the Marshfield Board of Health by MGL c. 111, § 31, which states "Boards of health may make reasonable health regulations."

§ 670-3. Definitions.

For the purpose of this regulation, the following words shall have the following meanings:

BLUNT WRAP — Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

BUSINESS AGENT — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

CHARACTERIZING FLAVOR — A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including but not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

CIGAR — Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under MGL c. 64C, § 1, Paragraph 1.

COMPONENT PART — Any element of a tobacco product, including but not limited to the tobacco, filter and paper, but not including any constituent.

¹¹¹Druzik et al v. Board of Health of Haverhill, 324 Mass. 129 (1949).

CONSTITUENT — Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

DISTINGUISHABLE — Perceivable by either the sense of smell or taste.

EDUCATIONAL INSTITUTION — Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

EMPLOYEE — Any individual who performs services for an employer.

EMPLOYER — Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one or more employees.

FLAVORED TOBACCO PRODUCT — Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

HEALTH CARE INSTITUTION — An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under MGL c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drugstores, doctor offices, optician/optometrist offices and dentist offices.

LIQUID NICOTINE CONTAINER — A bottle or other container of liquid nicotine or other substance containing nicotine that is sold, marketed, or intended for use in a tobacco product, as defined herein. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, as defined herein, if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

MINIMUM LEGAL SALES AGE (MLSA) — The age an individual must be before that individual can be sold a tobacco product in the municipality.

NONRESIDENTIAL ROLL-YOUR-OWN (RYO) MACHINE — A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. Roll-

your-own machines located in private homes used for solely personal consumption are not nonresidential RYO machines.

PERMIT HOLDER — Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a tobacco product sales permit pursuant to these regulations, or his or her business agent.

PERSON — Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

RETAIL TOBACCO STORE — An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Marshfield Board of Health.

SCHOOLS — Public or private elementary or secondary schools.

SELF-SERVICE DISPLAY — Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

SMOKE CONSTITUENT — Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

SMOKING BAR — An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by MGL c. 270, § 22, to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars."

TOBACCO PRODUCT — Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

VENDING MACHINE — Any automated or mechanical self-service device which, upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products, as defined herein.

§ 670-4. Tobacco sales to persons under minimum legal sales age prohibited.

- A. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age or, not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Marshfield is 21.
- B. Required signage.
 - (1) In conformance with and in addition to MGL c. 270, § 7, a copy of MGL c. 270, § 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Marshfield Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
 - (2) The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Marshfield Board of Health that discloses current referral information about smoking cessation.
 - (3) The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post a sign stating that "The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

- C. Identification. Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.
- D. All retail sales of tobacco products, as defined herein, must be face to face between the seller and the buyer and occur at the permitted location.

§ 670-5. Tobacco product sales permit.

- A. No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of Marshfield without first obtaining a tobacco product sales permit issued annually by the Marshfield Board of Health. Only owners of establishments with a permanent, non-mobile location in Marshfield are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Marshfield.
- B. As part of the tobacco product sales permit application process, the applicant will be provided with the Marshfield regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.
- C. Each applicant who sells tobacco products is required to provide proof of a current tobacco retailer license issued by the Massachusetts Department of Revenue, when required by state law, before a tobacco product sales permit can be issued.
- D. The fee for a tobacco product sales permit shall be determined by the Marshfield Board of Health annually.
- E. A separate permit is required for each retail establishment selling tobacco products, as defined herein.
- F. Each tobacco product sales permit shall be displayed at the retail establishment in a conspicuous place.
- G. A tobacco product sales permit is nontransferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- H. Issuance of a tobacco product sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

- I. A tobacco product sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding permit suspensions.
- J. A tobacco product sales permit will not be renewed if the permit holder has sold a tobacco product to someone under § 670-4A three times within the previous permit year and the time period to appeal has expired and/or has not satisfied any outstanding permit suspensions. The violator may request a hearing in accordance with § 670-15D.
- K. Maximum number of tobacco product sales permits. At any given time, there shall be no more than 26 tobacco product sales permits issued in Marshfield. No permit renewal will be denied based on the requirements of this subsection, except that any permit holder who has failed to renew his or her permit within 30 days of expiration will be treated as a first-time permit applicant. Applicants who purchase a business that holds a current tobacco product sales permit at the time of the sale of said business may apply, within 60 days of such sale, for the permit held by the seller if the buyer intends to sell tobacco products, as defined herein. New applicants for permits who are applying at a time when the maximum number of permits have been issued will be placed on a waiting list and will be eligible to apply for a permit on a first-come-first-served basis as issued permits are either not renewed or are returned to the Board of Health.
- L. A tobacco product sales permit shall not be issued to any new applicant for a retail location within 500 feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises. Applicants who purchase an existing business that holds a current tobacco product sales permit at the time of the sale of said business may apply, within 60 days of such sale, for the permit held by the seller if the buyer intends to sell tobacco products, as defined herein.

§ 670-6. Sale of flavored tobacco products prohibited; exception.

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

§ 670-7. Sale of blunt wraps prohibited.

No person or entity shall sell or distribute blunt wraps in Marshfield.

§ 670-8. Free distribution and coupon redemption.

No person shall distribute, or cause to be distributed, any free samples of tobacco products, as defined herein. No means, instruments or devices that allow for the redemption of any tobacco products, as defined herein, for free or cigarettes at a price below the minimum retail price determined by

the Massachusetts Department of Revenue shall be accepted by any permit holder.

