

Zoning Ordinance

Town of Marshfield Fond du Lac County, WI

Town of Marshfield Website <http://townmarshfield.com>

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STATUTORY AUTHORIZATION, STATEMENT OF PURPOSE

An Ordinance under the provisions of Wis Stat. Sections 60.62, 61.35, and 62.23(7) to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes; and for the said purpose to divide the Town of Marshfield, Fond du Lac County, Wisconsin, into districts of such number, shape and area as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation. The Town Board of the Town of Marshfield, Fond du Lac County, Wisconsin, having been granted village powers pursuant to Section 60.10(2), does ordain as follows:

Section 1.0 Interpretation and Purposes

1.1 Purpose

The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals comfort, prosperity and general welfare of the Town of Marshfield, Fond du Lac County, Wisconsin.

1.2 Interpretation

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

1.3 Shorelands

Fond du Lac County has a Shoreland Zoning Ordinance that regulates any development or building of a structure within 300 feet of a navigable waterway or 1,000 feet of a lake. Before construction begins within these distances, a land use permit must be applied for at the Fond du Lac County Code Enforcement office. Shoreland Zoning Maps are available for visual inspection in the Fond du Lac Code Enforcement Department. If necessary, a conclusive determination can be made through an on-site visit by Fond du Lac Code Enforcement office staff or Wisconsin Department of Natural Resources staff. The Marshfield Zoning Ordinance also regulates land use within the County Shoreland Zoning jurisdiction, and a building permit must be obtained from Town's Building Inspector prior to construction within the Shoreland Zoning boundary. Before a permit can be issued, the applicant must provide the Zoning Administrator with correspondence from Fond du Lac County that the proposed use of the property is in compliance with the County's Shoreland Zoning Ordinance.

1.4 Wetlands

The DNR has established setback requirements based on the quality of a wetland area. The Fond du Lac County Code Enforcement Office can provide information on those setback regulations from wetland areas. The general location of wetlands can be found on the Fond du Lac County Shoreland Maps and are also shown on the Town of Marshfield's Land Use Plan in the Town's Comprehensive Plan. Hydric soil testing (which may be an indicator that wetlands exist) is advised. A conclusive determination of the location of a possible

wetland area can only be made through an on-site visit by a WDNR certified wetland specialist and verified by a Department of Natural Resources staff.

Section 2.0 Districts

2.1 Districts

For the purposes of this ordinance, the Town of Marshfield, Fond du Lac County, Wisconsin is hereby provided to have 5 districts as follows:

1. Residential District
2. Farmland Preservation District
3. General Agricultural District
4. Business District
5. Industrial District

2.2 Boundaries

The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Marshfield, Fond du Lac County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of said township. All notations and references shown on the district map are as much a part of this ordinance as though specifically described herein.

1. The district boundaries, unless otherwise indicated, are street or highway center lines, lines parallel or perpendicular to such street, highway lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
2. The district boundaries, where not otherwise designated, shall be determined by the use of the scale shown on the district map.

Section 3.0 Glossary of Terms

3.1 General Terms

For the purposes of this ordinance, certain words and terms are defined as follows - words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the state building code.

3.2 Definitions

Definitions of terms throughout this ordinance shall be interpreted to have the following meanings (An asterisk* designates the livestock facilities regulation definitions):

Adjacent – Means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream or transportation or utility right of way.

Adult-oriented Establishment - Shall have the meaning given in the Town of Marshfield Adult Oriented Establishments Ordinance.

Agriculture, Animal - The use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.

Agriculture, Crop - The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

Agricultural Use - Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
10. Any other use that DATCP, by rule, identifies as an agricultural use.

Agriculture-Related Uses

1. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
2. Any other use that DATCP, by rule, identifies as an agriculture-related use.

Animal Unit – The meaning that was given in s. NR 243.03 (3) as of April 27, 2004.

Automobile Wrecking Yard - Any premises on which two or more automotive vehicles, not in operating condition, are stored in the open (see also Junk Yard).

Boarding House - A building other than a hotel where meals, or lodging and meals, are furnished for compensation for 5 or more persons not members of a family

Boathouse - Any structure designed for the purpose of protecting or storing boats for non-commercial purposes. Boathouses shall not be used for human habitation.

Building - Any structure used, designed or intended for the protection, shelter, enclosure, or support of persons, animals or property. When a building is divided into separate parts by solid walls extending from the ground up, each part shall be deemed a separate building.

Building, Accessory - A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

Building, Height of - The vertical distance from the top of the foundation (block or poured wall) to the highest peak of the roof. If 50% of the walkout basement is exposed, the basement floor shall be used to measure the building height.

Building, Main - A building constituting the principal use of a lot.

Center Line - A line connecting points on highways from which setback lines shall be measured, at any point on the highway.

Channel - A natural or artificial watercourse of perceptible extent, which definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined channel.

***Complete Application for Local Approval** - An application that contains everything required under ss. ATCP 51.30(1) to (4).

Contiguous - Means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.

DATCP - An abbreviation for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Density - A number of housing units in a given land area.

Dog Kennel - A place where more than two adult dogs are boarded for a fee on a recurrent basis, or a place where more than five dogs are kept for any purpose.

Dwelling, One Family - A detached building designed for or occupied exclusively by one family.

Dwelling, Two Family - A detached or semi-detached building designed for and occupied exclusively by two families.

Dwelling, Multiple - A building or portion thereof designed for and occupied by more than two families including tenement houses, row houses, apartment houses and apartment hotels.

***Expanded Livestock Facility** - The entire livestock facility that is created by the expansion, after May 1, 2006. "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

***Expansion** - An increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.

Family

1. An individual; or
2. Two (2) or more persons related by blood, marriage, or adoption; or

- 3. Maximum of 5 persons not so related; together with his or their domestic servants and gratuitous guest maintaining common household in a dwelling unit or lodging unit.

Farm - Means all land under common ownership that is primarily devoted to agricultural use.

Farmland Preservation Plan - A plan for the preservation of farmland in a county, including an agricultural preservation plan under subchapter. IV of chapter 91, 2007 statutes.

Farm Residence - Any of the following structures that are located on a farm:

- 1. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 - a. An owner or operator of the farm.
 - b. A parent or child of an owner or operator of the farm.
 - c. An individual who earns more than 50 percent of his or her gross income from the farm.
- 2. A migrant labor camp that is certified under s. 103.92.

