

**TOWN OF MARSHFIELD**  
**GENERAL BY-LAWS**

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TOWN OF MARSHFIELD  
MASSACHUSETTS  
GENERAL BYLAWS

**ARTICLE ONE - Town Meetings**

**Section 1.** Notice of every Annual and Special Town Meeting shall be given by posting attested copies of the Warrant for such meetings at ten public places in different parts of the town not less than seven days before the holding of said Annual Meeting and fourteen days before holding of any Special Town Meeting.

**Section 2.**\*\*\*\* 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.

**Section 3.\*** There will be no quorum for Town Meetings.

**Section 4.** 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.

**Section 5.\*\*** 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.

**Section 6.\*\*\*** 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.

**Section 7.\*\*\*** Except as otherwise provided in Ch 39, Section 10 of the MGL, 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.

**Section 8.\*\*\*\*\*** 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 it to the Town Clerk's Office.

*\*Amended by Article 42, 1979 ATM and amended again by Article 15, 1988 ATM*

*\*\*Amended by Article 1 of 4/28/97 STM*

*\*\*\*Amended by Article 18 & 20 of 4/27/06 ATM*

*\*\*\*\*Amended by Article 20 of the STM 10/15/2007*

*\*\*\*\*\*Amended by Article 30 of ATM 4/27/08*

**ARTICLE TWO - Fine**

**Section 1.** Non-Criminal Disposition\_ Pursuant to the civil infraction procedures set forth in Chapter 40, Sec. 21D of the General Laws, the non-criminal disposition of the following violations is hereby authorized:

Any violation of any town bylaw.

**Section 2.** Schedule of Civil Assessments – 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 \$300.00.

**Section 3.** Governing Law – This bylaw is intended to comply fully with the provisions of Sections 21D of Chapter 40 of the General Laws, and to authorize the non-criminal 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 non-criminal disposition of an alleged violation of any bylaw.

**Section 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.

*Amended by Article 6, October 18, 2004 STM*

### **ARTICLE THREE - Certain Powers of Town Officers**

**Section I.** 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.

**Section 2.** Whenever it shall be necessary to execute any deed conveying land, the same shall be executed by the Treasurer in behalf of the Town, unless the Town shall otherwise vote in any special case.

### **ARTICLE FOUR - Financial**

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

**Section 2.** 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 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 and Selectmen to see that the expenditures are not in excess of the appropriation against which orders are drawn. (Quotation from Section 5, Chapter 44 -as amended by Chapter 253, Acts of 1922: "No department of any city or town except Boston shall incur liability in excess of the appropriations made for the use of such department, except in cases of extreme emergency involving the health or safety of persons or property and then only by a vote, in a city, of two-thirds of the members of the City Council, and by a vote of two-thirds of the Selectmen. Any Town Officer who knowingly violates or authorizes or directs any official or employee to violate any provision of this section shall be punished by a fine of not more than one hundred dollars. The Selectmen SHALL, and five taxpayers may, report such violation to the District Attorney who shall investigate and prosecute the same.")

**Section 3.** 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.

### **ARTICLE FIVE - The Advisory Committee**

**Section I.** The Advisory Committee 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.

**Section 2.** It shall be the duty of the Advisory Committee 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 Committee.

**Section 3.** The Advisory Committee shall organize by the choice of a Chairman and Clerk who shall keep a record of all meetings of the Committee and five members shall constitute a quorum for the transaction of business.

### **ARTICLE SIX - Peeping Tom**

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.

*Adopted 1957 ATM. App. by A.G. 3/28/57*

### **ARTICLE SEVEN - Police Regulations**

**Section 1.** 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.

**Section 2.** 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 one 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 not more than one hundred dollars (\$100.00) for each offense.

*Amended by Article 37, 1980 ATM*

**Section 3.** 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.

*Amended by Article 5, July 14, 1966 STM*

**Section 4.** 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.

**Section 5.** No person shall drive any horse, cattle 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.

**Section 6.** 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 maybe used to prevent slipping. Any person who violates this bylaw shall be fined not more than three hundred dollars (\$300.00) for each offense. Each day of a continuing violation shall count as a separate offense.

*Amended by Article 5, October 18, 2004 STM*

**Section 7.** 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.

**Section 8.** No contents of any sink, cesspool, or privy, shall 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.

**Section 9.** 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.

*Adopted by Article 18, July 14, 1966 STM*

*Amended by Article 88, 1984 ATM*

**Section 9A.** 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 by Article 72, 1973 ATM*

**Section 10.** No person shall drink any alcoholic beverages as defined in Chapter 138, Section I, of the Massachusetts General Laws, 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 not more than one hundred dollars (\$100.00) for each offense.

*Amended by Article 36, 1980 ATM*

*Amended by Article 54, 1992 ATM*

**Section 11.** No person shall dive or swim from any bridge or part thereof into a navigable boat channel in the Town of Marshfield.

## **ARTICLE EIGHT - Junk Dealers and Collectors**

**Section 1.** No person shall engage in the business of collecting, by purchase or otherwise, junk, old metals and second-hand 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 time 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.

**Section 2.** 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 fifty dollars for each offense, and whoever violates any rule, regulation, or restriction contained in his license, shall forfeit not more than fifty dollars for each offense.

## **ARTICLE NINE - Regulations of Vehicles for Hire**

**Section 1.** 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.

**Section 2.** 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.

**Section 3.** All licenses granted as foresaid, for which a uniform fee shall be established by the Selectmen shall expire on December 31st, after the date thereof, and no license shall be sold or transferred without the consent of the Selectmen endorsed thereon.

*(Amendment covering change of date app. by A.G. 3/6/44)*

### **ARTICLE TEN - Shellfish Regulation**

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 the General Laws, Ch. 130, Sec. 52.

### **ARTICLE ELEVEN - Bath Houses**

No public Bath House or Bath Houses shall be maintained within the limits of the Town without a license from the Selectmen.

*Adopted by Article 19, 1947 ATM*

### **ARTICLE TWELVE - Discharging Rifles**

It shall be unlawful for any minor less than eighteen 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.

*Adopted by Article 8, 1929 ATM*

### **ARTICLE THIRTEEN - Selling Wood and Timber**

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

*Adopted by Article 11, 1931 ATM*

### **ARTICLE FOURTEEN - Balance Accounts**

The Town Treasurer and the Town Accountant shall balance their accounts, one with the other each month including the bank Statements, and the Treasurer 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.

*Adopted by Article 32, 1937 ATM*

### **ARTICLE FIFTEEN - Annual Audit**

There shall be an annual audit of the Town's accounts under the supervision of the Director of Accounts of the Department of Corporations and Taxation in accordance with the provisions of Section 35, Chapter 44,

General Laws.

*Adopted by Article 49, 1938 ATM*

**ARTICLE SIXTEEN - Selling Surplus Property**

The Selectmen are hereby authorized to sell surplus and/or abandoned property belonging to the Town valued at \$1000.00 or less in accordance with Clause II, Section 21, of Chapter 40 of the General Laws.

**ARTICLE SEVENTEEN - Selling Beach and Meadow Lots**

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

*Adopted by Article 49, 1944 ATM*

**ARTICLE EIGHTEEN - Moving Buildings**

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

*Adopted by Article 32, 1945 ATM*

**ARTICLE NINETEEN – Hydrants**

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. The enforcement of this By-Law and prosecution of violations, in connection therewith, shall be the responsibility of the Police Department.

*Adopted by Article 45, 1948 ATM - Authority formerly held by Water Commissioners now under Department of Public Works election 3/20/71. Ch. 41, S.69C thru F.*

**ARTICLE TWENTY - Earth Removal**

**Removal of Soil, Loam, Sand, Gravel, Quarry or other Earth Materials.**

\*\*\*1. 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.

2. \*\*\*\*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, R1, R2 and R3) although existing permits may be renewed.

\*\*\*\*Amended ATM 4/2011

3. **Exceptions.** The removal of earth material in any of the following operations shall be exempt from this section:

- a.\*\*\* The removal of less than one hundred cubic yards of material in the aggregate from any one lot.
- b. The transfer of material from one part of a lot to another part of the same lot.
- c. 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.

d.\*\*\* 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 therefore issued by the appropriate town officials, boards or agencies. Provided however, that this exception shall not apply where the Board of Selectmen determine, 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 one hundred 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.

4. 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 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 from any public street or from any adjoining lot line.
- c. Off-street parking as required in the Table of Off-Street Parking Regulations shall be provided.
- 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 degrees 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 months of March, April or May. Such tests shall be conducted by a Mass. 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.

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.

Excavation shall be restricted to those areas which are at elevations ten feet or more above the maximum groundwater elevation as determined by the testing conducted under the provisions of this sub-paragraph.

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 (1) 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 the paragraphs in triplicate below.

\*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.

\*\*o. All auto and truck access ways to all active and inactive mining operations for sand and gravel must have controlled access by lockable gates.

*\*Amended by Article 13, 10/19/87 STM*

*\*\*Amended by Article 23, 1988 ATM*

**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 2-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 1" = 1000'.
- 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. Night operations shall not be permitted
- j. Proposed lateral support to all adjacent property
- k. Proper provision for vehicular traffic, service roads, control of entrances and exits to highways.
- l. The relation of future buildings, temporary buildings, and operations machinery to the removal areas
- m. Delineation of removal areas and depths
- n. 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 ten feet or more and create a slope of more than one foot in two feet. Such fence shall be located ten feet or more from the edge of the excavation or quarry, and shall be at least six feet in height.
- o. Method of removal
- p. Distance of excavation to street and lot lines

- q. Disposition of boulders and tree stumps
- r. Cleaning, repair and/or resurfacing of streets used in the removal activities which have been adversely affected by the removal activity.

**6. Land Restoration Plan(s).** Land restoration plan(s) must be submitted to and approved by the Board of Selectmen subject to the regulations set forth in the following paragraphs:

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.

**7. Bonding.** 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.

**\*\*\*8. Penalties.** The penalty for the violation of this section of this by-law, 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:

a. For the first offense, fifty dollars (\$50.00)

b.\*\*\* For the second offense, one hundred dollars (\$100.00); for each subsequent offense two hundred dollars (\$200.00).

c.\*In addition to the penalties provided for in subparagraph a and b 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.

d. 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 By-law.

Such penalties shall be in addition to the existing rights of the Town to enforce its by-laws.

*\*Amended by Article 13, 10/87 STM*

**9. Permit Procedures.**

a. No such permit shall be issued except upon written application therefore, 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 ten (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 fourteen 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 Public Works Commissioners 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.

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 thirty (30) days to elapse after receipt of such plan without submission of a report.

**10. Existing Operations.** 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. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment.

Adopted by Article 58, 1955 ATM

Amended by Article 69, 1958 ATM

Repealed March 2,3,5 and 6, 1959

Adopted by Article 13 of June 21, 1972 STM

\*\*\*Amended by Article 9 STM 4/28/2008

### **ARTICLE TWENTY ONE - Installing Wires**

1. 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 inspector of wires in writing of the proposed installation.

2. All electrical installations or alterations must conform to the National Electric Code and be inspected and approved by the wire inspector.

*Adopted by Article 26, 1954 ATM*

### **ARTICLE TWENTY TWO - Door to Door Solicitation**

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.

#### **DEFINITIONS:**

“Person” shall mean any individual, firm, co-partnership, corporation, company, associations, organizations, committee or other such entity.