§ 670-9. Out-of-package sales.

- A. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than 20 cigarettes, including single cigarettes.
- B. A retailer of liquid nicotine containers, where liquid nicotine is an "acutely hazardous waste" as identified in 310 CMR 30.136, must comply with the provisions of 310 CMR 30.000 and must provide the Marshfield Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

§ 670-10. Self-service displays.

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors, including but not limited to walk-in humidors, must be locked.

§ 670-11. Vending machines.

All vending machines containing tobacco products, as defined herein, are prohibited.

§ 670-12. Nonresidential roll-your-own machines.

All nonresidential roll-your-own machines are prohibited.

§ 670-13. Sale of tobacco products by health care institutions prohibited.

No health care institution located in Marshfield shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist or drugstore, shall sell or cause to be sold tobacco products, as defined herein.

§ 670-14. Sale of tobacco products by educational institutions prohibited.

No educational institution located in Marshfield shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

§ 670-15. Violations and penalties; suspension or revocation of permit.

- A. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:
- (1) In the case of a first violation, a fine of \$300.
 - (2) In the case of a second violation within 36 months of the date of the current violation, a fine of \$300 and the tobacco product sales permit shall be suspended for seven consecutive business days.
 - (3) In the case of three or more violations within a thirty-six-month period, a fine of \$300 and the tobacco product sales permit shall be suspended for 30 consecutive business days.
 - (4) In the case of four violations or repeated, egregious violations of this regulation within a thirty-six-month period, the Board of Health shall hold a hearing in accordance with Subsection D and may permanently revoke a tobacco product sales permit.
- B. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco product sales permit for 30 consecutive business days.
- C. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for 30 consecutive business days.
- D. The Marshfield Board of Health shall provide notice of the intent to suspend or revoke a tobacco product sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing, which date shall be no earlier than seven days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Marshfield Board of Health shall suspend or revoke the tobacco product sales permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or noncriminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the tobacco product sales permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

§ 670-16. Noncriminal disposition.

Whoever violates any provision of this regulation may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

§ 670-17. Enforcement.

- A. Enforcement of this regulation shall be by the Marshfield Board of Health or the Marshfield police.
- B. Any resident who desires to register a complaint pursuant to this regulation may do so by contacting the Marshfield Board of Health or its designated agent(s) and the Board shall investigate.

§ 670-18. Severability.

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

§ 670-19. Effective date.

This regulation shall take effect on September 1, 2015.

ARTICLE II

**Smoking in Workplaces and Public Places
[Adopted effective 9-1-2015]****§ 670-20. Purpose.**

The purpose of this regulation is to protect the health of the employees and general public in the Town of Marshfield.

§ 670-21. Authority.

This regulation is promulgated under the authority granted to the Marshfield Board of Health pursuant to MGL c. 111, § 31, that "[b]oards of health may make reasonable health regulations." It is also promulgated pursuant to MGL c. 270, § 22(j), which states in part that "[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or...health...regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth...or political subdivision of the commonwealth."

§ 670-22. Definitions.

- A. As used in this regulation, the following words shall have the following meanings, unless the context requires otherwise:

COMPENSATION — Money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

E-CIGARETTE — Any electronic device, not approved by the United States Food and Drug Administration, composed of a mouthpiece, heating element, battery and/or electronic circuits, that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

EMPLOYEE — An individual or person who performs a service for compensation for an employer at the employer's workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a de minimus amount of time.

EMPLOYER — An individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or nonprofit, which uses the services of one or more employees at one or more workplaces, at any one time, including the Town of Marshfield.

ENCLOSED — A space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one or

more doors, including but not limited to an office, function room or hallway.

SMOKING (or SMOKE) — The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

WORKPLACE — An indoor area, structure or facility, or a portion thereof, at which one or more employees perform a service for compensation for an employer; other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.

- B. Terms not defined herein shall be defined as set forth in MGL c. 270, § 22, and/or 105 CMR 661. To the extent any of the definitions herein conflict with MGL c. 270, § 22, and 105 CMR 661, the definition contained in this regulation shall control.

§ 670-23. Smoking prohibited.

- A. It shall be the responsibility of the employer to provide a smoke-free environment for all employees working in an enclosed workplace as well as those workplaces listed in Subsection C below.
- B. Smoking is hereby prohibited in Marshfield in accordance with MGL c. 270, § 22 (commonly known as the "Smoke-Free Workplace Law").
- C. Pursuant to MGL c. 270, § 22(j), smoking is also hereby prohibited in:
- (1) Nursing homes.
 - (2) Hotels, motels, and bed-and-breakfasts (B&Bs).
 - (3) Public transportation and bus and taxi waiting areas.
- D. The use of e-cigarettes is prohibited wherever smoking is prohibited per MGL c. 270, § 22, and § 670-23C of this regulation.

§ 670-24. Enforcement; violations and penalties.

- A. An owner, manager, or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of:
- (1) One hundred dollars for the first violation;
 - (2) Two hundred dollars for a second violation occurring within two years of the date of the first offense; and
 - (3) Three hundred dollars for a third or subsequent violation occurring within two years of the second violation.