Fence, Open - A fence, including gates, which has, for each one foot wide segment extending over the entire length and height of the fence, 50 percent of the surface area in open spaces which afford direct views through the fence.

Flag Lot - A lot of one (1) acre or more in area, created through a division of land not subject to the subdivision ordinance, for which access is provided by a narrow projection of the lot at least 33 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on the lot projection.

Frontage - All the property abutting on one side of a road or street between 2 intersecting roads or streets or all of the property abutting on one side of a road or street between an intersecting road or street and the dead end of a road or street.

Garage, Private - An accessory building or space for the storage of motor-driven vehicles.

Garage, Public - Any building or premises, other than a private, or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, Storage - Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

Gross Income - The meaning given for Wisconsin adjusted gross income in s. 71.01 (13).

Home Occupation - A gainful occupation conducted by members of the family only, within their place of residence, provided that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, and that no person other than a member of the immediate family living on the premises is employed.

Hotel - A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

Hunting Cabin – A movable structure used as a temporary shelter for seasonal hunting purposes, is not meant for year-round living, and is not connected to any type of utilities. A manufactured (mobile) home may be considered a hunting cabin provided it is not less than 10 years old.

Junk Yard - A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale or parts there from (see also Automobile Wrecking Yard).

Livestock

1. For use in determining compliance with Wis. Stat. Chapter 91 Farmland Preservation, livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
2. For use in determining compliance with ATCP 51 of Wis. Adm. Code, livestock means domestic animals traditionally used in Wisconsin in the production of food, fiber or other animal products. “Livestock” includes cattle, swine poultry, sheep and goats. “Livestock” does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

***Livestock Facility** - A feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A “livestock facility” includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility” for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate “livestock facility.”

***Livestock Structure** - A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. “Livestock structure” includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. “Livestock structure” does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

Lodging House - A building other than a hotel where lodging only is provided for compensation for 3 or more persons not members of the family.

Lot, Zoning - A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by 1 or more structures and the accessory structures, or uses customarily incidental to it, including such

open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.

Lot, Corner - A lot located:

1. At the junction of and abutting 2 or more intersecting streets; or
2. At the junction of and abutting a street and the nearest shoreline of high-water line of a storm or floodwater runoff channel or basin; or
3. At the junction of and abutting 2 or more storm or flood water runoff channels or basins; or
4. At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

Lot Depth - The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior - A lot other than a corner lot.

Lot Width - The width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street right-of-way) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than sixty (60%) percent of the required lot width.

Manufactured Dwelling - A dwelling structure or component thereof as is defined in the Wisconsin Administrative Code One- and Two-Family Uniform Dwelling Code Section 20.07(52), which bears the Wisconsin Department of Industry, Labor and Human Relations insignia certifying that it has been inspected and found to be in compliance with Subchapter V of said Uniform Dwelling Code.

Manufactured Home - A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:

1. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(i), Wis. Stats., and ILHR 21, Subchapters 111, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
2. Is installed in accordance with the manufacturer's instructions;
3. Is properly connected to utilities; and
4. Meets other applicable standards of this Chapter.

***Manure** - means excreta from livestock kept at a livestock facility. "Manure" includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

Mobile Home - A transportable factory built structure designed for long term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above. Mobile homes can be required to be located in a mobile home park. Manufactured homes cannot be required to be located in a mobile home park.

Mobile Home Park - Any plot or tract of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home - A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. Also called prefabricated or precut homes. A double-wide structure transported and assembled at the site on a permanent foundation shall be construed as a modular home. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable State and Local Building Codes. A modular home is subject to COMM 20.13, Wis. Adm. Code.

Nonfarm Residence - A single-family or two-family residence other than a farm residence.

Motel - A building or group of buildings containing rooms which are offered for compensation for the temporary accommodations of transients.

***New Livestock Facility** - A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

Livestock Facility Operator - A person who applies for or holds a local approval for a livestock facility.

***Operator** - A person who applies for or holds a local approval for a livestock facility.

Outlot - A parcel of land other than a lot or block, intended for transfer of ownership or private right-of-way. An outlot may not be used as a building site unless it is in compliance with restrictions imposed under this chapter with respect to building sites.

Owner - The meaning given for owner in s. 91.01(23), also including a partner in a partnership, a member in a limited liability company and a shareholder in a corporation.

Person - An individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

***Populate** - To add animal units for which a permit or other local approval is required.

***Property Line** - A line that separates parcels of land owned by different persons.

Prime Farmland - Any of the following:

1. An area with a class I or class II land capability classification as identified by the natural Resources Conservation Service of the Federal Department of Agriculture.
2. Land, other than land described in par. (1) that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan.

Professional Office - The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, beauty parlor or barbershop or other recognized profession. When established in the Farmland Preservation, General Agricultural, or Residential Districts, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of only 1 story of a dwelling unit shall be occupied by such office.

Protected Farmland - Land that is any of the following:

1. Located in a Farmland Preservation District certified under ch. 91, Wis. Stats.
2. Covered by a Farmland Preservation Agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development as evidenced by documentation provided by the landowner who claims that the land is legally protected from nonagricultural development.

***Related Livestock Facilities** - Livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

1. They are located on the same tax parcel or adjacent tax parcels of land. NOTE: The mere acquisition of a neighboring livestock facility does not constitute an “expansion” unless more animal units are added to the combined facilities.
2. They use one or more of the same livestock structures to collect or store manure.
3. At least a portion of their manure is applied to the same land spreading acreage.

Roadside Stand - A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 50 square feet in ground area and there shall not be more than one roadside stand on any one premise.

Sanitary Sewer - A constructed conduit for the collection and carrying of liquid and solid sewage wastes from 2 or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Department of Natural Resources.

***Separate Species Facility** - A livestock facility that meets all of the following criteria:

1. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a “related livestock facility”): Cattle, Swine, Poultry, Sheep, and Goats.
2. It has no more than 500 animal units.

- 3. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
- 4. It meets one of the following criteria:
 - a. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 - b. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

Setback - Lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines means between the setback line and the highway."

Sign - Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.

Sign, Directional - A sign erected for the purpose of directing persons to a place of business, recreation or public building, school or church.

Special Use - A use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the Zoning District. Special Use as applied is synonymous with the term special exception.