“Permit” is the photo identification card issued to a permittee.

“Registration” is the document given to the organization, corporation, company, association or committee for solicitation.

“Solicit” or “Solicitation” shall include any one or more of the following activities:

- A. Seeking to sell or to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description.
- B. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type of publication.
- C. This bylaw shall not apply to persons soliciting solely for religious, charitable or political purposes.

**REGISTRATION REQUIREMENTS** - There shall be two types of filings required: An Organization Solicitation Registration and an Individual Solicitation Permit:

**Organization Solicitation Registration** - 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 twenty (20) days to approve the registration for such solicitation, or notify the applicant that the registration is denied.

The Organization Registrant is obligated to inform the Chief of Police as to the areas of town in which it 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.

**Individual Solicitation Registration** - 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. Upon approval, the Chief shall cause an individual permit, with picture identification, to issue within five (5) business days. The permit issued is non-transferable and must be displayed at all times while the permittee is conducting business.

Upon request, the permittee shall show his/her permit to a police officer. The permit shall be valid for no more than six (6) 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.

**Basis For Denial of a Registration** - The Chief of Police may refuse to register an organization which has been charged with fraud, 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.

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.

**Basis For Denial of a Permit** - 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:

Assault and battery; Breaking and entering a building or ship with intent to commit a misdemeanor; Larceny; Shoplifting, cheating by check; Unlawful or fraudulent use of credit cards; Unlawful taking of money; Stealing or poisoning of a dog; Buying, receiving or concealing stolen goods; Deceptive advertising; Making or publishing false statements; Destruction or injury of a building; Trespass on property after prohibition; Trespass with internal combustion engine or source of mechanical power.

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.

**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.

**Misrepresentation of Endorsement by the 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.

**Permit Suspension** - 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.

**Revocation** - 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 (3) 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 (3) 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.

**Penalty** - Any person who commits an unlawful act as described in this Bylaw shall be punished by a fine of \$100.00 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.

**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 twenty-one (21) days of the filing of the appeal.

### **ARTICLE TWENTY THREE – Coasting**

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.

*Adopted March 4, 5 and 7, 1957*

### **ARTICLE TWENTY FOUR - Council for the Aging**

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. Appointees shall hold office for a period of 3 years each so that 3 appointments shall expire annually. 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.

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 Council for the Aging established under Section 73 of Chapter 6 of the General Laws.

*Adopted March 4, 5 and 7, 1957*

*Amended by Article I, 1986 STM*

### **ARTICLE TWENTY FIVE - Town Collector**

The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town, in accordance with the provisions of Chapter 41, Section 38A of the General Laws as amended.

*Adopted March 1 and 4, 1954*

## **ARTICLE TWENTY SIX - Laying of Water Pipes**

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.

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.

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 one hundred feet from such way.

A lien for such assessments shall run with the land so assessed.

*Adopted by Article 38, 1959 ATM. Authority now held by D.P.W. elected 3/20/71*

## **ARTICLE TWENTY SEVEN – Animal Control**

No dog shall be allowed in any public place or any lands, beaches or way 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.

**Section 1.** It shall be the duty of the Animal Control Officer to enforce this article 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.

The provisions of the bylaw shall not prohibit the use of hunting dogs for hunting purposes during appropriate hunting season. It 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.

\*The Penalty of this Bylaw shall be \$25.00 for each offense. The penalty for each ensuing offense shall be as follows: 2<sup>nd</sup> offense - \$50.00, 3<sup>rd</sup> offense - \$75.00, 4<sup>th</sup> offense and each additional - \$100.00.

\* The penalty for dogs running at large and who are deemed to be vicious (either through a previous dog bite or by determination of the Animal Control Officer) will be \$200.00. 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.

**Section 2. Restraint of Domestic Livestock** - 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.

The penalty for violation of this article shall be \$10.00 for the first offense and \$20.00 for each subsequent offense. It shall be the duty of the Animal Control Officer to enforce this article.

**Section 3.** The Board of Selectmen shall establish fees and sufficient charges to support the cost of the

Animal Control Program as provided in Ch. 140, S. 147A, Massachusetts General Laws.

*Adopted by Article 37, 1990 ATM*

*\*Amended Article 32 2008 ATM 4/27/2008*

### **ARTICLE TWENTY EIGHT - No Hunting in Designated Areas**

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.

*Adopted by Article 64, 1959 ATM*

### **ARTICLE TWENTY NINE - No Filling of Open Ditches**

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 of contract by the Town.

*Adopted by Article 71, 1959 ATM*

### **ARTICLE THIRTY - Peddler's License**

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.

### **ARTICLE THIRTY ONE - Keeping Junk**

I. 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 (2) junk automobiles, as those terms are hereinafter defined for more than thirty (30) consecutive calendar days without being licensed to do so under this Ordinance.

- 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 non-ferrous material, whose total weight exceed seventy-five (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 Ordinance.

2. A license to keep any substantial amount of junk, or more than two (2) 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.

3. 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.

4. Notwithstanding the aforesaid sections, no person shall be in violation of this Ordinance 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 Ordinance.

5. Any person or entity requesting a determination that articles or property are not within this Ordinance 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 (3) days before the date of the hearing. The cost of the publishing shall be paid by the applicant.

6. Notwithstanding the aforesaid sections, no junk or junk automobiles shall be deemed to be "in the open" as that phrase is used in Section I, if it is totally screened from view of any public road or public way.

7. Any person or entity who violates this Ordinance shall be liable for a fine of fifty (\$50.00) dollars for each day of violation.

8. Any clause, section, or part of this Ordinance 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.

*Adopted by Article 61, 1976 ATM*

## **ARTICLE THIRTY TWO – Waterways**

**SECTION 1: INTENT** - The purpose of this bylaw is to protect, preserve, 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.

**SECTION 2: DEFINITIONS** - 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: Shall mean 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: Shall mean the mooring block, float, buoys, chain, swivel and pennant which are the property of the vessel owner.

Harbormaster: Shall mean the Harbormaster and all Assistant Harbormasters as defined in Massachusetts General Laws, Ch. 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.

Marina: A location of safe refuge, moorage, slippage, storage or anchorage for five (5) or more vessels, which may supply provisions, marine supplies or chandlery; or at which these may be obtained, and 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 (5) in number. This definition shall include municipal boating facilities, piers and moorings.

Marshfield Waterways Committee: Shall mean a seven (7) 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 dock is secured with mooring tackle.

Skin Diver: Shall mean swimmers using fins and/or masks or snorkel tubes or self-contained underwater breathing devices.

Vessel: Shall mean 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: Shall mean 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:

Houseboat: Shall mean 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.

GREEN HARBOR BASIN: Shall be 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 twenty-four (24) hours.

NORTH RIVER: Shall be 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 twenty-four (24) hours.

SOUTH RIVER: Shall be 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 twenty four (24) hours.

MASSACHUSETTS BAY: Shall be that portion of Massachusetts Bay contiguous to the Town of Marshfield from the mean high water line to the seaward jurisdictional lifts of the town.

### **SECTION 3: MOORING BLOCK SPECIFICATIONS**

1. Ground tackle specifications including mooring block specifications, chain sizes, pennants and mooring float and buoy requirements shall be established by the Harbormaster.
2. 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.

### **SECTION 4: CARE AND MAINTENANCE OF GROUND TACKLE**

1. No ground tackle, after being set on bottom, shall be removed or in any way changed or sold without advance approval of the Harbormaster.
2. 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 (3) 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.
3. 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, 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.

### **SECTION 5: MOORING REGULATIONS**

1. 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.

2. An annual mooring waiting list shall be compiled and kept at the Harbormaster 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 waitlist shall reapply annually between April 15th and June 30th of each calendar year. Renewals must be in person, by mail or fax. If an applicant on the waitlist refuses a mooring location, the applicant will not lose their place on the mooring waitlist.

3. 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.

4. Each mooring permit holder shall place his/her registered vessel on the assigned mooring for a minimum of 30 days each twelve (12) month mooring fee billing period. Otherwise, the mooring is deemed abandoned and shall be forfeited. A mooring permit holder may apply for a one (1) year grace period to retain their designated mooring if they have sold the registered boat and are purchasing a replacement vessel, or if their 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.

5. 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.

6. Mooring servicing companies shall be registered and approved each year with the Harbormasters department.

7. All 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.

8. No vessel or other party may use a mooring other than owner and vessel originally assigned by registration and on file at the Harbormaster's Office except with the permission of the Harbormaster.

9. 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.

10. The type of pennant may be changed by using a substitute of equal or greater strength by permission of the Harbormaster.

11. The mooring chain and pennant may be increased in diameter but may not be increased in length except by permission of the Harbormaster.

12. No ground tackle shall have more than one (1) 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.

13. Any ground tackle owner in violation of the above regulations will have his/her ground tackle removed at their expense per order of the Harbormaster and lose their mooring.

14. Mooring holders may elect to replace mooring buoys with Winter logs after September 15th. Winter mooring gear shall be removed by June 1st. and replaced with appropriate mooring tackle. Winter logs not removed after June 1st. 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 2" blue stripe near the top and also be identified by mooring number. Typically winter logs are 4 feet in length.

15. The number of commercial vessel moorings available shall not be any less than exist as of June 30, 1991.

## **SECTION 6: WATERWAYS OF THE TOWN OF MARSHFIELD GENERAL REGULATIONS**

1. 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 6 knots or cause a disturbing wake.

2. No person shall Scuba dive or Snorkel in Green Harbor or any Town navigable fairway without permission of the Harbormaster Dept. 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.

3. Use of jet skis, water bikes or similar crafts on the North or South Rivers or within 300 feet of Marshfield Beaches is prohibited.

4. 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.

5. 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 twenty-four (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.

6. 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.

7. 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, traps in navigable fairways, channels, basins upon the North & South rivers and Green Harbor.

8. 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.

9. Minor children shall not be allowed the use of town floats, piers or launch ramps without adult supervision.

10. 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.

11. 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.

12. 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.

13. 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.

14. No vessel greater than fifty (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.

15. 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 by a fee of not more than \$50.00 for each violation

16. 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.

17. 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 the Massachusetts General Laws, Ch. 130, Sec. 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 the Massachusetts General Laws, Ch. 130, Sec. 95.

18. Houseboats are prohibited from mooring or anchoring within Town waters, except at marinas which provide the following:

- (a) A permanent float, dock or slip from which the houseboat may be directly accessed from land;
- (b) A sewer connection to a public sewage system; or sewage pumpout i.e. tight tank system;
- © An allweather supply of electricity year-round;
- (d) A connection to a public water supply by means of an individual anti-backflow valve; and
- (e) Compliance with all applicable Town By-Laws and safety requirements.

#### **SECTION 7: SPECIAL SAFETY REGULATIONS**

1. All vessels with a tuna pulpit that measures more than five (5) 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.

2. No person shall operate a vessel in Green Harbor or North or South Rivers of the town while towing water skiers, aqua-planes 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.

3. No person shall operate, or cause to allow to be operated, a vessel powered by machinery within 300 feet of any swimmer.

4. Motor boats shall not be operated within 300 feet of a public bathing beach unless operating in an area designated by the Harbormaster.

5. The designated boat lane on Green Harbor Beach shall be the place to operate or anchor a vessel powered by machinery.

6. 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.