- B. Each calendar day on which a violation occurs shall be considered a separate offense.
- C. This regulation shall be enforced by the Board of Health and its designees.
- D. Violations of § 670-23B shall be disposed of by a civil penalty using the noncriminal method of disposition procedures contained in MGL c. 40, § 21D, without an enabling ordinance or bylaw. The disposition of fines assessed shall be subject to MGL c. 111, § 188.
- E. Violations of § 670-23A, C and D may be disposed of by a civil penalty using the noncriminal method of disposition procedures contained in MGL c. 40, § 21D.
- F. If an owner, manager or other person in control of a building, vehicle or vessel violates this regulation repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend any Board of Health issued permit to operate and shall send notice of the revocation or suspension to the Department of Public Health.
- G. Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department or the equivalent.

§ 670-25. Severability.

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

§ 670-26. Effect on other regulations.

Notwithstanding the provisions of § 670-23 of this regulation, nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.

§ 670-27. Effective date.

This regulation shall be effective as of September 1, 2015.

Appendix

Chapter A900

GENERAL LAW ACCEPTANCES

§ A900-1. Sections of Massachusetts General Laws accepted by Town.

A. Chapter 32B.

-	Blue Cross - Blue Shield; Town will pay 50% of premiums for active employees	Question on ballot 3-11-1961
§ 8A	Certain portion of dividends to go back to employees	Question on ballot 5-1-1976
§ 9A	Town will pay 50% for retired employees	Question on ballot 3-21-1964
§ 9D	Town will pay 50% for deceased retired employee spouses	Question on ballot 3-21-1970
§ 16	Make another medical coverage available, i.e., an HMO	Voted by Selectmen 2-28-1983
§ 18	Medicare extension plans; mandatory transfer of retirees	Art. 21, April 2004 ATM
§§ 56 to 59	Pensions regarding veterans	Voted by Selectmen 4-28-1971

B. Chapter 33.

§ 59	Acceptance allows a DPW employee during time of service as a member of a reserve component of the armed forces to receive pay without loss of ordinary remuneration and be entitled to the same leaves of absence or vacation with pay given to other employees	Art. 3, 4-27-2009 STM
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C. Chapter 40.

§ 4G	Increasing the amount the Town can spend without going to bid to \$4,000	Art. 11, 9-19-1988 STM, p. 53
§ 5, Subsection 12	Accepting gift of Marshfield Servicemen's Auxiliary Association to erect a memorial	Art. 38, 1947 ATM, p. 67

§ 5B	Establishment of stabilization fund	Art. 17, 1964 ATM, p. 39
§ 6B	Uniforms for fire and police	Art. 67, 1960 ATM, p. 39
§ 6C	Removal of snow and ice from private ways	Question on ballot, 3-6-1954, p. 103
§ 6H	Repairs of private ways	Art. 55, 1963 ATM, p. 147; repealed by Art. 10, 1979, p. 18
§ 6J	Authorizing rainwear and work clothes for certain employees	Art. 25, 1965 ATM, p. 27
§ 6K	Regarding uniforms for public health nurses	Art. 81, 1971 ATM, p. 49
§ 8A	Established Industrial Development Commission	Art. 36, 1961 ATM, p. 25
§ 8C	Established a Conservation Commission to consist of 5 members	Art. 57, 1961 ATM, p. 29
§ 8C	Conservation Commission from 5 to 7 members	Art. 32, 1962 ATM, p. 29
§ 8D	Established Historical Commission	Art. 62, 1965 ATM, p. 37
§ 8G	Mutual aid	Art. 33, 1990 ATM, p. 40
§ 8J	Regarding establishment of Disability Commission	Art. 17, 11-14-1994, p. 12 of 1995 Annual Report
§ 13D	To establish a fund for future payment of accrued liabilities for compensated absences due employees	Art. 3, 10-22-2012 STM
§ 15C	Designation of scenic roads: South River Street, Ferry Street, Church Street, Summer Street, Spring Street, Highland Street, Union Street, Parsonage Street, Winslow Cemetery Road, Pine Street, School Street	Art. 80, 1974 ATM, p. 48

§ 15C	Designation of scenic roads: Acorn Street, Canal Street, Forest Street, Old Main Street, Old Ocean Street, Old Plain Street, Pleasant Street, Pudding Hill Lane, Webster Street, Winslow Street	Art. 57, 1976 ATM, p. 42
§ 22A	Increasing penalty for parking in handicapped spaces to not more than \$100	Art. 35, 1988 ATM, p. 38
§ 22D	Regulations regarding removal and storage of vehicles illegally parked or standing on public ways	Art. 37, 1988 ATM, p. 38
§ 39K	Enterprise accounts for solid waste, wastewater, water/sewer	Arts. 26, 27 and 28, 1990 ATM, p. 39
§§ 42A to 42F	Water rates to bear interest and be a lien on property	Art. 45, 1982 ATM, p. 34
§§ 42G, 42H and 42I	Authorized assessment of betterments for water extension	Art. 38, 1959, p. 82
§ 42J	Will allow property owners that qualify to defer water usage charges	Art. 8, October 2005 STM
§ 57	Regarding nonissuance of licenses or permits to those with unpaid taxes	Art. 27, 1986 ATM, p. 26
D. Chapter 40A.		
§ 8	Regarding minimum time lapse of 2 years after unfavorable action by Town Meeting on proposed zoning before same proposal can be submitted again to Town Meeting	Art. 75, 1963, p. 150
E. Chapter 41.		
§ 4A	Authorizing the Board of Health to appoint members of medical and dental clinic	Art. 16, 1945 ATM, p. 74
§ 38A	Establishment of Town Collector	Art. 41, 1954 ATM, p. 98
§ 41B	Payment of public employees by direct bank credits	Art. 28, 2001 ATM