Stable - "Stable" shall have the same meaning as "garage", one draft animal being considered the equivalent of one self-propelled vehicle.

Street - All property dedicated or intended for public or private street purposes or subject to public easements therefore and 21 feet or more in width.

Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street.
Structure - Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

Structural Alteration - Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from 1 location or position to another.

Temporary Structure - A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.

Traffic Lane - A strip of roadway intended to accommodate a single line of moving vehicles.

***Waste Storage Structure** - A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. “Waste storage structure” does not include equipment used to apply waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, “waste storage structure” does not include any of the following:

1. A structure used to collect and store waste under a livestock housing facility;
2. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

Winter Grazing Area - Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. “winter grazing area” does not include any of the following:

1. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
2. An area which at any time has an average of more than 4 livestock animal units per acre.
3. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
4. An area in which manure deposited by livestock causes nutrient levels to exceed standards in ATCP 51.16.

***WPDES Permit** - A Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243.

Yard - An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

Yard, Front - A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.

Yard, Rear - A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.

Yard, Side - A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

Section 4.0 General Provisions

4.1 General Provisions

1. Residentially zoned lots of record at the date of the adoption of this ordinance may be used for new residences provided all setbacks can be met and there is sufficient area for a county approved on-site private sewage system.

2. The use and height of building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
3. No alterations to any building shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.
4. No more than 1 unlicensed vehicle, except equipment that might be used in farming, may exist for more than 30 days on a property.
5. Clean-up following a disaster or substantial damage must be completed within three months, except in the case of hardship. Said hardship is to be determined by the Town Board.
6. Prior to demolition of a building, a Wrecking Permit shall be required. Only after such permit is issued will the assessors remove the structure from the tax roll. Clean-up following demolition or partial demolition of a structure must be completed within three months, except in the case of hardship. Said hardship is to be determined by the Town Board.
7. Removal and disposal of asbestos shall follow the regulatory guidelines and requirements of the State of Wisconsin Department of Natural Resources.
8. Where a housing project consisting of a group of 2 or more buildings containing 4 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this ordinance to the individual building units, the Town Board may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole plat.
9. Every part of a required yard shall be open to the sky unobstructed, except permitted accessory buildings and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.
10. All dwellings shall conform to minimum floor size and be securely anchored to a permanent footed foundation or slip.
11. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.
12. In the Business or Industrial Districts, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.
13. All theaters, arenas, auditoriums, churches or other places of public gathering hereafter erected shall provide an accessible parking space of sufficient size to accommodate at least 1 car for every 3 seats provided.
14. Any damage to Town roads that is incurred during building construction or due to heavy equipment such as, but not limited to, tracked excavators, manure hauling equipment, sludge tankers, etc., person or persons responsible shall be held liable for the road repair.
15. If a building is constructed or altered without obtaining a building permit, the Town Board may require the owner of the building to pay three times the cost of whatever the proper permit would have initially cost.

4.2 Exceptions to General Provisions

1. Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 65 feet or 5 stories.
2. Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, WESF turbines, masts or aerials, telephone, telegraph and power poles and lines, micro-wave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Marshfield.
3. Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets are complied with.
4. Accessory buildings which are not a part of the main building shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 10 feet to any lot line. Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and the rear yard regulations applicable to the main building shall be applied to the accessory building.

4.3 Lot Area

1. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
2. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than 1 main building on 1 lot.

4.4 Nonconforming Uses

1. **Applicability and Intent.** Any lawful use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed a nonconforming use, lot or structure respectively. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions. No use, lot, or structure will receive nonconforming status under this section unless it lawfully existed at the effective date of adoption or amendment of this ordinance.
2. **Abolishment.** If a nonconforming use or structure is discontinued for a period of twelve (12) months, any future use of the land or structure shall conform to the provisions of this Ordinance.
3. **Nonconforming Uses of Land and Structures.** No such nonconforming use of any land or structure shall be extended or enlarged. If such nonconforming use is discontinued for a period of twelve consecutive or eighteen accumulative months during any three year period, any future use of such land or structure shall conform to the Zoning Code. The total structural repairs or alterations to a nonconforming use of land or structure may not during its life exceed 50% of its assessed value unless permanently changed to a conforming use. **Nonconforming Structures.** No

such structure may be altered in any manner that would increase the degree of nonconformity. A nonconforming structure may be restored to the size and use that it had immediately before the damage or destruction occurred if the nonconforming structure was damaged or destroyed on or after May 2, 2006 and the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation. In addition, a nonconforming structure may be constructed to be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements. **Nonconforming Characteristics of Use.** If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

4. **Nonconforming Lots of Record.** In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located as amended as long as the lot lawfully existed at the time of the adoption of or amendment to this ordinance, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.
5. **Nonconforming Signs.** No nonconforming sign shall be altered in any manner that would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50 percent of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity that previously existed.
6. **Casual, Temporary, or Illegal Use.** The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.
7. **Repairs and Maintenance.** Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

4.5 Fee Determination

1. The Town Board, the Zoning Board of Appeals and the Plan Commission reserve the right to retain professional assistance for advice on rezonings, variances, special use permits or other permits authorized by this ordinance. In addition to the payment of the appropriate filing fees, the applicant shall reimburse the Town for its reasonable professional fees.
2. Fire numbers. Home owners are required to pay for new fire numbers and to replace existing ones that are lost or damaged beyond repair. Cost of new fire numbers is to be paid at the time payment is made for the building permit. Cost for replacement of fire numbers is to be paid to the Town when request for replacement is made.

4.6 Manufactured Home Requirements

1. A manufactured home moved into the Town of Marshfield following the adoption date of this ordinance must meet the following requirements:
 - a. That the manufactured home is secured to a permanent enclosed foundation that meets all applicable state building codes or full basement (not mandated), not having more than 12 inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.
 - b. Minimum structure width (i.e. short side) shall be at least twenty-four (24) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling.
 - c. The structure shall have a minimum of a 4/12 pitched roof on a minimum of seventy-five (75) percent of the structure.

4.7 Limitation on Rezoned Property

If a parcel of land has been rezoned for the purpose of immediate construction but no construction progress has begun within one year from the date of approval of the rezoning request, the parcel shall revert back to its original status. Special circumstances may be appealed to the Town Board.