**SECTION 8: APPEAL PROCESS** - Decisions of the Harbormaster that do not involve Bylaw violations

and/or criminal matters may be appealed to the Captain of the Port within 7 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.

**SECTION 9: PENALTIES** – Any person who violates any provision of this Bylaw, the Harbormaster's Regulations and/or any Shellfish Regulations (set forth in Article Ten) shall be punished by a fine of not more than \$150.00 for the first offense (with the exception of illegal taking of shellfish which shall be a fine of not more than \$300.00 per each offense), \$250.00 for the second offense and \$300.00 for a third 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.

**SECTION 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.

*Adopted ATM 4/27/2008 Art. 33*

*Amended STM 11/04/2013 Art. 6*

### **ARTICLE THIRTY THREE - Gas Permits**

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.

### **ARTICLE THIRTY FOUR - Removal of Vehicles for Snow Removal**

The Department of Public Works Commissioners 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.

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.

Failure to pay the aforesaid costs within 60 days after billing shall subject the owner of any vehicle so involved to a \$50.00 fine for each offense enforceable in the 3rd District Court of Plymouth, any such fines to enure to the Town.

*Adopted by Article 48, 1964 ATM*

### **ARTICLE THIRTY FIVE - Digging up of Public Ways**

**Section 1.** 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 therefore 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.

**Section 2.** A person having a permit under Section 1 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 Section 1 of this Article.

*Adopted by Article 81 of the 1968 ATM*

### **ARTICLE THIRTY SIX - New Driveway Connections**

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.

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. 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 THIRTY SEVEN - Wetlands Protection By-Law**

### **I. PURPOSE**

1. The purpose of this By-Law 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 By-Law include but are not limited to the following: public water supply, private water supply, ground water, 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.

2. This By-Law 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 Quality Engineering under Mass. General Laws, Chapter 131, S40.

### **II. JURISDICTION**

No person shall remove, fill, dredge or alter any bank, fresh water 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.

### **III. PROCEDURE**

1. 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 by-law in addition to the information required of a Notice of Intent filed pursuant to the Wetlands Protection Act, M.G.L. C. 131, S40.

2. 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.

3. 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 assessor's records. A list of abutters shall be submitted with the aforementioned Notice.

4. 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.

5. The Commission in an appropriate case may combine its hearing under this ordinance with the hearing conducted under the Wetlands Protection Act, M.G.L. C.131, S40.

6. 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.

7. The Commission shall issue its decision in writing within 21 days of the close of the public hearing thereon.

8. 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

By-Law. Due consideration shall be given to possible effects of the proposal on all values to be protected under this By-Law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

9. 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 By-Law and may make or cause to be made such examination or survey as deemed necessary.

10. 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 By-Law. Failure to provide evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this By-Law shall be sufficient cause for the Commission to issue a denial.

#### **IV. DEFINITIONS AND REGULATIONS**

1. The term "person", as used in this By-Law, 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.

2. Definitions shall be set forth in Regulations promulgated pursuant to this By-Law. If regulations are not promulgated or definitions are not set forth in said regulations, then the definitions set forth in M.G.L. C. 131, S40 and the regulations promulgated thereunder shall be incorporated as part of this By-Law for the sole purpose of providing definitions not otherwise provided by the regulations promulgated under this By-Law.

3. After due notice and public hearing, the Commission may promulgate rules and regulations to further effectuate the purposes of this By-Law. 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 By-Law.

#### **V. ENFORCEMENT**

1. Any person who violates any provision of this By-Law or any condition of a permit issued pursuant to it shall be punished by a fine of not more than three hundred dollars (\$300.00). 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 By-Law may be enforced pursuant to M.G.L. Ch. 40, S 21D, by a Town Police Officer or other officer having police powers.

2. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this By-Law or in violation of any permit issued pursuant to this By-Law shall be subject to this By-Law and shall forthwith comply with any order to restore said land to its condition prior to such violation.

#### **VI. EMERGENCIES**

The notice required by Section II, Paragraph 1 of this By-Law 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 By-Law 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.

#### **VII. SEVERABILITY**

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

*Amended by Article 33, 1988 ATM*

### **ARTICLE THIRTY EIGHT - No Fires on Beach**

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.

*Adopted by Article 55, 1970 ATM, Amended by Article 22, 1975 ATM*

### **ARTICLE THIRTY NINE - Water on Public Street or Private Way**

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. If, after notice from the Department of Public Works to correct the hazardous condition, such person shall fail to do so, a fine of no more than Fifty Dollars (\$50.00) 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.

*Amended by Article 27, 1982 ATM*

### **ARTICLE FORTY - Motor Vehicles on Bridle Path**

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. The penalty for violations of the foregoing shall be in a sum not exceeding three hundred dollars (\$300.00) for each offense and may be recovered on complaint in the District Court, which sum shall enure to the use of the Town.

*Adopted by Article 87, 1974 ATM*

*Amended by Article 17, 2006 ATM*

### **ARTICLE FORTY ONE - No Salt Zone**

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:

Old Ocean Street  
Mount Skirgo Street  
Old Mt. Skirgo Street  
Parsonage Street (from Webster Street to Ocean Street)  
School Street (from Forest St. to Old Main St. Extension)  
Old Main Street Extension  
Forest Street (from Furnace St. to School St.)  
Furnace Street (from Forest St. to Ferry St.)  
Proctor Street

*Adopted by Article 79, 1971 ATM*

The Town voted to amend its' present by-laws to allow the limited use of a sand-salt mixture (approximately 8 parts sand to 1 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 by Article 38, 1973 ATM*

## **ARTICLE FORTY TWO - Town Engineer**

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

*Adopted by Article 7, 1971 STM*

## **ARTICLE FORTY THREE - Selectman/Assessor**

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

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

*\*Adopted by Article 26, 1970 ATM*

## **ARTICLE FORTY FOUR - Barriers Around Excavated Land**

The Town voted to amend the Town of Marshfield General By-Laws by adopting Chapter 40, Section 21 of the Massachusetts General Laws, Clause 19, as amended by Chapter 470 of the Acts of 1970:

For requiring any person excavating land or any person in charge of such excavation and for requiring any owners of land which has been excavated to erect barriers or taken any other suitable measures within two days after such person has been notified in writing by the Mayor or City Manager and the City Council, the Selectmen or the building inspector, of the City or Town in which the land is located that in their opinion such excavation constitutes a hazard to public safety. The penalty for violation of any ordinance or by-law made hereunder shall not exceed Two Hundred (\$200.00) Dollars per day for every day such person is in violation of such notice commencing with the fourth day thereof. The superior court shall have jurisdiction in equity to compel compliance with any ordinance or by-law made under the provisions of this clause. Notwithstanding the foregoing, no person shall be found guilty of a violation of such an ordinance or by-law, nor shall a person be compelled in equity to comply therewith unless, in the opinion of the court, such excavation constitutes a hazard.

*Adopted by Article 15, 1971 STM*

## **ARTICLE FORTY FIVE - Acceptance of Streets**

Section 1. 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, this section shall not apply to the ways laid out subject to any provisions of law relating to the assessments of betterments.

Section 2. 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.

Section 3. 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.

*Adopted by Articles 49, 51 and 52 of 1970 ATM*

### **ARTICLE FORTY SIX - Town Hall Management**

The Board of Selectmen or their 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 FORTY SEVEN - Smoke Detectors**

The installation of smoke detectors in accordance with regulations issued by the office of the State Fire Marshall 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.

*Adopted by Article 33, 1981 ATM*

### **ARTICLE FORTY EIGHT - Boat Launching at Public Piers**

1. No trailerized water vehicle shall be launched from any pier owned or operated by the Town unless the person launching such trailerized water vehicle has obtained a proper permit from the Board of Selectmen.

2. Any person found launching a trailerized water vehicle at a pier owned or operated by the Town without such permit shall be punished by a fine of not more than \$20.00 for each violation.

*Adopted by Article 8, 1981 STM*

### **ARTICLE FORTY NINE - Dog Late Fee**

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

The penalty for violation of this article shall be \$10.00 for each offense to be paid to the Town Clerk when dog is licensed.

*Adopted by Article 52, 1985 ATM*

### **ARTICLE FIFTY ONE – Resolutions**

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

*Adopted by Article 35, 1980 ATM*

### **ARTICLE FIFTY TWO - Temporary Repair of Private Ways**

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 MGL, Ch. 512, Acts of 1978.
- 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.

*Amended by Article 8, 1981 ATM*

### **ARTICLE FIFTY THREE - Risk Management & Insurance Program**

The Board of Selectmen shall establish a Risk Management & 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.

*Adopted by Article 35, 1979 ATM*

### **ARTICLE FIFTY FOUR - Sewer Rules and Regulations**

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.

Be it ordained and enacted by the Town of Marshfield, State of Massachusetts, as follows:

#### **Definitions**

1. **Biochemical Oxygen Demand** (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at 20C., expressed milligrams per liter, under standard laboratory procedure as prescribed in "Standard Methods for the Examination of Waste and Wastewater."
2. **Building Drain** shall mean 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 ten (10) linear feet (3.0 meters) along the center line of the pipe, measured from the inner face of the building wall.
3. **Building sewer** shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. **Combined sewer** shall mean a sewer intended to receive both wastewater and storm or surface water.
5. **Easement** shall mean an acquired legal right for the specific use of land owned by others.
6. **Floatable oil** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment 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.
7. **Federal** is the United States Environmental Protection Agency.
8. **Garbage** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
9. **Industrial Wastes** shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
10. **Natural outlet** shall mean any outlet, including storm sewers and combined sewer overflows, into a

watercourse, pond, ditch, lake or other body of surface or groundwater.

11. May is permissive (see "shall" Sec. 19)

12. Person shall mean any individual, firm, company, association, society, corporation or group.

13. Ph shall mean the logarithm of the reciprocal of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a Ph value of 7 and a hydrogen ion concentration of  $10^{-7}$ .

14. Properly shredded garbage shall mean 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.

15. Public sewer shall mean a sewer in which all owners of abutting property have equal rights, and is controlled by the Town of Marshfield, Department of Public Works.

16. Sanitary sewer shall mean a sewer that carried 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.

17. Sewage is the spent water of a community. The preferred term is "wastewater" (see Sec. 26).

18. Sewer shall mean a pipe or conduit that carried wastewater or drainage water.

19. Shall is mandatory (see "May" Sec. 11).

20. Sludge shall mean 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 fifteen (15) [minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

21. Storm drain (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

22. Suspended solids shall mean 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.

23. Town shall mean 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.

24. DPW shall mean the Department of Public Works of the Town of Marshfield, State of Massachusetts.

25. Unpolluted water is 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.

26. Unsanitary shall mean potentially injurious to public health, as determined by the appropriate Town, Commonwealth or federal agency.

27. Wastewater shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquids and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water, and storm water that may be present.

28. Wastewater facilities shall mean the structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of effluent.

29. Wastewater treatment facility shall mean 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".

30. Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

## ARTICLE 1 - GENERAL

1. 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.
2. 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.

## ARTICLE 2 - Use of Public Sewers

1. 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.
2. 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 ordinance, 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 by Article 28, 1985 ATM*

3. 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:

- (1) High property owner costs to connect to the public sewer
- (2) A financial need under the circumstances
- (3) Any other extraordinary circumstances

The determination of the DPW regarding the sufficiency of such exceptional circumstances may be appealed to and reviewed by the Board of Appeals.