§§ 69C, 69D, 69E and 69F	Authorized Department of Public Works with Commissioners	Question 1, Annual Town Election 3-21-1970, elected 3-20-1971, p. 54
§ 73	Established Selectmen as Board of Survey	Art. 16, 1948 ATM
§ 81A	Provides for a Planning Board	Art. 35, 1956 ATM, p. 99
§§ 81F to 81J	Approval of subdivision plats	Art. 18, 1941 ATM, p. 89
§ 91A	Appoint constables instead of electing them	Art. 35, 1962 ATM, p. 30
§ 97A	Police Department established under Chief	Art. 25, 1961 ATM, p. 24
§ 100F	Authorizing indemnification for harbormasters against certain acts and claims	Art. 82, 1971 ATM, p. 49
§ 100G	Funeral and burial expenses for active members of Police and Fire Departments	Art. 12, 1976 ATM, p. 59
§§ 108A and 108C	Established Personnel Board	Art. 21, 1963 ATM, p. 139
§ 108L	Quinn Bill, incentive pay for police officers	Art. 7, 1997 ATM, p. 27
§ 110A	Town Hall closed Saturdays	Art. 11, 2012 ATM, p. 16
F. Chapter 59.		
§ 5, cl. 17C	Liberalizes property tax exemptions of surviving spouses and minor children and persons over age 70	Art. 46, 1982 ATM, p. 34
§ 5, cl. 17D	Property tax exemptions regarding widows or orphans	Art. 9, 1986 STM, p. 56
§ 5, cl. 37A and 41B	Property tax exemptions regarding over 70	Art. 8, 1986 STM, p. 56
§ 5, cl. 41C	Liberalizes requirements the blind and elderly must meet in order to qualify for property tax exemptions	Art. 44, 1984 ATM, p. 31

§ A900-1	MARSHFIELD CODE	§ A900-1
§ 5, cl. 54	Allowing the Town to exempt \$2,000 of fair cash value on personal property accounts to be taxed beginning with fiscal year 2013	Art. 21, 4-23-2012 ATM
§ 5L	National guardsmen and reservists deployed outside the state to defer payment of their property taxes up to 180 days after that service without interest or penalties	Art. 26, 2007 ATM
§ 57C	Property tax collected on quarterly basis	Art. 25, 1990 ATM, p. 39
G. Chapter 60.		
§ 15B	Establish Tax Title Collection Revolving Account	Art 15, 4-24-2017 ATM
§ 23B	Certificate of liens; fee schedule	Art. 13, October 2002 STM
§ 79	Sale of land of low value	Art. 32, 1948 ATM, p. 71
H. Chapter 80.		
	Betterments Act	Art. 53, 1955 STM, p. 111
§ 13B	Betterments deferral and recovery agreements; application; recordation; lien	Art. 6, April 2004 STM
I. Chapter 83.		
§§ 16A through 16F	Sewer bills treated same as real estate bills by collector, subject to interest and becoming a lien	Art. 1, 1981, p. 40
§ 16G	Deferral of charges	Art. 7, April 2004 STM
J. Chapter 90.		
§ 18A	Pedestrian regulations	Art. 17, 1973 ATM, p. 49
§ 20A 1/2	Enforcement of parking violations	Art. 5, 1981 ATM, p. 40
§§ 20C and 20D	Regarding visible parking tags	Art. 45, 1970 ATM, p. 33

§ 22C	Disposition of abandoned motor vehicles	Art. 6, 1966 ATM, p. 46
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K. Chapter 91.

§ 11	State improvement of waterways	
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§ 29	Indemnify state public works liability and appropriation of same	Art. 40, 1945 ATM, p. 78
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§ A900-2. Various other chapters and sections accepted by Town.

Ch. 31, § 48	Police and Fire Departments under civil service	Annual Town Election, 1962, pp. 43-44
Ch. 44, § 8, cl. 5	Borrowing outside the debt limit for water mains	
Ch. 44, § 17	Borrowing in anticipation of revenue	
Ch. 44, § 53D	Establishment of revolving fund for conducting a self-supporting Recreation Department	Art. 7, 1981 ATM, p. 32; revoked 4-22-2013 ATM by Art. 5
Ch. 44, § 53F	Permission to enter into compensating balance	Art. 24, 1990 ATM, p. 39
Ch. 44B, §§ 3 to 7	Community Preservation Act at 5%	Art. 10, 2001 ATM, Question 1 on 2001 ballot
Ch. 48, §§ 42, 43 and 44	Establishment of Fire Department under Chief	Art. 31, 1957 STM, p. 103
Ch. 48, § 36A	Appointment by Fire Chief of call men to regular firemen	Art. 8, 1962 ATM, p. 61
Ch. 48, § 58E	Residency requirements for members of Fire Department	Art. 10, 1976 ATM, p. 58
Ch. 58, § 7A	Acceptance of State Assessment System	Art. 20, 1971 ATM, p. 29
Ch. 60A, § 1, 2nd and 3rd sentences	Regarding distinctive plates to POWs without fee	Art. 41, 1986 ATM, p. 30
Ch. 64G, § 3A	Imposes local room occupancy excise tax at 4%	Art. 38, 1986 ATM, p. 28