Section 5.0 Farmland Preservation District

5.1 Purpose

The purpose of the Farmland Preservation District is to:

1. Preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production, strengthen agriculture's contribution to an area's economic base (including new employment opportunities), support processing, value added, and other activities closely allied to the agricultural industry, and prevent conversion of land identified as a valuable agricultural resource to uses that are not consistent with agriculture.
2. The district's uses and regulations are designed to implement the Town of Marshfield Comprehensive Plan goals and objectives. Minimal residential development will be allowed, based on the density standards.
3. Preserve productive agricultural land for food and fiber production
4. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs
5. Maintain a viable agricultural base to support agricultural processing and service industries
6. Prevent conflicts between incompatible uses
7. Reduce costs of providing services to scattered non-farm uses
8. Pace and shape growth
9. Implement the provisions of the county agricultural plan as adopted and periodically revised

10. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Wis. Stat.Ch 91
11. To comply with the Farmland Preservation Law, only uses identified in Wis. Stat. Sec. 91.42 are allowed. No building or use shall hereafter be established or enlarged within the Farmland Preservation District unless it conforms to the following regulations.

5.2 Lands Included Within This District

This district is generally intended to include the best agricultural lands historically exhibiting high crop yields, which generally consist of soils ranked from 80-100 in the 1998 Marshfield Land Use Plan using the LESA method developed by the USDA. This district also includes other lands that are integral parts of productive farm operations.

5.3 Permitted Uses

The following are permitted uses in this District.

1. Agricultural Uses (as defined in 3.2)
2. Livestock facilities with less than 500 animal units
3. Roadside stands for the sale of farm products produced on the farm that meets the accessory use provisions in paragraph 4 of this section.
4. Accessory uses mean any of the following.
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
 - (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (5) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - (6) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm residence, including normal residential appurtenances.
 - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (1) It is conducted on the farm by the owner or operator of the farm
 - (2) It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
 - (3) It employs no more than 4 full-time employees annually
 - (4) It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
5. Agriculture-Related Uses means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:

- a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Farmland Preservation District.
- b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Farmland Preservation District.
- c. Marketing livestock to or from farms, including farms in the Farmland Preservation District.
- 6. Undeveloped natural resource and open space areas
- 7. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a permit for that use
- 8. Other uses identified by DATCP rule.
- 9. Home Occupations, as defined in Section 3.2, are permitted within the Farmland Preservation District provided they meet the requirements of 5.3.4.d.
- 10. Nonfarm residences, including two-family, constructed before January 1, 2014.

5.4 Special Uses

See Section 11 of this ordinance for a list of special uses that can be applied for in the Farmland Preservation Zoning District.

5.5 Nonconforming Uses

See Section 4.4 regarding nonconforming uses.

5.6 Minimum Lot, Height and Yard Requirements

- 1. Minimum Lot Size:
 - a. Minimum lot size shall be 3 acres, exclusive of road right-of-way.
- 2. Yards:
 - a. The minimum side and rear yards for residential structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.
 - b. The minimum side and rear yards for farm dwellings and accessory structures shall be 10 feet from the nearest lot lines. The minimum side and rear yards for accessory structures housing animals shall be 100 feet from nearest lot line.
 - c. Highway setbacks for farm dwellings and structures shall be as specified in Section 10 of this ordinance.
 - d. Minimum Lot Width: 150 feet at the setback line. In the case of a “flag-lot”, the minimum width on a public right-of-way and driveway area must be at least 33 feet wide, and the minimum lot width past the “pole” of the “flag-lot” must be at least 150 feet wide.

5.7 Signs

See Section 12 for sign regulations in the Farmland Preservation zoning district.

5.8 Manure Alley Flush Systems

Dairy manure flush/lagoon treatment systems that recycle wastewater for manure alley flushing and land application of lagoon liquid are prohibited in all new or expanded livestock facilities.

5.9 State Livestock Facility Siting Regulations

Please note that all relevant provisions of ATCP 51 are hereby incorporated by reference if not expressly mentioned in this ordinance.

5.9.1 Setbacks and Separations.

1. Livestock Structure Setbacks:

- a. Livestock structures must be located a minimum of 100 feet from the property line or public road right-of-way if the livestock facility will have fewer than 1,000 animal units and 150 feet from the property line or public road right-of-way if the livestock facility will have 1,000 or more animal units.
- b. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.

2. Waste Storage Structure Setbacks:

- a. A new waste storage structure may not be located any closer than 350 feet from a property line, or within 350 feet of the nearest point of any public road right-of-way. Manure storage structures as defined in ATCP 51.12(2) states that a livestock facility owner does not need to meet the setback if one of the following applies:
 - (1) The location of the waste storage structure complies with a local ordinance that specifies a shorter setback that is specific to waste storage facilities or waste storage structures. (Not applicable as this ordinance maintains a 350 foot setback requirement).
 - (2) The waste storage structure existed prior to May 1, 2006. This paragraph does not authorize an expansion, toward a property line or public road right-of-way, of waste storage structure that is located within 350 feet of that property line or public road right-of-way.
 - (3) The waste storage structure is a single new waste storage structure constructed no closer to the relevant property line or public road than a waste storage structure that existed on the same tax parcel prior to May 1, 2006, provided that the new structure is no larger than the existing structure and is located within 50 feet of the existing structure.

5.9.2 Water Quality and Related Setbacks:

- 1. **Navigable Waters and Wetlands:** A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinance enacted within the scope of authority granted under s. 59.692, 61.351 or 62.231, Wis. Stats.
- 2. **Floodplain:** A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under s. 87.30 Wis. Stats.