The imposition of penalties in accordance with Article 10 of the Sewer Rules & 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 thirty (30) days after the administrative appellate process is complete.

*\*\*Amended by Article 3, 7/17/80 STM*

## ARTICLE 3 - Building Sewers and Connections

1. 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 forty-five (45) days prior to the proposed change or connection.
- 2.\* There shall be two (2) classes of building sewer permits: (a) for residential and commercial service and (b) 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 fifty dollars (\$50.00) 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 fifty dollars (\$50.00). The Board of Public Works shall review and, if it deems

appropriate, adjust the fees every three (3) years. *\*Amended by Article 19, 4/26/2010 ATM*

3. 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.

4. 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.

5. 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 ordinance. All costs of such testing and inspections shall be borne by the owner(s).

6. 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.

7. 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.

8. 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.

9. \*Permits shall only be issued to licensed drainlayers or licensed master plumbers or journeyman 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 drainlayer 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 back-filling shall take place prior to the inspection and approval.

*\*Amended by Article 28, 1985 ATM*

10. 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.

11. 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.

12. 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 One Thousand Dollars (\$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 ordinances 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 twelve (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.

13. 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.

\*14. 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.

*\*Adopted by Article 28, 1985 ATM*

#### ARTICLE 4 - Use of the Public Sewer

1. 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.

2. 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.

3. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(b) any waters containing toxic or poisonous solids, liquids, or gasses 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.

(c) 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.

(d) solid or viscous substances in quantities or such size capable to causing obstruction to the flow in the sewers, or other interference with the proper operation of the waste water 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.

(e) strong acid pickling waste and concentrated plating solutions whether neutralized or not.

4. 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, 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 included but not limited to the following:

- (a) Wastewater having temperature higher than 103 degrees Fahrenheit,
  - (b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 degrees to 65 degrees Centigrade).
  - (c) Any waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, 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.
  - (d) Any garbage that has not been properly shredded (See Article 1, Section 14). 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.
  - (e) 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.
  - (f) 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.
  - (g) 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.
  - (h) Materials which exert or cause:
    - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
    - (2) Excessive discoloration.
    - (3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
    - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
  - (i) 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.
  - (j) Any waters or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gasses, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
  - (k) Any waters or wastes having a pH in excess of 9.5.
  - (l) Any water or waste having a 5-day biochemical oxygen demand greater than 300 milligrams per liter.
  - (m) Any water or wastes containing more than 350 milligrams per liter of suspended solids.
5. 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 Section 4 of this article, and which in 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 or handling and treating the wastes not covered by existing taxes or sewer charges.

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.

6. 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 Section 4 (n) 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 owner(s) personnel must be performed by properly licensed waste disposal firms.

7. 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.

8. 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.

9. 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.

10. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance 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 effort 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 (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken). Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas PH's are determined from period grab samples

(a) 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.

#### ARTICLE 5 - Powers and Authority of Inspectors

1. The Superintendent 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 ordinance. 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 wastes treatment.
2. Duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the waste water 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.
3. 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.
4. While performing the necessary work on private properties referred to in Article 5, Section 1 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 against the liability claims and demands for personal injury or property damage asserted against the company and caused by negligence or failure of the company to maintain safe conditions as required in Article 4, Section 9.

#### ARTICLE 6 - Charges for Sewer Service

1. The funding of the Town's share of Phase I of the Marshfield Wastewater Treatment Project will be by bonding over a twenty (20) 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.
2. 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 owners pro-rata share of 60% (sixty percent) of the annual debt retirement on the net cost to the Town for the construction of the Wastewater Treatment Project.
3. BETTERMENT CHARGES: 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.

"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 paragraph 3. Betterment assessments shall be based upon a uniform unit method as provided by Massachusetts General Laws, Chapter 83, Sec. 15. The Board of Public Works shall, with respect to those portions of the Wastewater Treatment Project constructed pursuant to the provisions of this paragraph, 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 paragraph, who receive benefit from such facilities."

4. 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 owner(s) who have been granted an extension of time to connect, pursuant to Article 2, Sec. 3 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 Section 2. 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 to users whose waste characteristics are above normal strength.

*\*Amended by Article 2, 10/19/81 STM*

5. 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, Par 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.

6. 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 (3) 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 sewerred areas developed subsequent to phase I.

*\*Amended by Article 19, 4/26/2010 ATM*

#### ARTICLE 7 - Conflict of Ordinances

I. If a provision of this Ordinance is found to be in conflict with any provision of any zoning, building, safety or health or other ordinance of the Town of Marshfield, the State of Massachusetts or the Federal Government existing on or subsequent to the effective date of this Ordinance, that provision which in the judgment of the

Town establishes the higher standard of safety and protection of health shall prevail; and, that ordinance or provision which sets the lower standard is hereby declared invalid to the extent that it is found to be in conflict with the Ordinance or provision which sets the higher standard and is hereby repealed. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

#### ARTICLE 8 - Violations

I. Any person, firm, partnership or corporation found to be violating or in violation of any provision of this Ordinance, except Article 9, 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 violation.

#### ARTICLE 9 - Protection from Damage

I. 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.

#### ARTICLE 10 - Penalties

I. \* Any person, firm, partnership or corporation who shall continue any violation beyond the time limit provided for in Article 8 hereof shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) for each violation.

Each day in which any such violation shall continue beyond said time limit shall be considered a separate violation.

*\*Amended by Article 21, 1988 STM*

#### ARTICLE 11 - Liability

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

#### ARTICLE 12 - Wetland Protection

I. 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, CH. 131, S.40.\*

*Adopted by Article 15, 1979 ATM*

*Amended by Article 28, 1985 ATM*

*Amended by Article 3, 1980 STM*

*Amended by Article 24, 1981 ATM*

## **ARTICLE FIFTY FIVE - Trash Disposal Fee**

1. 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 Health for the removal and lawful disposal of the waste generated from such parcel.
2. 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 paragraph 1 of this bylaw.
3. Owners who fail to pay in full, when due, the trash disposal fee described in paragraph 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.
4. Persons violating the provisions of this bylaw shall be subject to a fine of \$300.00 for each offense.

*\*Adopted by Article 8, 9/18/90 STM*

*\*\*Amended by Article 18, 1999 ATM*

## **ARTICLE FIFTY SIX - Capital Budget**

Section 1. 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.

Section 2. The Committee shall review and make recommendations on borrowing under MGL Ch.44 Sec 7 and 8 and on all Capital projects as defined within this by-law.

Section 3. 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 (1) has a projected useful life of five years or more; and (2) is estimated to cost, exclusive of interest, twenty-five thousand dollars or more. This by-law 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 Ch.71, s.34 of the General laws of the Commonwealth.

Section 4. 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.

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.

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 of emergency.

5. 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.

6. 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.

Section 5. 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 sixty (60) days before the Annual Town Meeting whichever date is latest, and no later than thirty (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.

Section 6. 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 Sections 2 through 5 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.

Section 7. 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 30th (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. 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.

Section 8. 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.

Section 9. Capital projects for consideration at a Special Town Meeting shall be submitted to the Committee sixty days prior to the date of the Special Town Meeting. In all other respects, the provisions of Section 2 and 6 above shall apply to a Special Town Meeting as they do to Annual Town Meetings.

*Adopted by Article 12 at November 15, 1993 STM*

## **ARTICLE FIFTY SEVEN - Fuel Storage Tanks**

I. 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, CH. 21D, S. 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 the Board of Fire Prevention Regulations on Tanks and Compartments 527, CMR 9:00, MGL CH. 148, S. 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.

2. In the alternative, and with the approval of the Fire Chief, such person or business may substitute for the tanks described in paragraph 1 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 paragraph 2.

3. 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, CH. 148, S. 13 as amended.

*Adopted by Article 2, 1986 STM*

### **ARTICLE FIFTY EIGHT - Waterway Speed**

No boat shall exceed a speed of six nautical miles per hour or cause a disturbing wake on the portion of the North or South River Waterway lying within the Town of Marshfield.

*Adopted by Article 54, 1985 ATM*

### **ARTICLE FIFTY NINE - Numbering of Buildings**

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 way resistant in accordance with the bylaw.

Removal of numbers after inspection shall be a violation of this bylaw.

*\*Amended by Article 35, 1990 ATM*

### **ARTICLE SIXTY - Non-renewal of Licenses with Outstanding Taxes**

(a) The tax 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.

(b) 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 tax 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 tax

collector provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen 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 tax 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 tax 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.

(c) 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.

(d) 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 stockholder, if any, or members of his immediate family, as defined in S. 1 of CH 268A in the business or activity conducted in or on said property.

This bylaw shall not apply to the following licenses and permits: open burning, CH. 48, S. 13 - bicycle permits, CH. 85, S. 11A - sale of articles for charitable purposes, CH. 101, S. 33 - children work permits, CH. 149, S. 69 - clubs, associations dispensing food or beverage licenses, CH. 140, S. 21E - dog licenses, CH. 140, S. 137 - fishing, hunting, trapping license, CH. 131, S. 12 - marriage licenses, CH. 207, S. 28 and theatrical events, public exhibition permits, CH. 140, S. 181.

*Adopted by Article 27, 1986 ATM*

### **ARTICLE SIXTY ONE - Underground Storage Tanks**

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.

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 twenty 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 owners expense. Testing will consist of any appropriate test approved in advance by the Fire Chief.

*Adopted by Article 14 of 1987 STM*

### **ARTICLE SIXTY TWO - Underground Storage Tanks**

Notwithstanding any other provisions of these General Bylaws, the installation of any underground tank or other container described under State Fire Prevention Regulation 527 CMR 9.24d, except septic tanks or containers designed and intended solely for the storage of water, is prohibited within the Town of Marshfield.

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 General Bylaw No. 57 relating to the construction of underground storage tanks.

Before acting upon an application for a variance hereunder, the Marshfield Fire Chief shall hold a public hearing within thirty (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 sixty days from the conclusion of the hearing which shall contain a brief statement of the reasons therefore.

*Adopted by Article 15, 1987 STM*

### **ARTICLE SIXTY THREE - Fire Alarm/Lock Box**

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 their 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 our present system. One year from the effective date of this bylaw, all keys in the possession of the Marshfield Fire Department will be returned.

*Adopted by Article 32, 1988 ATM*

### **ARTICLE SIXTY FOUR - Jet Skis**

Use of jet skis, water bikes or similar crafts on the North or South Rivers or within 100 yards of Marshfield beaches is prohibited. Any person who violates this bylaw shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each offense.

*Adopted by Article 29, 1988 ATM*

*Amended by Article 22, 2003 ATM*

### **ARTICLE SIXTY FIVE - Anti-Noise**

1. 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 Chapter 138 and Section 181 of Chapter 140 of the Mass. General Laws, to cause or suffer to 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 four hundred 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 four hundred feet from the vehicle or premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law.

2. 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 Chapter 138 and Section 181 of Chapter 140 of the Mass. General Laws, who, shall 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 four hundred 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 four hundred feet from the premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law. Any person shall be deemed in violation of this by-law who shall make or aid, or cause, or suffer, or allow, or assist in the making of the aforesaid and described improper noises, disturbance, 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 by-law shall constitute Prima Facie evidence that they are a part of such violation.