Ch. 64L, § 2	Authorizing the imposition of a local sales tax upon the sale of restaurant meals in the statutory amount of .75% on meals originating within the Town	Art. 10, 4-27-2015 ATM
Ch. 71, § 40	Increasing teacher compensation	Arts. 9 and 10, 1985 ATM, p. 42
Ch. 71, § 71F	Create a revolving fund for nonresident or foster care students tuition	Art. 15, 4-24-2006 STM
Ch. 82, § 24	Eminent domain land damages	Art. 36, 1948 ATM, p. 72
Ch. 85, §§ 11A and 11B	Regarding bicycle regulations	Art. 61, 1965, p. 37
Ch. 94, §§ 120 and 120A	Requiring slaughter license	Art. 31, 1945, p. 77
Ch. 128, Revised §§ 41 and 45	County aid to agriculture	
Ch. 139, §§ 1, 2 and 3	Re: burned and dilapidated buildings	Art. 30, 1956, p. 99
Ch. 140, § 139	Free dog licenses for residents over 70 years of age	Art. 18, April 2003 ATM
Ch. 140, § 147A	Setting regulations for licensing and keeping of dogs	Art. 36, 1988, p. 38
Ch. 143, §§ 4 through 12	Control of dangerous buildings by Building Inspector	Art. 30, 1945, p. 74
Ch. 145	Regarding tenement houses in Town of Marshfield	Art. 52, 1954, p. 96
Ch. 147, § 17B	Police get 40-hour week and 8-hour day	Art. 11, 1963, p. 139
Ch. 148, § 26C	Regarding smoke or heat detectors	Art. 3, 1976, p. 57
Ch. 148, § 26E	Regarding smoke or heat detectors in residential buildings	Art. 34, 1990 ATM, p. 40
Ch. 148, § 26G	Regarding sprinkler systems	Art. 6, 1983, p. 29
Ch. 148, § 26H	Regarding sprinkler systems in lodging or boarding houses	Art. 36, 1990 ATM, p. 40
Ch. 148, § 26I	Regarding sprinkler systems in multi-dwellings	Art. 41, 1991 ATM, p. 30
Ch. 148, § 56	Relative to licensing open-air parking spaces	Art. 3, 1957, p. 93

Ch. 175, § 110	Accident insurance for Fire Department	Art. 54, 1951, p. 94
Ch. 234, § 1	Exempting firefighters from serving on jury duty	Art. 81, 1984, p. 49

§ A900-3. Acts and chapters accepted by Town.

Acts of 1910, Ch. 130, §§ 7 and 2	Providing for a 9-member Advisory Committee	Art. 33, 1914 (between pp. 72 and 73)
Acts of 1920, Ch. 405, § 10	Water surplus	
Acts of 1928, Ch. 396, § 2	Water surplus	Art. 43, 1945, p. 78
Acts of 1931, Ch. 112	Mosquito control (first year)	Art. 9, 1946, p. 74
Acts of 1941, Ch. 487	Public Safety Committee	Art. 15, 1945, p. 74
Acts of 1943, Ch. 157	War emergency power to appropriate money for bus service	Art. 11, 1945, p. 74
Acts of 1943, Ch. 564	Required information on tax bills	
Acts of 1945, Ch. 56	Authorizing Water Commissioners to act as Sewer Commissioners	Art. 23, 1946, p. 75
Acts of 1945, Ch. 56	Water Commissioners unable to dually serve as Sewer Commissioners	Art. 55, 1960, p. 30
Acts of 1945, Ch. 635, § 3	Authorizing advance payment to those going on vacation	Art. 4, 1948, p. 94
Acts of 1946, Ch. 563	Shore protection	Art. 3, 1946, p. 87
Acts of 1947, Ch. 8	Provide adequate transportation and avoid discontinuance of such service	Art. 14, 1947, p. 64
Acts of 1947, Ch. 621	Harbor improvements — dredging	
Acts of 1950, Ch. 820	Increasing certain pensions	Art. 56, 1951, p. 94
Acts of 1951, Ch. 781	Increasing certain pensions	Art. 47, 1952, p. 87
Acts of 1952, Ch. 624	Increasing certain pensions \$100 per year	Art. 24, 1953, p. 96

Acts of 1953, Ch. 387	Pension increase for employees with 15 years or more of service	Art. 10, 1954, p. 93
Acts of 1955, Ch. 670	Increasing certain pensions \$200 per year	Art. 17, 1956, p. 97
Acts of 1956, Ch. 401	Regarding protection for civil defense volunteers while operating Town-owned vehicles	Art. 39, 1957, p. 105
Acts of 1963, Ch. 214	Control of Cedar Grove Cemetery to Town of Marshfield	Art. 67, 1963, p. 148
Acts of 1963, Ch. 383	Enforcement of Marine Fisheries Laws by local police	Art. 53, 1964, p. 36
Acts of 1965, Ch. 595	Control of Marshfield Hills Cemetery to Town of Marshfield	Art. 17, 1965, p. 47
Acts of 1969, Ch. 781	Regarding annuity to Robert E. McGowan, Police Department	Art. 44, 1970, p. 33
Acts of 1975, Ch. 808	Zoning Enabling Act	Art. 48, 1978, p. 24
Acts of 1977, Ch. 639; MGL c. 71, § 71E	Authorizing Treasurer to deposit to separate accounts all receipts received by the School Committee for adult education, etc.	Art. 47, 1978, p. 24
Acts of 1988, Ch. 245	Allows Town to complete unfinished subdivisions	Art. 27, 1991, p. 26
Acts of 1989, Ch. 653, § 40	Taxation of improvements constructed between January 1 and June 30	Art. 47, 1991, p. 33
Acts of 1990, Ch. 291	Enhanced 911	Art. 34, 1991, p. 29
Acts of 1994, Ch. 235	Rights of certain firefighters and police officers	Art. 58, 1997, p. 43
Acts of 2006, Ch. 79	Adding a new § 23D to MGL c. 39 to be applicable to all types of adjudicatory hearings held by any Town board, committee or commission	Art. 1, 10-3-2006 STM
Acts of 2008, Ch. 479	Establish an Other Post Employment Benefits Liability Trust Fund and transfer \$10,000 to the fund	Art. 9, 4-27-2009 STM

Chapter A901

TOWN MEETING RULES

§ A901-1. Rules.