3. **Wells:** All wells located within a livestock facility shall comply with chs. NR 811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

5.9.3 Special Use Permit

1. **General:** A Special Use permit, which would be issued by the Town of Marshfield and administered by the Town Zoning Administrator, is required for new or expanded livestock facilities.
2. **Special Use Permit for Existing Livestock Facilities:**
 - a. A Special Use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - (1) The applicable size threshold for a Special Use permit.
 - (2) The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on May 1, 2006 or on the effective date of the Special Use permit requirement, whichever date is later.
 - b. A Special Use permit is not required for a livestock facility that existed before May 1, 2006 or before the effective date of the Special Use permit requirement in this ordinance, except as provided in paragraph a.
 - c. A Special Use permit is not required for a livestock facility that was previously issued a Special Use permit, or other local approval, except as provided in paragraph a. Prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
3. **Application Procedure:**
 - a. A livestock operator must complete the application form and worksheets prescribed by ATCP 51 of the Wisconsin Administrative Code, including any authorized local modifications. The application requirements specified in ATCP 51 are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this ordinance. The operator must file four (4) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.
4. **Application Fee:**
 - a. A non-refundable application fee of \$ 1,000.00, payable to the Town of Marshfield, shall accompany an application for the purpose of offsetting the Town of Marshfield costs to review and process the application. However, please note that additional charges without limitation for the purposes of retaining professional services to evaluate permit applications may be charge to the applicant.
5. **Application Procedure:**

- a. Pursuant to ATCP 51.30 (5), within 45 days after the Town of Marshfield receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town of Marshfield shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
 - b. Pursuant to ATCP 51.30 (6), within 14 days after the Town of Marshfield notifies an applicant that the application is complete, the Town of Marshfield shall notify adjacent landowners of the application. The Town of Marshfield shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.
 - c. Pursuant to ATCP 51.32, the Town of Marshfield shall grant or deny an application within 90 days after the notice of a complete application is provided as required by paragraph b. above. The Town of Marshfield may extend this time limit for good cause, including any of the following:
 - (1) The Town of Marshfield needs additional information to act on the application.
 - (2) The applicant materially modifies the application or agrees to an extension.
 - d. The Town of Marshfield shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town of Marshfield will act on the application.
6. **Public Hearing:**
- a. The Town of Marshfield will schedule a public hearing (as described in 11.3) on the application within 90 days after issuing notice of a complete application.
7. **Standards:**
- a. The standards for issuing a Special Use Permit are as follows:
 - (1) The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.
 - (2) Setbacks authorized by this ordinance.
8. **Criteria for Issuance of a Permit**
- a. A Special Use permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance.
 - b. A Special Use permit shall be denied if any of the following apply:
 - (1) The application, on its face, fails to meet the standards for approval.
 - (2) The Town of Marshfield finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
 - (3) Other grounds authorized by s. 93.90, Wis. Stats. that warrant disapproving the proposed livestock facility.

- c. No conditions may be imposed on the permit other than standards provide in the ordinance.
9. **Record of Decision**
- a. The Town of Marshfield must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.
 - b. If the Town of Marshfield approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
10. **Notice to DATCP**
- a. The Town of Marshfield Clerk as required by ATCP 51.36 within 30 days of the Town of Marshfield decision on the application, shall do all of the following:
 - (1) Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town of Marshfield decision.
 - (2) File with the Department a copy of the final application granted or denied, if the Town of Marshfield has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
 - (3) If the Town of Marshfield has withdrawn a local approval under this ordinance, the Town will file with the Department a copy of the notice or order withdrawing the local approval.
11. **Expiration of a Special Use Permit**
- a. A Special Use permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under a Special Use permit, and regardless of whether the livestock operator exercises the full authority granted by the approval.
 - b. However, the Town of Marshfield may treat a Special Use permit as lapsed and withdraw the Special Use permit if the permit holder fails to do all of the following within 2 years after issuance of Special Use permit:
 - (1) Begin populating the new or expanded livestock facility.
 - (2) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
12. **Permit Modification**
- a. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Marshfield shall not withhold authorization for those changes.
13. **Compliance Monitoring**
- a. The Town of Marshfield shall monitor compliance with the ordinance as follows:
 - (1) Upon notice to the livestock facility owner, a request by the Town of Marshfield Zoning Administrator to personally view the

permitted premises at a reasonable time and date to insure that all commitments of the application as approved are being complied with.

- (2) If the livestock facility owner refuses the Town of Marshfield Zoning Administrator the right to view the permitted premises, the Zoning Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted premises for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
- (3) If a permitted premises is found not to be in compliance with the commitments made in the approved application, the Zoning Administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and Special Use permit be complied with in a reasonable amount of time stated in this written notice.
- (4) If non-compliance of the Special Use permit conditions as described in the written notice, given by the Administrator, continue past the stated reasonable time to comply, the Administrator may take further action as provided in Section 17 of this ordinance.
- (5) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town of Marshfield shall schedule a hearing within five days to determine if the conditions of the Special Use permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

14. **Terms of the Special Use Permit**

- a. A Special Use permit and the privileges granted by a permit issued under this ordinance is conditioned on the livestock operator’s compliance with the standards in this ordinance, and with the commitments made in the application for a permit. The Town of Marshfield is authorized to suspend a permit or seek other redress provided in this ordinance for non-compliance.

15. **Transferability**

- a. A Special Use permit and the privileges granted by a Special Use permit would run with the land approved under the Special Use permit and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.
- b. The Town of Marshfield requests that upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town of Marshfield clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

5.9.4 Variance.

1. The Town of Marshfield is not authorized to grant a variance from the state requirements related to livestock facility siting, except as provide in s. 93.90 Wis. Stats. and ATCP 51.

Section 6.0 General Agricultural District

6.1 Purpose

To establish and preserve areas for agricultural, low density residential and outdoor recreation uses without permitting an intensity of development which would require the provision of urban facilities and services. Creation of a new parcel for the purpose of building a new residential structure in the General Agricultural District, after adoption of this ordinance, will be prohibited. A petitioner who wants to create a new residential parcel will need to file a Certified Survey Map to create a buildable parcel.

6.2 Permitted Uses and Structures

1. Agricultural uses, as defined in Section 3.2.
2. Existing and new single-family dwellings.
3. Manufactured homes, subject to Section 4.6 of this ordinance

6.3 Permitted Accessory Uses

The following accessory uses are permitted if located on the same lot with the permitted use:

1. Accessory uses, as defined in Section 3.2.
2. Signage (see Section 12 of these regulations)
3. Customary home occupation or professional offices conducted by the resident only, subject to sign code provisions in Section 12.

6.4 Special Uses

See Section 11 of this ordinance for a list of special uses that can be applied for in the General Agricultural Zoning District.

6.5 Nonconforming Uses

See Section 4.4 regarding nonconforming regulations of this ordinance.