3. Any person violating the provisions of this by-law shall be punished by a fine not to exceed two hundred (\$200.00) dollars for each offense, and may be arrested by a police officer if violation is in his/her presence.

*Adopted by Article 50, 1989 ATM*

## **ARTICLE SIXTY SIX - Water Conservation**

### **Section 1: Background, Purpose, and Intent**

1. 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.

2. It is the intent of this by-law 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.

### **Section 2: Definition**

1. For the purposes of this by-law, the term "Water Savings Initiative" shall mean 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 re-use systems, use of non-potable water, and/or backfit of current water use fixtures in the Town with low-flow devices.

2. For purposes of this by-law, the term "Water Savings Cost Estimate" shall mean 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.

### **Section 3: Procedure, Administration, and Enforcement**

1. 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:

a. 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).

b. 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 Section 2 of this by-law. 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.

2. The Superintendent of Public Works shall condition new water connections upon conformity to this by-law regarding the implementation of measures to effectively conserve, recycle, and/or re-use water.

3. The Board of Health shall review and approve the water conservation, recycling, or re-use initiatives and commitments to ensure that applicable public health rules and regulations are not violated.

4. The Board of Public Works will consult with the Board of Health, the Inspector of Buildings, the Planning Board, and/or Conservation Commission respecting the implementation of this By-law, and shall promulgate further rules and regulations as deemed necessary or prudent to reduce the demands on the Marshfield Municipal Water System.

5. 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.

#### Section 4: Applicability

1. This by-law 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 multi-family 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 by-law 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.

2. All practical measures to conserve, recycle, and re-use water as indicated in the applicants water savings initiative must be conformable with applicable federal, state, and local laws, rules and regulations.

3. This by-law shall become effective upon approval by the Attorney General of the Commonwealth of Massachusetts.

#### Section 5: Costs

1. The applicant shall assume all costs that may be incurred to comply with this by-law.

#### Section 6: Appeals

1. Persons aggrieved by a decision of the Superintendent of Public Works as to the denial of water service connections based on this by-law may appeal to the Board of Public Works.

2. 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.

#### Section 7: Variances

1. The Board of Public Works may, at its discretion, grant variances from provisions of this by-law, 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 by-law shall be proposed by the Superintendent of Public Works and adopted by the Board of Public Works; or

b. The requirements of this by-law 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.

**Section 8: Penalties**

1. Any building or structure constructed, altered or maintained, contrary to the provisions of this by-law, and/or any use of any land, building, or premise established or maintained contrary to this by-law shall be declared in violation of this by-law and a public nuisance.

2. The Board of Public Works may summarily abate the public nuisance and bring action to enjoin or abate the nuisance.

The Board may also:

- a. Impose a water service surcharge of up to \$50.00 for each day that any unlawful connection continues,
- b. Terminate the water service for a period of time up to and including permanent disconnection.

3. 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 capability, or such other factors as may be appropriate under the circumstances.

4. Persons violating this by-law shall be subject to a fine of \$300.00. Each day any violation of this by-law continues shall be regarded as a new and separate offense. The penalties provided by this by-law shall be cumulative and not exclusive.

5. Should any person, firm, or corporation violate the terms of this by-law 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 under the action regarding the violation has been concluded or resolved.

**Section 9: Severability**

1. A conflict of one part or provision of this by-law with any law, rule, or regulation of competent authority shall not affect the validity or applicability of any other part or provision of this by-law.

*Adopted by Article 26, 1989 ATM*

**ARTICLE SIXTY SEVEN - Municipal Due Dates**

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

<u>Bill or Charge</u>	<u>Due Date</u>
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

and further voted to fix the rate as which interest shall accrue if such bills or charges remain unpaid after such due date, as that rate at which interest may be charged on overdue tax bills under the provisions of section 57 of Chapter 59 of the General Laws. The provisions of the bylaw shall apply to all users wherever situated.

*Adopted by Article 30, 1992 ATM*

**ARTICLE SIXTY EIGHT - Disposal of Restricted Material**

In accordance with 310 CMR 19.017: Waste Control, the Town of Marshfield adopts the General and Specific Restrictions of said regulation as in pertains to the ban on disposal of the restricted material or the

contracting for the disposal of the restricted material.

(1) 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;  
or

(b) a restriction or prohibition will result in the extension of the useful life or capacity of a facility or class of facilities.

(c) determine that a specific facility or class of facilities are not approved for the disposal of particular types of material and may not contract for the disposal of particular types 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)

<b>Restricted Material</b>	<b>Effective Date of Restriction</b>	<b>Res. or Disposal</b>
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.
White Goods	December 31, 1991	Ban on disposal
Other Yard Waste	December 31, 1992	Ban on disposal
<b>Post-Consumer Recyclables</b>		
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

*Adopted by Article 34, ATM. April 28, 1992*

### **ARTICLE SIXTY NINE – Personal Use of Town Owned Vehicles**

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

*\*Adopted by Article 15 April 23, 1979 STM*

### **ARTICLE SEVENTY - Dumping Into Rivers, Creeks and Channels**

No person shall throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, yardtrash, 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 run-off. Any person(s) who deposits any of the above shall remove it or cause it to be removed immediately.

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.

*Adopted, Article 37, 1993 ATM*

## ARTICLE SEVENTY ONE - Sealer of Weights and Measures

The Sealer of Weights and Measures, and any deputy appointed pursuant to the provisions of G.L. Ch 93 sec. 34, shall receive the following fees for sealing the following weighing or measuring devices:

### **Scales and Balances**

Over 10,000 pounds	\$50.00
5,000 to 10,000 pounds	35.00
1,000 to 5,000 pounds	25.00
100 to 1,000 pounds	12.00
10 to 1,000 pounds	8.00
Under 10 pounds	6.00

### Weights

Avoirdupois	.60
Apothecary	.60
Metric	.60
Troy	.60

### Capacity Measures

Vehicle Tanks	
Each Indicator	5.00
Each 100 Gallons or fraction thereof	3.00
Liquid	
1 Gallon or less	1.00
More than 1 Gallon	2.00
Liquid Measuring Meters	
Inlet 1/2 inch or less Oil, Grease	5.00
Inlet more than 1/2 to 1 inch, Gas or Diesel Fuel	10.00
Inlet more than 1 inch	
Vehicle Tank Pump	20.00
Vehicle Tank Gravity	25.00
Bulk Storage	50.00
Company Supplies Prover	25.00
Pumps	
Each Stop on Pump	2.00
Other Devices	
Taxi Meters	10.00
Odometer - Hubodometer	10.00
Leather Measuring (Semi-Annual)	6.00
Fabric Measuring	6.00
Wire-Rope-Cordage	6.00
Container Redemption Machines	10.00
Linear Measures	
Yard Sticks	1.00
Metal Rules	1.00
Tapes	3.00
Milk Jars (per gross)	10.00

*Amended by Article 13, October 16, 1996 STM, P. 10*

## ARTICLE SEVENTY TWO - BOARD OF HEALTH RULES & REGULATIONS

### Section 1. Non-Criminal Civil Disposition

(a) Whoever violates any provisions of these bylaws may be penalized by a non-criminal disposition as provided in M.G.L. Ch. 40, S.21D. The non-criminal 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.

(b) A violation of the following listed regulatory provisions may be dealt with in a non-criminal manner as provided by subsection (a) of this section. Each day on which any violations exist shall be deemed to be a separate offense.

### RULES, REGULATIONS OF THE BOARD OF HEALTH

Board of Health Regulations Regarding the Sale and Distribution of Tobacco in the Town of Marshfield:

- (a) Fine allowed - one hundred and fifty dollars (\$150.00);
- (b) Enforcement Agent - Board of Health, Director of Public Health, or authorized Board of Health representative;
- (c) Fine Schedule - first offense, fifty dollars (\$50.00); second offense, one hundred dollars (\$100.00); third and subsequent offense, one hundred and fifty dollars (\$150.00).

*Adopted by Article 25, 1996 ATM, p. 28*

### \*Section 2. Eliminating Public Exposure to Tobacco Smoke in Public Places

#### SECTION I. AUTHORITY

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 (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 by-law to protect and improve the public health and welfare by prohibiting smoking in public places effective September 1, 2001.

#### SECTION 11. DEFINITIONS

As used in this by-law:

Board of Health shall mean the Marshfield Board of Health

Employee means any natural person who performs services for an employer

Employer means 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 (1) or more individuals.

Health Care Facility means any office or institution providing care of 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 or any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Indoor Sports Arena means 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.

Person means 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.

Public Place means 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 motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

Public transportation means 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.

Private club means a not-for-profit establishment with a defined membership.

Lounge/bar area means 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.

Restaurant means 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 means 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 means the inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

Workplace means any area of a structure or portion thereof at which one (1) or more employees perform services for their employer.

### SECTION III. 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.

### SECTION IV. SMOKING PROHIBITED

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 work places except as otherwise provided in Section V of this bylaw.

*Amended ATM 4/09 Article 10/26*

## SECTION V. EXCEPTIONS

Notwithstanding the provisions of Section IV of this by-law, smoking may be permitted in the following places and/or circumstances:

- (a) Private residences except those portions used as a licensed childcare 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 (1) or more patients, which are separately ventilated and all of who 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, prohibit minors from entering the establishment and are not required to possess a retail food permit.
- (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 non-smoking sections as well as separate systems of ventilation for each. Ventilation systems must be approved by the Board of Health.

## SECTION VI – CONFLICT WITH OTHER LAWS OR REGULATIONS

Notwithstanding the provisions of the foregoing Section V of this by-law, 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.

## SECTION VII – VIOLATIONS

Any person who violates this regulation shall be subject to a fine of fifty dollars (\$50.00) for a first offense, one hundred dollars (\$100.00) for a second offense within one year of the first offense and one hundred and fifty dollars (\$150.00) for a third or subsequent offense within one year of the date of the first offense.

## SECTION VIII – ENFORCEMENT

As an alternative to initiating criminal proceedings, violations of this regulation may be enforced in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D by the Board or its agents. Any fines imposed under the provisions of this regulation shall inure to the Town of Marshfield for such use as the town may direct.

One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation.

Any citizen who desires to register a complaint under this regulation may request that the Board of Health initiate enforcement.

## SECTION IX – NON-CRIMINAL DISPOSITION

Whoever violates any provision of this regulation, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 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.

Penalty:	\$50.00 for first offense \$100.00 for second offense \$150.00 for third offense \$25.00 for smoking on public beaches
Enforcing Persons:	Marshfield Board of Health and its designees Marshfield Police Department

#### SECTION X – 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.

*\*Adopted by Article 11, 2001 Annual Town Meeting*

#### **ARTICLE SEVENTY THREE - Violations of Scenic Roads Act**

Any person violating the provisions of the second paragraph of the Massachusetts Scenic Roads Act (M.G.L. Ch. 40, S. 15C) shall be punished by a fine not to exceed three hundred dollars (\$300.00). Each day during which such 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. Further, in the case of the removal of trees, each tree cut or removed in violation of the provisions of said Act shall constitute a separate violation for the purpose of assessment of fines under this Bylaw.

The Planning Board is hereby authorized to adopt Rules and Regulations that are consistent with M.G.L. Ch. 40, Sec. 15C to ensure consistent implementation of said statute.