- A. The conduct of Marshfield's Town Meeting is dictated by federal and state law, the Town's Charter and bylaws, local tradition, and then the publication titled "Town Meeting Time."
- B. The Moderator shall preside over Town Meeting, decide all questions of order and procedure, and announce the results of all votes.
- C. The Moderator may call for a voice vote, standing vote, show of hands, roll-call vote or secret ballot. A motion for any of these voting methods may be made at any time during the discussion phase of an article by a recognized voter. If the results of a voice vote or a show of hands vote are questioned by seven voters standing immediately after the announced vote, a standing vote will be taken without debate. A majority of the voters must approve any motion for a roll-call vote or a vote by secret ballot. No voter will be subject to declaring his vote before said vote is called.
- D. All matters shall be decided by a majority vote unless a two-thirds or greater vote is required. If more than a majority vote is required, the Moderator shall announce the required percentage for passage before calling for the vote.
- E. In order for Town Meeting to act on or discuss an article, a motion must be made. The Moderator will call for a motion on each article. If no motion is made after the second call, the Moderator will pass over the article and move on to the next article. In order to bring back a passed over article for discussion, a motion for reconsideration must be approved by a majority vote.
- F. A motion may be reconsidered once by a majority vote. No further reconsideration will be permitted unless the Moderator determines that there has been a significant procedural error or that there is new information likely to affect the vote. There will be no reconsideration of a vote either on a subsequent evening or after 10:30 p.m. on the evening of the vote in question.
- G. Articles may be postponed by a majority vote or advanced by approval of the Moderator and a two-thirds vote.
- H. To address Town Meeting, a speaker must first be recognized by the Moderator then give his or her name and address for the record. No speaker will be recognized while another person is speaking except to raise a point of order, which is used to question a ruling of the Moderator or the conduct of the Town Meeting. Points of order are not to address the subject matter being discussed.
- I. The Moderator may set time limits on all presentations and may terminate debate on a motion when he deems it appropriate. Debate on a motion may also be terminated by a recognized voter moving the question, which, if accepted by the Moderator as not being premature,

shall be voted on without discussion or debate. A motion to move the question requires a two-thirds vote for passage. The Moderator may set limits on the number of times a voter can speak on an article.

- J. Articles in the warrant give notice of the subjects to be discussed at Town Meeting and establish the parameters of matters that can be debated and acted upon. Amendments, motions, and/or debate determined by the Moderator, with the advice of Town Counsel, to be beyond the scope of the articles may not be permitted.
- K. Only two amendments to a motion may be on the floor at any particular time. Generally, amendments shall be voted on in the order made and prior to the vote on the motion to be amended. Amendments over 10 words must be submitted to the Moderator in writing and, if over 50 words, sufficient copies must be available at the entrance of the hall before the start of that particular session.
- L. Consideration of differing dollar amounts to be appropriated shall be voted on in descending order, the largest number first, until an amount gains approval.
- M. Nonvoters will be seated in a special section unless permission is granted by the Town Meeting to be seated elsewhere. Nonvoters may be allowed to address the Town Meeting with permission of the Moderator unless a majority of voters choose to deny such a privilege.
- N. A resolution is a nondebatable, nonbinding motion on any matter calling for a consensus of the Town Meeting. If a resolution is over 10 words, it must be submitted to the Moderator in writing and, if over 50 words, sufficient copies must be available at the entrance of the hall to those attending.
- O. No new business will be taken up after 10:30 p.m. on any evening.
- P. When justice or order requires, the Moderator may make exceptions to these rules as he/she, in his/her discretion, deems it appropriate under the circumstances and with the concurrence of the majority of the voters.
- Q. The Town Clerk shall report to Town Meeting on signage.