6.6 Minimum Lot and Yard Requirements

1. Minimum Lot Size: The following conditions apply toward the minimum lot sizes:
 - a. Minimum lot size shall be 3 acres, exclusive of road right-of-way.
2. Yards:
 - a. The minimum side and rear yards for residential structures shall be 25 feet from the nearest lot line, and 10 feet for all accessory structures.
 - b. All accessory buildings housing livestock shall be 100 feet from all lot lines
 - c. The minimum side and rear yards for farm dwellings and accessory structures shall be 10 feet from the nearest lot lines

- d. Highway setbacks for farm dwellings and structures shall be as specified in Section 10 of this ordinance
- e. Minimum Lot Width: 150 feet at the setback line. In the case of a “flag-lot”, the minimum width on a public right-of-way and driveway area must be at least 33 feet wide, and the minimum lot width past the “pole” of the “flag-lot” must be at least 150 feet wide.

6.7 Off-Street Parking Requirements

Each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located in the same lot or tract of land as the dwelling served.

6.8 Signs

See Section 12 for sign regulations in the General Agricultural zoning district.

6.9 Manure Alley Flush Systems

Dairy manure flush/lagoon treatment systems that recycle wastewater for manure alley flushing and land application of lagoon liquid are prohibited in all new or expanded livestock facilities.

Section 7.0 Residential District

7.1 Purpose

The Residential District is intended to provide areas of low-density residential development and ancillary uses.

7.2 Permitted Uses

Within the Residential District the following uses are permitted:

- 1. One-family dwellings.
- 2. Two-family dwellings.
- 3. Manufactured homes; manufactured dwellings, mobile homes as defined in Section 3.2 are subject to the standards and regulations as set out in Section 4.6, together with the following additional standards and regulations:
 - a. Ground floor area. Minimum ground floor area for a one story home shall be 1,100 square feet and 960 square feet for a two story residential home.
 - b. Manufactured homes, manufactured dwellings, mobile homes must be built in compliance with the American National Standards Institute of Housing and Urban Development Code as enforced by the Wisconsin Department of Commerce.
 - c. Foundation base. A base of concrete, crushed rock at least six inches thick, concrete blocks or other properly engineered design which meets the standards of Housing and Urban Development Code for the proper support of a manufactured home shall be installed.
 - d. Anchoring system. A system of straps, cables, turnbuckles or chains which is used to secure a home to anchors and which complies with the standards

of the Department of Housing and Urban Development for manufactured homes shall be installed.

- e. Any manufactured home, dwelling or mobile home which has been previously occupied as a dwelling, must have a current fair market value of not less than 60 per cent of its original list price and shall not be older than 10 years.
- 4. Public parks, playgrounds.
- 5. Conversion of any existing building to a permitted use.
- 6. Home occupations, subject to the sign code requirements in section 12 of this ordinance.
- 7. Free standing structures (e.g., storage shed, garage) not used for agriculture or as residential purposes shall have a cumulative area not greater than 1,200 square feet, a height not more than 25 feet at the highest point, not less than 10 feet from the rear lot line, and not less than 10 feet from the side lot line. The structure shall have no more than a 2 foot overhang.

7.3 Accessory Uses

The following accessory uses are permitted if located on the same lot with the permitted use:

- 1. Customary home occupation or professional offices conducted by the resident only, provided there is no external evidence of such use, except an announcement or professional sign not exceeding requirements established in Section 12.
- 2. Detached accessory buildings such as detached garages,
- 3. Detached carports, storage sheds, tool/garden sheds, gazebos, children’s play houses, pavilions or similar buildings.
- 4. Decks and patios.
- 5. Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests.

7.4 Nonconforming Uses

See Section 4.4 regarding nonconforming regulations of this ordinance.

7.5 Regulations and Standards

The following regulations and standards shall apply to all dwellings:

- 1. Occupancy:
 - a. Residential occupancy per dwelling unit shall be limited to 1 family and not more than 2 roomers or boarders.
 - b. Occupancy in a non-residential structure prior to the construction of a permanent residence is prohibited. To grant a special use in certain instances, an application may be filed in accordance with provisions of Section 11.4.
- 2. Location: Dwellings shall be located so as to abut a public highway and lots shall have a minimum of 50 feet of frontage thereon.

3. Habitable Floor Area: For single level structures. The minimum habitable floor area per dwelling unit shall be 1,100 square feet. For two story structures, the first floor must be at least 960 square feet.
4. Off-Street Parking Space:
 - a. Each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located in the same lot or tract of land as the dwelling served:
 - b. Such off-street parking space shall total at least 300 square feet for each space required:
 - c. Not more than 1 such space within a private garage or private carport shall be rented or leased to a non-resident of the premises:
 - d. No such space shall be located less than 10 feet from any front lot line and shall be located not less than 10 feet from any side or rear lot line.
5. Dimensions of Building Sites:
 - a. Minimum area and width for each unsewered dwelling:
 - (1) The minimum lot area shall be 1 acre and the minimum lot width 100 feet at the building line; on riparian lots, 75 feet at the water's edge.
 - (2) Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Section H62.20 and/or H65, Wisconsin Administrative Code or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the Zoning Ordinance.
 - (3) A sanitary permit must be issued by the County Sanitarian under the County Sanitary Ordinance, prior to the issuance of a building permit. No construction shall commence prior to issuance of these permits.
 - (4) Building permits issued for remodeling and additions are good for 12 months from the date of issuance. Building permits for new construction are good for 24 months from the date of issuance.
 - b. Lots served by public sanitary sewer: The minimum lot area shall be 16,000 square feet and the minimum lot width 80 feet at the building line.
6. Height - Not to exceed 35 feet or 3 stories.
7. Side Yard - For buildings not over 1 1/2 stories in height, the sum of the width of the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet. For buildings from 1 1/2 stories to 2 1/2 stories in height, the sum of the width of the required side yards shall not be less than 30 feet and no single yard shall be less than 12 feet.
8. Rear Yard - Minimum depth 25 feet for principal structure. On riparian lots, rear yards shall comply with applicable county ordinances and state law.
9. Fences - In residential districts, the following regulations apply:
 - a. Two and a half feet maximum height within the vision-corner clearance triangle.
 - b. Six feet maximum height in all other locations.
 - c. Unlimited height for school fences.
 - d. Barbed wire fencing may not be used in residential districts, except between residential and agricultural properties.
 - e. Electric fences may be used between agricultural and residential properties
 - f. Fences shall be maintained in good repair as to structure and appearance.
 - g. Fences shall be set back two feet from the property line.