*Adopted by Article 33, 1996 ATM, p. 31*

*Amended by Article 22, 2005 ATM*

#### **ARTICLE SEVENTY FOUR - Handicapped Parking**

I. 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 Section Two of Chapter 90 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 Section 2 of Chapter 90, according to following formula:

(b.) If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five per cent of such spaces but not less than two; more than forty but not more than one hundred, four per cent of such spaces but not less than

three; more than one hundred but not more than two hundred, three per cent of such spaces but not less than four; more than two hundred but not more than five hundred, two per cent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half per cent of such spaces but not less than ten; more than one thousand but not more than two thousand, one per-cent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one per cent of such spaces but not less than twenty; and more than five thousand, one-half of one percent of such spaces but not less than thirty.

2. Parking spaces designated as reserved under the provisions of paragraph (a) 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 twelve 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 (5) feet, not more than eight (8) feet to the top of the sign.

3. The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons pursuant to this by-law 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.

4. Penalty for Violation - The penalty for violations of the provisions of this by-law shall be one hundred dollars (\$100.00). The illegally parked vehicle may be removed according to the provisions of section 120d of Chapter 266 of the General Laws.

*Adopted by Article 31, 1997 ATM*

## **ARTICLE SEVENTY FIVE - Street Opening Permits**

1. 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 they shall see fit in respect to erecting barricades, maintaining lights, and taking other precautions for the safety of travelers.

2. Whenever the Town has developed plans to apply an asphalt overlay (1 1/2" 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 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 sixty (60) days prior to the date upon which construction is to begin.

3. Any person or utility wishing to install pipes, wires or other facilities under the street proposed for repairs shall have sixty (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.

4. At the expiration of the time freed and after such street has been reconstructed, no permit shall be granted to open such street for a period of three (3) 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 (3) 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.

5. 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.

*Adopted by Article 43, 1997 ATM*

### **ARTICLE SEVENTY SIX - Carbon Monoxide Detectors**

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.

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 (1) underwriters laboratory (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 wood or coal stove, gas fired clothes dryer shall be protected with UL approved carbon monoxide detector(s) as described above.

The Head of the Fire Department and the Office of the Inspector of Buildings shall enforce the provisions of this bylaw.

*Adopted by Article 60, 1997 ATM*

*Amended by Article 5, 2005STM, April 25, 2005*

### **ARTICLE SEVENTY SEVEN - Indemnification of Certain Retired Police Officers and Firefighters**

The Town shall, upon written application by any of its police officers or fire fighters 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 fire fighter 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 fire fighter 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 fire fighter 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 fire fighter 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 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.

The above article should read he/she, his/hers, widow/widower, where it states "he, his and widow".  
*Adopted by Article 2, 2000 Special Town Meeting*

## **ARTICLE SEVENTY EIGHT - Community Preservation Committee**

### **Community Preservation Committee – M.G.L. Chapter 44B**

#### **1: Establishment**

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44 B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.  
One member of the Historical Commission as designated by the Commission for a term of three years.  
One member of the Planning Board as designated by the Board for a term of three years.  
One member of the Recreation Commission as designated by the Commission for a term of three years.  
One member of the Housing Authority as designated by the Authority for a term of three years.

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.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this section of the by-law 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.

#### **2: Duties**

(1). 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 council 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.

(2). 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.

(3). 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.

(4) Subject to the requirement of Massachusetts General Law, Chapter 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.

*Amended by Article 28, 2015 ATM*

### 3: Requirement for a quorum and 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.

### 4: Amendments

This section of the 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 M.G.L. Chapter 44B

### 5: Severability

In case any section, paragraph or part of this section of the 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.

### 6: Effective Date

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

*Adopted by Article 10, 2001 Annual Town Meeting*

*Amended Article 28, 2014 ATM*

## **ARTICLE SEVENTY NINE - Obstructions on Seawalls**

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.

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 not more than fifty (\$50) per day. Each day or portion there of 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 M.G.L. c. 40, 21D by a Town Police Officer or other Officer having police powers.

*Article passed at STM October 2002*

*Amended by Article 19, April 2003 ATM*

### **ARTICLE EIGHTY - Drug Testing**

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:

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

*Adopted by Article 17, April 2004 ATM*

### **ARTICLE EIGHTY-ONE - Buying/Selling Property by Town Official(s)**

Any Town board, committee or officer that receives a written proposal or solicitation to buy or sell real property, including all notices under M.G.L Ch. 61A or 61B, shall forward copies of said proposal or solicitation to all Town Boards, Committees and Departments within seven (7) days of receipt. All parties receiving said notice shall respond with an opinion regarding the proposal within twenty-one (21) days.

*Adopted by Article 17, October 18, 2004 STM*

### **ARTICLE EIGHTY-TWO - Water Restriction Bylaw**

The adoption of this water restriction bylaw/ordinance 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).

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, prohibitions on filling swimming pools, and the use of automatic irrigation sprinkler systems. Persons violating the bylaw's restrictions are subject to civil fines.

Section 1 - Authority: This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C40, Sec. 21 et seq. The Town's authority to implement and regulate water use is authorized pursuant to M.G.L. C41, Sec. 69B. This Bylaw also implements the Town's authority under M.G.L. C40, Sec. 41A, and is conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Section 2 - Purpose: 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 Supply 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.

Section 3 - Definitions: Person shall mean any individual, corporation trust, partnership or association, or other entity. State of Water Emergency shall mean an emergency declared by the Department of Environmental Protection under M.G.L. C21G, Sec. 15-17. State of Water Supply Conservation shall

mean restrictions of water use as declared pursuant to Section 4 of this bylaw. Water Users or Water Consumers shall mean 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.

Section 4 - Declaration of a "State of Water Supply Conservation": 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 Conservation" shall be given under Section 6 of this bylaw before it may be enforced.

Section 5 - Restricted Water Uses: 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 application restrictions, conditions or requirements shall be included in the public notice under Section 6.

- 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.

Section 6 - Public Notification of a State of Water Supply Conservation; Notification of DEP: 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 or 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 Section 5 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.

Section 7 - Termination of a "State of Water Supply Conservation"; Public Notice: 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 Section 6 and shall also be simultaneously provided to the Department of Environmental Protection.

Section 8 - "State of Water Supply Emergency"; Compliance with DEP Orders: Upon notification to the public that a declaration of a "State of Water Supply Emergency" has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DEP intended to bring about an end to the "State of Water Supply Emergency".

Section 9 - 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 \$50.00 for the second violation and \$100.00 for each subsequent violation thereafter which shall inure 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 non-criminal disposition in accordance with M.G.L. C40, Sec. 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.

Section 10 - Severability: The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

Section 11 - Civil Enforcement: The Board of Public Works is authorized to utilize the Town Counsel to file suit seeking injunction enforcement of this bylaw.

*Adopted by Article 5, October 24, 2005 STM*

## **ARTICLE EIGHTY -THREE - Municipal Storm Drain System**

**SECTION 1. PURPOSE** - Increased storm water runoff and contaminated storm water 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 by-law are:

1. to help prevent pollutants from entering the Town's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the Town's municipal storm drain system, a requirement of NPDES Phase II General Permit (MS4);
3. to require the removal of all such illicit connections;
4. 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 storm water discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.
6. 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.

**SECTION 2. DEFINITIONS** - For the purposes of this by-law, 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 by-law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, or structural improvement that helps to reduce the quantity or improve the quality of storm water 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 by-law.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not

composed entirely of storm water, except as exempted in Section 8. The term does not include a discharge in compliance with a NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) Storm Water Discharge Permit or a Surface Water Discharge Permit, or discharge resulting from fire fighting activities exempted pursuant to Section 8, subsection 17, of this by-law.

**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 storm water, 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) STORM WATER 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 storm water.

**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:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;

(10) construction wastes and residues;

(11) Medical and Bio-wastes

(12) 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:** Storm water 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 storm water 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, 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 G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

**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.

**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, byproduct or waste product.

**SECTION 3. APPLICABILITY** - This bylaw shall apply to all flows entering the municipally owned storm drainage system.

**SECTION 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, and pursuant to the

regulations of the federal Clean Water Act found at 40 CFR 122.34.

**SECTION 5. RESPONSIBILITY FOR ADMINISTRATION** - The Board of Public Works shall administer, implement and enforce this by-law. 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.

**SECTION 6. REGULATIONS** - The Board of Public Works may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**SECTION 7. PROHIBITED ACTIVITIES** - 7.1 Illicit Discharges: No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth, or Waters of the Town.

7.2 Illicit Connections: No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

7.3 Obstruction of Municipal Storm Drain System: No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drain system without prior written approval from the Board of Public Works.

**SECTION 8. EXEMPTIONS** - The following non-storm water discharges or flows are exempt from the prohibition of non-storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(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;
- (8) 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;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;

(11) 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;

(12) Discharge from street sweeping;

(13) Dye testing, provided verbal notification is given to the Board of Public Works prior to the time of the test;

(14) Non-storm water 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;

(15) 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;

(16) Exemptions as defined under 314 CMR 3.05; and

(17) Discharge of flow resulting from firefighting activities.

**SECTION 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.

**SECTION 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.

**SECTION 11. ENFORCEMENT** - 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 by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

**Civil Relief.** If a person violates the provisions of this by-law, 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.

**Orders.** The Board of Public Works or an authorized agent of the Board of Public Works, Conservation Agent, the Town's Health Agent may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the municipal storm drain system; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

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.

Within thirty (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 thirty (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 thirty (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 G.L. Ch. 59, Section 57 after the thirty-first day at which the costs first become due.

**Criminal Penalty.** Any person who violates any provision of this by-law, 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.

**Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Towns enforcing officer may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, 21D and adopted by the Town and set forth in Article 2 of the Town of Marshfield General Bylaws. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Entry to Perform Duties Under this By-Law.** 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 by-law 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.

**Appeals.** The decisions or orders of the Board of Public Works or it's agents, the Conservation Agent, or

the Town's Health Agent shall be final. Further relief shall be to a court of competent jurisdiction.

Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

**SECTION 12. SEVERABILITY** - The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law 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 by-law.

**SECTION 13. TRANSITIONAL PROVISIONS** - 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.

Residential property owners shall have 365 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

Commercial property owners shall have 180 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

**SECTION 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.

*Adopted at STM, Article 4 4/23/2007*

## **ARTICLE EIGHTY-FOUR - Dumpsters**

### **Purpose**

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 in the Marshfield Center business districts. Since the highest concentration of commercial dumpsters is within the Marshfield Center business district, this bylaw shall only apply to the Marshfield Center area as shown on a map available for review in the Office of the Town Clerk and the Planning Board.

1. 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 Marshfield Center Business District, as defined on the attached map, 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: (1) 6 foot high solid fence; (2) 6 foot high solid wall or (3) 6 foot high evergreen landscaped buffer that conceals the view of the dumpster. The enclosure shall be maintained in good condition.
2. 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.
3. 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.

4. The dumpster service contractor shall have their name and business telephone number displayed on the dumpster.
5. Dumpsters shall comply with all other applicable state and local sanitary code requirements.
6. 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.

Violations of this bylaw are subject to \$ 50 fines from the Board of Health. Each day of a violation will be considered a separate offense until the dumpster is in compliance with this bylaw.

*Adopted at ATM, Article 21 4/23/2007*

## **ARTICLE EIGHTY-FIVE - Right to Farm**

**Section 1 - Legislative Purpose and Intent** - The purpose and intent of this By-law 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 Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Marshfield restate and republish these rights pursuant to the Towns authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law 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 By-law shall apply to all jurisdictional areas within the Town.