Derivation Table

Chapter DT

DERIVATION TABLE

§ DT-1. Derivation Table of General Bylaws to 2017 Code

Article/Title From General Bylaws	Location in 2017 Code
Art. 1, Town Meetings	Ch. 5, Art. I
Art. 2, Fine	Ch. 161, Art. I
Art. 3, Certain Powers of Town Officers	Ch. 5, Art. II
Art. 4, Financial	Ch. 95, Art. I
Art. 5, The Advisory Committee	Ch. 52, Art. I
Art. 6, Peeping Tom	Ch. 180, Art. II
Art. 7, Police Regulations	Ch. 180, Art. I
Art. 8, Junk Dealers and Collectors	Ch. 134, Art. I
Art. 9, Regulations of Vehicles for Hire	Ch. 278
Art. 10, Shellfish Regulation	Ch. 226
Art. 11, Bath Houses	Ch. 25
Art. 12, Discharging Rifles	Ch. 98, Art. I
Art. 13, Selling Wood and Timber	Ch. 201, Art. I
Art. 14, Balance Accounts	Ch. 95, Art. II
Art. 15, Annual Audit	Ch. 95, Art. III
Art. 16, Selling Surplus Property	Ch. 201, Art. II
Art. 17, Selling Beach and Meadow Lots	Ch. 201, Art. III
Art. 18, Moving Buildings	Ch. 40
Art. 19, Hydrants	Ch. 101, Art. I
Art. 20, Earth Removal	Ch. 70
Art. 21, Installing Wires	Ch. 76
Art. 22, Door to Door Solicitation	Ch. 184, Art. I
Art. 23, Coasting	Ch. 180, Art. III
Art. 24, Council for the Aging	Ch. 52, Art. II
Art. 25, Town Collector	Ch. 95, Art. IV
Art. 26, Laying of Water Pipes	Ch. 285, Art. I
Art. 27, Animal Control	Ch. 16, Art. II
Art. 28, No Hunting in Designated Areas	Ch. 98, Art. II
Art. 29, No Filling of Open Ditches	Ch. 64
Art. 30, Peddler's License	Ch. 184, Art. II
Art. 31, Keeping Junk	Ch. 134, Art. II
Art. 32, Waterways	Ch. 34
Art. 33, Gas Permits	Ch. 195, Art. I
Art. 34, Removal of Vehicles for Snow Removal	Ch. 275, Art. I

Article/Title From General Bylaws	Location in 2017 Code
Art. 35, Digging up of Public Ways	Ch. 250, Art. III
Art. 36, New Driveway Connections	Ch. 250, Art. I
Art. 37, Wetlands Protection	Ch. 294
Art. 38, No Fires on Beach	Ch. 101, Art. II
Art. 39, Water on Public Street or Private Way	Ch. 250, Art. VI
Art. 40, Motor Vehicles on Bridle Path	Ch. 275, Art. II
Art. 41, No Salt Zone	Ch. 250, Art. V
Art. 42, Town Engineer	Ch. 170, Art. II
Art. 43, Selectman/Assessor	Ch. 170, Art. I
Art. 44, Barriers Around Excavated Land	Ch. 86
Art. 45, Acceptance of Streets	Ch. 250, Art. IV
Art. 46, Town Hall Management	Ch. 5, Art. III
Art. 47, Smoke Detectors	Ch. 101, Art. III
Art. 48, Boat Launching at Public Piers	Superseded 2008; see Ch. 34
Art. 49, Dog Late Fee	Ch. 16, Art. I
Art. 50, Coin-Operated Devices	Repealed 4-28-2014 STM by Art. 7
Art. 51, Resolutions	Ch. 5, Art. IV
Art. 52, Temporary Repair of Private Ways	Ch. 250, Art. II
Art. 53, Risk Management and Insurance Program	Ch. 95, Art. V
Art. 54, Sewer Rules and Regulations	Ch. 223
Art. 55, Trash Disposal Fee	Ch. 238, Art. I
Art. 56, Capital Budget	Ch. 95, Art. VII
Art. 57, Fuel Storage Tanks	Ch. 101, Art. IV
Art. 58, Waterway Speed	Superseded 2008; see Ch. 34
Art. 59, Numbering of Buildings	Ch. 43
Art. 60, Non-renewal of Licenses with Outstanding Taxes	Ch. 145, Art. I
Art. 61, Underground Storage Tanks	Ch. 101, Art. V
Art. 62, Underground Storage Tanks	Ch. 101, Art. V
Art. 63, Fire Alarm/Lock Box	Ch. 101, Art. VI
Art. 64, Jet Skis	Superseded 2008; see Ch. 34
Art. 65, Anti-Noise	Ch. 180, Art. IV

Article/Title From General Bylaws	Location in 2017 Code
Art. 66, Water Conservation	Ch. 285, Art. II
Art. 67, Municipal Due Dates	Ch. 95, Art. VI
Art. 68, Disposal of Restricted Material	Ch. 238, Art. II
Art. 69, Personal Use of Town Owned Vehicles	Ch. 170, Art. III
Art. 70, Dumping into Rivers, Creeks and Channels	Ch. 238, Art. III
Art. 71, Sealer of Weights and Measures	Ch. 290
Art. 72, Board of Health Rules and Regulations	
Section 1, Noncriminal Civil Disposition	Ch. 161, Art. II
Section 2, Eliminating Public Exposure to Tobacco Smoke in Public Places	Ch. 232
Art. 73, Violations of Scenic Roads Act	Ch. 250, Art. VII
Art. 74, Handicapped Parking	Ch. 275, Art. III
Art. 75, Street Opening Permits	Ch. 250, Art. VIII
Art. 76, Carbon Monoxide Detectors	Ch. 101, Art. VII
Art. 77, Indemnification of Certain Retired Police Officers and Firefighters	Ch. 170, Art. IV
Art. 78, Community Preservation Committee	Ch. 52, Art. III
Art. 79, Obstruction of Seawalls	Ch. 217
Art. 80, Drug Testing	Ch. 170, Art. V
Art. 81, Buying/Selling Property by Town Official(s)	Ch. 201, Art. IV
Art. 82, Water Restriction Bylaw	Ch. 285, Art. III
Art. 83, Municipal Storm Drain System	Ch. 246
Art. 84, Dumpsters	Ch. 238, Art. IV
Art. 85, Right to Farm	Ch. 89, Art. I
Art. 86, Eminent Domain	Ch. 80
Art. 87, Demolition of Historically Significant Buildings or Structures	Ch. 118, Art. I
Art. 88, Entry Upon Premises and Removal of Combustible Materials	Ch. 101, Art. VIII
Art. 89, Open Burning	Ch. 101, Art. IX
Art. 90, Piling Snow on Fire Protection Devices Prohibited	Ch. 101, Art. X
Art. 91, Shut Off, Disconnect, Obstruction, Removal or Destruction of a Fire Protection Device	Ch. 101, Art. XI