- h. Building permits must be obtained from the Building Inspector for all fences in residential districts except for temporary seasonal fences (e.g. snow fences).
- i. Snow Fences shall not be erected any closer than 75 feet from the property line adjoining two properties, unless permission to do so is granted by the adjoining neighbor. Further, said snow fence must be located at least 75 feet from the center of any town road, unless permission is granted by the Town Board.

7.6 Special Uses

See Section 11 of this ordinance for a list of special uses that can be applied for in the Residential Zoning District.

7.7 Signs

See Section 12 for sign regulations in the Residential Zoning District

Section 8.0 Business District

8.1 Purpose

The Business District is intended to provide space for those retail, business, service business and office uses serving the area.

8.2 Permitted Uses

- 1. Farm implement sales.
- 2. Adult oriented establishments, subject to the Town of Marshfield Adult Oriented Establishments Ordinance.

8.3 Special Uses

See Section 11 of this ordinance for a list of special uses that can be applied for in the Business Zoning District.

8.4 Nonconforming Uses

See Section 4.4 regarding nonconforming regulations of this ordinance.

8.5 Regulations and Standards

- 1. Height of Buildings: Not to exceed 60 feet.
- 2. Side Yard. As established for Residential District.
- 3. Setback. As established for Residential District.
- 4. Rear Yard. As established for Residential District.
- 5. Minimum Lot Size. As established for Residential District.
- 6. When an apartment or residence is a part of the business structure, then there shall be additional square footage sufficient to qualify the same under the requirements for residences in the Residential District and subject to the alternative provisions and the tests provisions therein contained. This same provision shall apply to multiple family residence, boarding houses and lodging houses.

- 7. **Off-Street Parking Space:** Off-street parking spaces shall be provided as follows:
 - a. 1 off-street parking space per dwelling unit or lodging unit on the same lot or tract of land of such dwelling unit or lodging unit served.
 - b. 1 off-street parking space per person normally employed on the lot or tract of land.
 - c. 1 off-street parking space for each 100 square feet of retail sales floor area of the establishment being served.

8.6 Signs

See Section 12 for sign regulations in the Business Zoning District

Section 9.0 Industrial District

9.1 Purpose

The Industrial District is intended to provide space for light and heavy industrial and long-term mineral extraction uses serving the area.

9.2 Permitted Uses

Wholesale business.

9.3 Special Uses

See Section 11 of this ordinance for a list of special uses that can be applied for in the Industrial Zoning District.

9.4 Regulations and Standards

- 1. **Minimum Lot Size** - 100 feet at building line, 1 acre in area exclusive of any road right of way.
- 2. **Maximum Coverage** - The amount of the total lot area that may be covered by all principal and accessory buildings shall not exceed 50%.
- 3. **Required Yards and Open Spaces** - On every lot in the I-Industrial District yards shall be required as follows:
 - a. **Front Yard - Depth** where a lot abuts a highway or street shall be 67 feet from the right-of-way.
 - b. If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than 15 feet from the right-of-way.
 - c. A front yard on each lot line abutting a street, a side and a rear yard, except in the case where 3 lot lines abut a street, there shall be required in addition to 3 front yards, a side yard.
 - d. Side yard width shall be 10 feet or greater, no accessory building shall project into the required side yard space.
 - e. Rear yard depth shall not be less than 25 feet. Within the required yards or in addition thereto, there shall be sufficient space for the loading and unloading of motor vehicles off the street.

- f. Where a lot abuts a lot in a Residential District there shall be provided along such lot line a suitable buffer or plant materials, fencing or a combination of both, to shield the residential area from the industrial area.
- g. Where the transition from the Industrial District to the Residential District is a public street, the front yard in the Industrial District shall be suitably landscaped.
- h. Any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or as to create fire or explosive hazards.
- 4. Off-street parking shall be provided as follows:
 - a. 1 off-street parking space per person normally employed on the lot or tract of land.
 - b. 1 off-street parking space for each truck or other vehicle incidental to the use of such lot or tract of land.
- 5. On lots not served by public sewer, sufficient lot area shall be provided so that the requirements of Fond du Lac County Sanitary Code and all provisions of the Administrative Code relating to the use and occupancy of the building are complied with.

9.5 Signs

See Section 12 for sign regulations in the Industrial Zoning District

Section 10.0 Highway Setback Lines

10.1 Purpose

In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Marshfield, Fond du Lac County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.

Where a highway is located on a village boundary, this section is not intended to be effective on the side within the village, nor on the side within another town where the highway is located on a town boundary.

10.2 Classes of Highways and Centerlines

Highways are classified and the position of the centerline shall be determined as follows:

- 1. Class 1 Highways
 - a. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The centerline is the midway point between the edges of the road surface.
 - b. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The centerline is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.

- c. Roads and streets in platted subdivisions not otherwise classified. The centerline is the midpoint between the edges of the road surface.
- d. Private roads. The centerline is at the mid-point between the edges of the road surface.
- 2. Class 2 Highways
 - a. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The centerline is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
 - b. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, and the County Highway Committee. The centerline is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.
- 3. Class 3 Highways
State Trunk Highways, except as hereinafter provided, that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States Highways. The centerline is the center of the roadbed or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double-divided road.

10.3 Structures Prohibited Within Setback Lines

No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established by this ordinance and the highway, except as provided by this ordinance, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the effective date of the ordinance shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 50% or more of its current value as determined by the local assessor.

10.4 Structures Permitted Within Setback Lines

The following kinds of structures may be placed between the setback line and the highway right-of-way line:

- 1. Open fences (see definition in Section 3.2).
- 2. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner file with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
- 3. Underground structures not capable of being used as foundations for future prohibited aboveground structures.
- 4. Access or service highways constructed according to plans as approved by the Town Board. In giving such approval, the Town Board shall give due consideration to highway safety and maximum sight distances.
- 5. This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no trees or shrubbery

shall be so located, maintained or permitted to grow within the road right-of-way or that the view across the sectors at the intersections shall be obstructed.

10.5 Setback Distance & Interpretation

Except as otherwise provided, the distances from the center to the setback line applicable to the various classifications of highways as defined in Paragraph 10.2 of this section, shall be as provided by the following paragraphs of this subsection, respectively.

Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the latter classification.

In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.