**Section 2 – Definitions** - 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.

- Farming and all its branches and the cultivation and tillage of the soil
- Dairying
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticulture, or horticultural commodities.
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations.
- Raising of livestock including horses.
- Keeping, training, and boarding of horses as a commercial or private enterprise.
- 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.

"Farming" shall encompass activities including, but not limited to, the following:

- The operation and transportation of slow moving farm equipment over roads within the Town
- Control of pests, including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals.
- Application of manure, fertilizers and pesticides.
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm.

- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto.
- 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.
- On-Farm relocation of earth and the clearing of ground for farming operations.
- Construction, operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for farming purposes.
- 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.

**Section 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 By-law 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 By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state stature, regulation, or local zoning law.

**Section 4 - Disclosure Notification** - Within 30 days after this By-law becomes effective, the Select Board shall prominently post in the Town Hall and make available for distribution the following disclosure:

"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 it's 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."

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

**Section 5 - Resolution of Disputes** - Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, 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 Select Board 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.

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.

**Section 6 - Severability Clause** - If any part of this By-law is for any reason held to be unconstitutional or

invalid, such decision shall not affect the remainder of this By-law. The Town of Marshfield hereby declares the provisions of this By-law to be severable.

*Adopted at ATM, Article 28 4/23/2007*

### **ARTICLE EIGHTY-SIX - Eminent Domain**

In consideration of the protection of private property rights and of its character and natural environment and, the preservation and enhancement of the quality of life of its current and future generations: The authority of the Town of Marshfield and its agencies of local government, as reserved to localities under Chapter 79 of the Massachusetts General Law, 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:

- 1) To only those proposed taking actions incorporating the transfer of private parcels(s) to the Town of Marshfield or any of its authorized agencies of local government and under no circumstances to another private party, and;
- 2) 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. 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 Chapter 60 of the Massachusetts General Laws.

*Adopted at ATM, Article 40 4/23/2007*

### **ARTICLE EIGHTY-SEVEN – Demolition of Historically Significant Buildings or Structures**

#### 1. DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS OR STRUCTURES

##### (a) 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.

(b) DEFINITIONS - For the purpose of this bylaw, the following words and phrases have the following meanings:

Commission: The Marshfield Historical Commission.

Inspector: The Marshfield Building Inspector/Zoning Officer or any other person authorized to issue demolition permits.

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 fifty (50) years or more old and has been determined by the Commission to be significant by virtue of being (1) 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 (2) 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 building or structures; or (3) 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.

#### (c) REGULATED BUILDINGS, STRUCTURES AND PROPERTIES

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 paragraph (b) above.

Notwithstanding the preceding sentence, the provisions of this section shall not apply to any building, structure or property located in a local historical district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

#### (d) PROCEDURE

(1) The Inspector shall forward a copy of each demolition permit application for a building, structure or property to the Commission within seven (7) days after the filing of such application.

(2) 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.

(3) 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.

(4) Within sixty (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 ten (10) copies of a demolition plan which shall include the following information: (a) a plot plan or assessors map showing the location of the building, structure or property to be demolished with reference to lot lines and neighboring building and structures; (b) photographs of all street façade elevations; (c) a description of the building, structure or property, or part thereof, to be demolished; (d) the reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition; and (e) a brief description of the proposed reuse of the parcel on which the building, structure or property to be demolished is located.

(5) 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 fourteen (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. Within sixty (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.

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.

(6) 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 paragraph (5) above, the Inspector may issue a demolition permit.

(7) 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 twelve (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 (12) months 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.

#### (e) EMERGENCY DEMOLITION

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 Chairmen 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 is no reasonable alternative to the immediate demolition permit under the provisions of the paragraph (e), 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 paragraph (e) shall be inconsistent with the procedures for the demolition and/or securing of the buildings and structures established by Chapter 143 Sections 6 to 10, of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of Section 8 of the said Chapter 143 with regard to any building, structure or property identified in paragraph (c) of this bylaw, the Inspector shall request the Chairman of the Commission or the Chairman'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.

#### (f) RESPONSIBILITY OF OWNERS

(1) 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.

(2) 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 of the building, structure or property any time during the twelve (12) 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 (12) month period.

(3) 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.

#### (g) NON-COMPLIANCE

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 (3) 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.

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 (3) years, but no sooner than six (6) 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 .

#### (h) 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.

*Adopted ATM 4/27/2008 Art. 31*

### **ARTICLE EIGHTY-EIGHT - Entry Upon Premises and Removal of Combustible Materials; to be Remedied; Penalty**

The head of the fire department or any member to whom the head of the fire department may delegate, may 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 section shall include alleys adjacent thereto, within their jurisdiction and make an investigation as to the existence of conditions likely to cause fire. They 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, waste paper, rags,

cardboard, string, packing material, sawdust, shavings, sticks, waste leather or rubber, broken boxes or barrels or any other refuse or useable materials that is 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. If said order is not complied with within twenty-four 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 useable 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 therefore to the owner. The provisions of the second paragraph of section three A of chapter one hundred and thirty-nine, 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. 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.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and Article 2 of the Marshfield General Bylaws.

*Adopted ATM 4/2009 Article 18*

#### **ARTICLE EIGHTY-NINE - Open Burning**

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 eighteen 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 Massachusetts General Law Chapter 48 Section 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.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and Article 2 of the Marshfield General Bylaws.

*Adopted ATM 4/2009 Article 19*

#### **ARTICLE NINETY - Piling Snow on Fire Hydrants and Fire Protection Devices Prohibited; Penalty**

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.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and Article 2 of the Marshfield General Bylaws.

*Adopted ATM 4/2009 Article 20*

#### **ARTICLE NINETY-ONE - Shut off, Disconnect, Obstruction, Removal or Destruction of a Fire Protection Devices; Permit; Report; Violation; Enforcement**

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.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and Article 2 of the Marshfield General Bylaws.

*Adopted ATM 4/2009 Article 21*

#### **ARTICLE NINETY-TWO – Personnel Classification and Compensation Bylaw**

A town by by-law may establish and, from time to time, amend a plan classifying any or all positions, other than those filled by popular election and those under the direction and control of the school committee, into groups and classes doing substantially similar work or having substantially equal responsibilities. In a town by vote of the town at a town meeting, establish, and from time to time amend, a plan establishing minimum and maximum salaries to be paid to employees in positions so classified, and such salary plan may provide for the attainment of such maximum salaries by periodical step-rate increases based on length of service.

A town may consolidate, in a single chapter or article, all provisions of its by-laws pertaining to the administration of its personnel including, among other things, the compensation plan. It may provide by by-law for the establishment of a personnel board or other agency for the purpose of administering said plans or other provisions of its by-laws pertaining to personnel determining any questions arising there under, and advising the town in any matters pertaining thereto.

TOWN OF MARSHFIELD  
PERSONNEL CLASSIFICATION AND  
COMPENSATION PLAN BY-LAWS  
SECTION 1. AUTHORIZATION AND APPLICATION

Pursuant to the authority contained in Sections 108A and 108C of Chapter 41 of the Massachusetts General Laws there shall be established plans which may be amended from time to time by vote of the Town at a Town Meeting; (a) 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 the compensation is on a fee basis of the incumbents of which render intermittent or casual service, into groups and classes doing substantially similar work or having substantially equal responsibilities; (b) authorizing a compensation plan for positions in the classification plan; and (c) providing for the administration of said classification and compensation plans.

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, from 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 paragraph 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.

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.

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.

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.

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.

SECTION 2. PERSONNEL BOARD

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 Chapter 268A as follows: (a) One (1) member to be appointed to serve for one (1) year; (b) Two (2) members to be appointed to serve

for two (2) years; (c) Two (2) members to serve three (3) years. At the expiration of each term of office, appointments or re-appointments thereafter shall be made in the same manner for terms of three (3) years. Each term of office shall expire on June 30th. In the event of a vacancy occurring in the membership of the Personnel Board (Board, the position shall be filled within thirty (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 chairman from its membership who shall have the power to call meetings and who shall preside over such meetings. Any three (3) 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.

The Board is responsible for the review and recommendations of changes to the Town's Personnel Bylaw and the establishment of polices pertaining to the provision of human resource services to employees covered by the provisions of this Bylaw subject to the approval of Town Meeting.

### SECTION 3. ADMINISTRATION OF CLASSIFICATION/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 Chapter 41, Section 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 market place enabling the Town to recruit and retain a quality work force. External salary data is collected by the Town Administrator or designee on a regular basis at least every three (3) 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 market place.

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 (3) 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 By-Law 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 15th of each year.

#### SECTION 4. TITLES OF POSITIONS

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 record 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.

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.

#### SECTION 5. PERSONNEL RECORDS

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.

The official employee personnel files are kept in the Office of the Board of Selectmen shall be the official employee personnel files of the Town or 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, official employee personnel files are confidential records that are accessible by the Town Administrator, and are not available for public inspection or copying.

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.

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 insure proper insurance coverage.

In accordance with MGL Chapter 149, Section 52C as amended, the Town will notify an employee within ten (10) days of placing information in an employee's personnel record that is, has been used or may be used, to negatively affect an employee's qualification for employment, promotion, transfer, additional compensation or subject (the employee) to disciplinary action.

## SECTION 6. COMPENSATION PLAN FUNDING

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

## SECTION 7. CIVIL SERVICE

No provisions that are contained in this Personnel By-Law shall be construed to be conflict with Chapter 31 of the Massachusetts General Laws.

## SECTION 8. EFFECTIVE DATE

These By-Laws shall take effect upon adoption by the Town at the Annual Town Meeting.

## SECTION 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 consisting of a set of universal position rating criteria.

(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: New Employee

It is the policy of the Town to hire new employees between the minimum and mid-point of a salary range in each classification level as contained in Section 11, Schedule A of this Bylaw. 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 market conditions. Progression within a salary range is neither mandatory nor automatic, but is on the basis of merit, years of service in a position and subject to the appropriation of funds by Town Meeting. All employees covered under this Bylaw shall be paid within the grade or classification level that as established in Section 11, Schedule A of this Bylaw.

#### 2. Promotion

An employee may be promoted in two (2) ways:

##### 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

##### 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.

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, they 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 2 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

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.

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.

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.

### 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 Section 11 of this Bylaw.

#### 9. Pay Period/Pay Days

Normally employees are paid weekly, (or biweekly) with the payroll period ending on Saturday and checks available on Friday. In the event that a holiday occurs on a holiday, payroll checks will be distributed on the nearest preceding work day. 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.

#### 10. Introductory Hiring Period

All new employees must serve an introductory hiring period of nine (9) months duration. An employee may be terminated by the Town during the introductory hiring period or at any time with cause, with or without notice.

#### 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 their 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. 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, their estate or designated beneficiary is eligible to receive accrued vacation and/or sick leave, in accordance with the provisions of this Bylaw.

### SECTION 10. AMENDMENTS TO THE PERSONNEL BYLAW

(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 sub-section to insert an article in the warrant and to report its recommendations to the Advisory Board.