Article/Title From General Bylaws	Location in 2017 Code
Art. 92, Personnel Classification and Compensation Bylaw	Ch. 188
Art. 93, Public Consumption of Marijuana or Tetrahydrocannabinol	Ch. 180, Art. V
Art. 94, Stretch Energy Code	Ch. 253

Disposition List

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
	4-30-2011	Charter amendment	Charter
ATM Art. 21	4-23-2012	Accept MGL c. 59, § 5, cl. 54	Ch. A900
STM Art. 3	10-22-2012	Accept MGL c. 40, § 13D	Ch. A900
STM Art. 6	4-22-2013	Capital budget amendment	Ch. 95, Art. VII
STM Art. 11	4-22-2013	Zoning amendment	Ch. 305
ATM Art. 5	4-22-2013	Revoke acceptance of MGL c. 44, § 53D	Ch. A900
ATM Art. 8	4-22-2013	Personnel	Ch. 188
ATM Art. 12	4-22-2013	Zoning amendment	Ch. 305
ATM Art. 20	4-22-2013	Zoning amendment	Ch. 305
STM Art. 6	11-4-2013	Boating and waterways amendment	Ch. 34
STM Art. 10	11-4-2013	Personnel amendment	Ch. 188
STM Art 7	4-28-2014	Repeal of Art. 50, Coin-Operated Devices, of the General Bylaws	Repealer only
ATM Art. 10	4-28-2014	Public consumption of marijuana or tetrahydrocannabinol	Ch. 180, Art. V
ATM Art. 15	4-29-2014	Zoning amendment	Ch. 305
ATM Art. 16	4-29-2014	Zoning amendment	Ch. 305
ATM Art. 17	5-5-2014	Zoning amendment	Ch. 305

Enactment	Adoption Date	Subject	Disposition
ATM Art. 26	4-28-2014	Seat belts for school buses	Disapproved by Attorney General
ATM Art. 28	4-28-2014	Community Preservation Committee amendment	Ch. 52, Art. III
STM Art. 3	10-27-2014	Personnel amendment	Ch. 188
STM Art. 6	10-27-2014	Sale of surplus or abandoned property amendment	Ch. 201, Art. II
STM Art. 8	10-27-2014	Stretch Energy Code	Ch. 253
STM Art. 16	10-27-2014	Zoning amendment	Ch. 305
STM Art. 17	10-27-2014	Zoning amendment	Ch. 305
STM Art. 18	10-27-2014	Zoning amendment	Ch. 305
STM Art. 19	10-27-2014	Zoning amendment	Ch. 305
STM Art. 20	10-27-2014	Zoning amendment	Ch. 305
ATM Art. 9	4-27-2015	Personnel amendment	Ch. 188
ATM Art. 10	4-27-2015	Accept MGL c. 64L, § 2	Ch. A900
ATM Art. 14	4-27-2015	Zoning amendment	Ch. 305
ATM Art. 15	4-27-2015	Zoning amendment	Ch. 305
ATM Art. 16	4-27-2015	Zoning amendment	Ch. 305
ATM Art. 17	4-27-2015	Zoning amendment	Ch. 305
ATM Art. 18	4-27-2015	Scenic roads amendment	Ch. 250, Art. VII
Board of Health	9-1-2015	Tobacco control	Ch. 670, Art. I
Board of Health	9-1-2015	Smoking in workplaces and public places	Ch. 670, Art. II
STM Art. 7	10-26-2015	Boating and waterways amendment	Ch. 34
STM Art. 8	10-26-2015	Zoning amendment	Ch. 305
STM Art. 9	10-26-2015	Zoning amendment	Ch. 305
STM Art. 15	4-25-2016	Personnel amendment	Ch. 188
ATM Art. 9	4-25-2016	Personnel amendment	Ch. 188
ATM Art. 20	4-25-2016	Dumpsters amendment	Ch. 238, Art. IV
STM Art. 5	10-24-2016	Zoning amendment	Ch. 305
STM Art. 2	4-24-2017	Zoning amendment	Ch. 305
ATM Art. 9	4-24-2017	Approve codification of General Bylaws	Ch. 1, Art. I

Enactment	Adoption Date	Subject	Disposition
ATM Art. 10	4-24-2017	Approve amendments to General Bylaws	Ch. 1, Art. I
ATM Art. 11	4-24-2017	Approve codification of Zoning Bylaw	Ch. 305
ATM Art. 12	4-24-2017	Approve amendments to Zoning Bylaw	Ch. 305
ATM Art. 15	4-24-2017	Accept MGL c. 60, § 15B	Ch. A900
ATM Art. 17	4-24-2017	Zoning amendment	Ch. 305
Board of Health	6-12-2017	Approve codification of regulations	Ch. 600, Art. I
Conservation Commission	6-20-2017	Approve codification of regulations	Ch. 500, Art. I
Planning Board	7-24-2017	Approve codification of regulations	Ch. 400, Art. I