### SECTION 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 9

Assistant Veterans Agent 8

COA Van Driver 5

Officer Manager 10

Payroll/Benefits Manager 10

Project Coordinator for Volunteers 6

COA Social Services Coordinator 7

Beach Administrator 8

Project Engineer 9

Assessor/Appraiser 15

Council on Aging Director 13

Library Director 15

Town Planner 14

Town Engineer 15

Executive Secretary 8

Senior Secretary 8

#### Schedule B

Part-time and Seasonal Positions

Animal Inspector \$1,800 per year

Assistant Animal Control Officer \$9.00-\$10.00 per hour

First Assistant Harbormaster \$11-\$18 per hour

Assistant Harbormaster \$9.00-\$15.00 per hour

Assistant Shellfish Officer \$6.00-\$7.00 per hour

Lifeguard \$9.50-\$12.00 per hour; \$.25 increase per year returning

Beach Attendant \$8.50-\$11.50 per hour \$.25 increase per year returning

Beach Supervisor \$11.00 - \$16.00 per hour \$.25 increase per year returning

Call Firefighter \$1,000 per year

Clerical Assistant (COA) \$12.00 to \$19.00 per hour

Custodian (COA) \$16.00 to \$19.00 per hour

Intern \$10.00 to \$1.00 per hour

Kitchen/Activities Assistant (COA) \$9.00 to \$12.00 per hour  
 Police Patrolman (intermittent) \$12.50 to \$15.00 per hour  
 Police Matron \$8.00 per hour (3 hr. min.)  
 Program/Activities Coordinator (COA) \$13.00 to \$19.00 per hour  
 Recreation Site Coordinator \$14-\$24 per hour  
 Recreation Group Leader \$8-\$14 per hour  
 Recreation Assistant Leader \$8-\$9.50 per hour  
 Recreation Nurse \$25-\$26 per hour  
 Recreation Lead Teacher \$17-\$22 per hour  
 Recreation Sports & Playground Instructor \$8-\$11.50 per hour  
 Recreation After School Sports Instructor \$26.00 per hour  
 Sealer of Weights & Measures \$5,000 per year  
 Wiring Inspector Grade 8  
 Plumbing Inspector Grade 8  
 Schedule A Compensation Plan  
 FY2014 - 2%

Annual

GRADE STEP 1 STEP 2 STEP 3 STEP 4

4	\$27,834	\$28,946	\$30,101	\$31,304
5	\$30,703	\$31,929	\$33,207	\$34,526
6	\$33,869	\$35,222	\$36,634	\$38,099
7	\$37,360	\$38,847	\$40,408	\$42,021
8	\$41,200	\$42,855	\$44,564	\$46,346
9	\$46,346	\$47,265	\$49,153	\$51,127
10	\$50,142	\$52,141	\$54,231	\$56,394
11	\$55,307	\$57,517	\$59,807	\$62,203
12	\$61,008	\$63,442	\$65,975	\$68,623
13	\$67,112	\$69,782	\$72,574	\$75,486
14	\$73,545	\$76,485	\$79,538	\$82,715
15	\$80,895	\$84,130	\$87,491	\$90,988

#### SECTION 12. OVERTIMECOMPENSATION

It is the policy of the Town of Marshfield that all work be accomplished within the normal work day. On occasion, the Town may determine that overtime is necessary to complete the assigned work beyond the normal work day. Each position authorized as listed in Section 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.

All overtime work must be authorized by the Town Administrator in advance of said employee being required to work beyond the normal work day. A non-exempt employee shall receive a rate of pay for hours worked beyond 40 hours per work week that is equal to one and on-half 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 department. 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.

Exempt positions 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.

Non-exempt positions shall be paid overtime for work in excess of forty (40) hours in a work week in accordance with the provisions of the Fair Labor Standards Act (FLSA).

#### SECTION 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 (1) 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.

#### SECTION 14. PAID HOLIDAYS

(A) The following twelve (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 By-Law on which days employees shall be excused from all duty not required to maintain essential Town services.

New Year's Day

Labor Day

Martin Luther King's Birthday

Columbus Day

President's Birthday

Veterans' Day

Patriot's Day

Thanksgiving Day

Memorial Day

Friday after Thanksgiving

Independence Day

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 (1) day's pay at their 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, they shall be granted each designated holiday without loss in pay which they 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 By-Law.

(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 their regular rate in addition to the amount to which he is entitled under sub-section (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 sub-section (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, they shall be given holiday pay in accordance with subsection (b), paragraph (1).

#### SECTION 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' work the full year (52 weeks) are eligible for vacation leave on a pro rata basis.

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Years of Service Completed Earned Vacation Time

Employed 6 months thru 1 year 5 days

Employed 1 year thru 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, tenth, and twentieth 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 (2) 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 enter into the Armed Forces who give two (2) 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 (1) day for each full month of continuous service completed subsequent to July 1st.

(F) Absences on account of sickness in excess of that authorized under the rules therefore

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 their regularly scheduled work week.

(H) Vacation allowances provided under the terms of this section will be calculated on a twelve (12) month period commencing on July 1st and ending on June 30th and

these allowances must be taken in the twelve (12) 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 their vacation leave and be compensated with extra pay without the written approval of the Town Administrator.

(J) The Town Administrator may approve up to fifteen (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 Schedule A of this section.

#### SECTION 16. SICK LEAVE

(A) An employee in continuous employment who has completed at least thirty (30) weeks of service following their date of hire, shall be allowed twelve (12) days leave with pay each calendar year or one (1) day for each month thereof; if in any fiscal year an employee's employment is less than thirty (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 sub-section (a) up to one hundred and fifty (150) days.

(C) An employee with five (5) 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 one hundred and twenty (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 which is authorized to grant such additional allowance as it 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 one half the rate of accrual outlined in Sub-Section (a).

(D) Sick leave shall be granted to all non-exempt employees following original hire date accrued at the rate of one (1) day for each month. Sick leave shall accumulate to a maximum of one hundred-fifty (150) days of sick leave eligibility. All full-time employees with five (5) years full-time continuous service and fifty (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

Sick leave will be determined from July 1st to June 30th 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 their Department Head before leave is granted under the provisions of this Section. Their 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 their 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 they are 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.

#### SECTION 17. BEREAVEMENT LEAVE

Leave up to three (3) 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, step parent, step sister or step brother).

#### SECTION 18. MILITARY LEAVE

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 thirty (30) days following termination of armed forces service and if approved must report for work as instructed by the Town Administrator.

#### SECTION 19. JURY DUTY

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.

Any compensation received by an employee that is greater than \$75 shall be returned to the Town.

#### SECTION 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 (6) months consecutive employment by an employee's Department Head. The Town Administrator shall be notified in writing within (7) days of such leave. Extended leaves of absence without pay may be granted by the Town Administrator.

#### SECTION 21 SMALL NECESSITY LEAVE

In accordance with MA General Laws Chapter 149, Section 52D, employees who are eligible employees can take up to 24 hours of unpaid leave during a 12 month period to participate in school activities directly related to the educational advancement of a son or daughter such as parent teacher conferences); (2) accompany a son or daughter of the employee to routine medical

or dental appointments, and (3) accompany an elderly relative of the employee to routine medical or dental appointment(s) or appointment(s) for other professional services related to the elder's care. The 24 hours of leave provided by this Act 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 (7) 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.

#### SECTION 22. EDUCATION REIMBURSEMENT

(A) Educational Reimbursement: Educational assistance to defray the cost of tuition, up to five hundred dollars (\$500) per calendar year, may be granted to full time permanent Town employees with a minimum of one (1) years service, who are under the jurisdiction of the "Personnel Classification and Compensation Plan By-Laws". Such grants will be approved for job orientated, 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 by-law. Reimbursement must be approved by an employee's Department Head.

#### SECTION 23. CONFLICTS OF INTEREST

(A) In accordance with Mass General Laws Chapter 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 (2) 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.

#### SECTION 24. ANTI-DISCRIMINATION

Non-discrimination 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.

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 forty (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.

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.

#### SECTION 25. DEFINITIONS

"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, retirement, or absence without leave of one (1) workweek or more when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a "break in service".

"Classification and Compensation Plan": The official or approved system of grouping and compensating positions into appropriate classes consisting of (1) a salary range (minimum/maximum) consistent with each classification level; (2) an index to the class specifications; (3) the class specifications; and (4) 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 of service resulting in the employee being in a non-pay status for a period of time exceeding thirty (30) days excepting authorized leave of absence.

"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, administrative responsibilities or require specialized, professional qualifications. Exempt employees are paid a salary for all hours worked and are not eligible for overtime compensation.

"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 By-Laws.

"Immediate Family": Defined as spouse, mother, father, child including step child, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandparents, grandchild, aunt, uncle, grandchild, step parent, step sister, step brother or partner.

"Introductory Hiring Period": All new employees must serve a working test period of nine (9) months duration or as specified in a Collective Bargaining Agreement or State Civil Service Statute during which an employee is required to demonstrate their 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.

" 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.

"Permanent Part-Time": a person required to work at least 1040 hours of time worked in a calendar year; such employee is eligible for benefits as described in this Personnel Bylaw on a pro-ratio basis as determined by the number of regularly scheduled hours compared to the normal work week.

"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

"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.

"Permanent employee": defined as (1) any employee retained on a continuing basis in a permanent position, as defined above; (2) any employee holding a permanent appointment under Civil Service Law to a position deemed permanent within the meaning of said law.

"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 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.

"Temporary employee", (1) an employee retained in a temporary or seasonal position as defined above; (2) any employee holding a temporary appointment under Civil Service Law who does not also have permanent status there under. Such employee is not eligible for benefits as described in this Personnel Bylaw

"Work Week" A work week is defined as a period consisting of seven (7) consecutive twenty-four (24) hour days; Sunday to Saturday, 12:01 A.M. to 12:00 P.M..

Section 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 and dependent's expense, at group rates for up to thirty-six (36) months following a qualifying loss of coverage.

#### Section 27. Health Insurance Portability and Accountability Act (HIPPA)

Permanent employees regularly required to annually work twenty (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 their 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 pre-existing 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, 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.

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 themselves and/or an employee's dependents.

#### Section 28. Town Insurance Plans

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 Handbook for a list of current premiums, insurance carriers. 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.

#### Section 29. Grievance Policy and Procedure

A grievance is defined as any complaint by an employee that he/she has been treated unfairly, unlawfully, or in violation of their 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.

An employee who feels that he/she has a grievance must follow the following procedure:

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 their Department Head for relief

from that condition within ten (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 ten (10) working days of the date of the meeting.

Step 2 If the grievance is not resolved by the decision of the Department Head, the employee may file an appeal in writing with the Town Administrator within ten (10) working days of receipt of the Department Head's decision in Step 2. 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 ten (10) working days after a meeting with the employee is held. The Town Administrator will send one (1) copy of the reply to the employee, one (1) copy to the Department Head and place one (1) copy in the employee's personnel file.

Step 3 If the grievance is still not settled at Step 2, or within ten (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 ten (10) working days of the date of the meeting with the Board. 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.

#### SECTION 30. NO STRIKE

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.

#### SECTION 31. WORK PLACE VIOLENCE

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 the intimidation, threats or violent acts.

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.

**ARTICLE NINETY THREE:**  
**PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL**

**SECTION I.**     Restriction against Public Consumption

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) 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.

**SECTION II.**    Enforcement

This by-law 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 G.L. c. 40, § 21, or by noncriminal disposition pursuant to G.L. 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 by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

*Adopted by Article 10 2014 ATM*