10.6 Along Various Class Highways

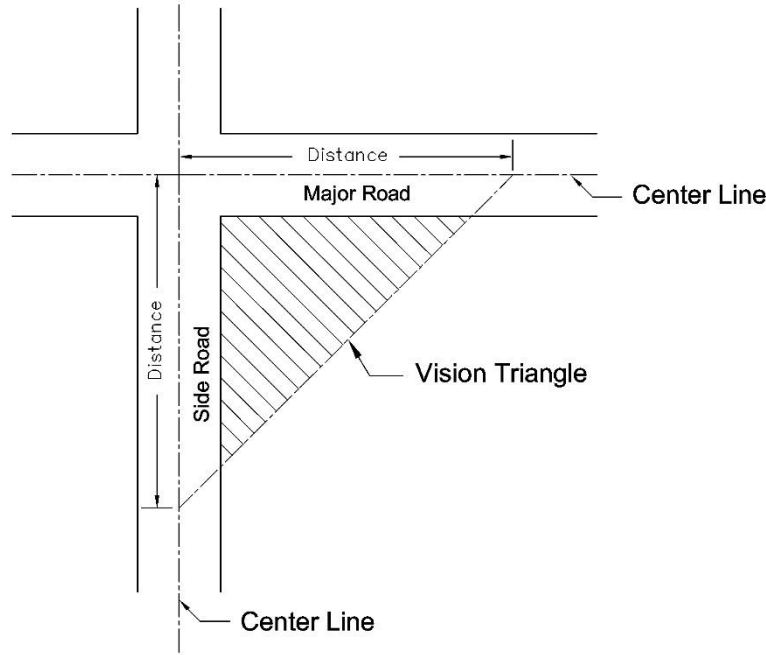
The setback distances from the centerline, at any point for the respective classes of highways, shall be as follows:

1. Class 1 highway, 75 feet, except in platted subdivision where the setback distance shall be 30 feet from the right-of-way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be 50 feet from right-of-way line but not less than 75 feet from the center line of said road as shown on the instrument creating said road or road easement.
2. Class 2 and Class 3 highways, 75 feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than 60 feet for Class 2 and Class 3 highways.
3. Exceptions: Except that where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this ordinance which buildings are located not more than 150 feet apart and have setback lines less than are established by this section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than 75 feet from the right-of-way line, shall not be required in any case. The Town Board may further vary this regulation in appropriate cases, provided that the Town Board shall establish such conditions as will save the town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a setback less than the average setback of the adjacent buildings.

10.7 Vision Triangle

1. In each quadrant of every public road right-of-way intersection or public road easement intersection (including street-railroad intersections) there shall be a vision triangle per the following standards (see diagram below).
2. Within the vision triangle no object over 2.5 feet in height above the road beds shall be allowed, except for transparent fences; telecommunication and power

- transmission poles, lines, and portable equipment; field crops; and deciduous trees with mature canopies beginning greater than eight feet from the ground.
- A railroad shall be considered the equivalent of a 55 mph road for the purposes of calculating the required vision triangle.



Dimensional Requirements for Vision Triangles

Posted Speed (mph)*	Main Road Distance (ft) **	Side Road Distance (ft)	
		Thru movement possible from side road**	No thru movement possible from side road (“T” intersection)***
25	90	90	75
30	105	105	75
35	120	120	75
40	135	135	75
45	150	150	75
50	165	165	75
55	180	180	75

*Use the posted speed of the Main Road and Side Road to determine the respective distances.
 ** Based on distance traveled in 2 seconds at posted speed plus 5 mph.
 *** Based on a distance traveled in 2 seconds at 25 mph because vehicle approaching intersection on side road has to slow down to make a turn.

10.8 At Highway Intersections with Widening

At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.

10.9 At Highway Intersections with Curve Connections

At intersections where the intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.

Section 11.0 Special Uses

11.1 Definition

"Special Use" means a use allowed under a special use permit, special exception, or other special zoning permission issued by the town but does not include a variance. For the purpose of this ordinance, special use is synonymous with conditional use. Special use is a use that is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein. It is hereby declared the policy and purpose of this ordinance to employ the Special Use as a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.

11.2 Authorizing Special Use Permits

The Town Board (following a recommendation from the Plan Commission) may authorize special use permits when it appears:

1. That it is reasonably necessary for the public convenience at that location.
2. That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.
3. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.
4. That in the case of an existing non-conforming use will make such use more compatible with its surroundings.
5. Standards Applicable to Special Uses: In passing upon applications for special uses, the Town Board (following a recommendation from the Plan Commission) shall consider the following relevant factors:
 - a. The statement of purpose of the zoning ordinance.
 - b. The potential for conflict with use.
 - c. The need of the proposed use for a location in a residential area.
 - d. The availability of alternative locations.
 - e. Compatibility with existing or permitted uses on adjacent lands.
 - f. Concerns of neighbors.
 - g. The location of the proposed use so as to reduce to a minimum the impact on neighboring residences.
 - h. The need for public services created by the proposed use.
 - i. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.

- j. The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

11.3 Procedure and Meetings

The following procedure shall be followed to obtain a Special Use permit:

1. **Application** An owner or owner's designated agent shall complete and file a Special Use application form with the Zoning Administrator accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Ten copies of a scaleable development plan will be required with the written application.
2. **Public Hearing** After receiving the request, the Town Clerk shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.
3. **Action by Plan Commission** The Plan Commission shall, within ten (10) business days of the public hearing, make a report and recommendation of approval or denial of the Special Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering a Special Use application, as listed in Section 11.6.
4. **Action by Town Board** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Special Use permit by resolution. A Special Use permit shall become effective upon approval by the Town Board. A record of the Special Use permit shall be maintained in the Town Hall.

If an applicant for a special use permit meets or agrees to meet all of the requirements and conditions specified in the ordinance or those imposed by the Town Board, the Town shall grant the Special Use permit. Any condition imposed must be related to the purpose of this ordinance and be based on substantial evidence.

11.4 Application Requirements

The applicant shall provide the following information on the Special Use application form:

1. Applicant and property owner's name, address, and telephone number.
2. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
3. Description of Special Use being requested.
4. Written justification for the Special Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Special Uses listed in Section 11.6.

11.5 Development Plan Requirements

Submission of a Special Use permit request will need to include a development plan that has the following information:

1. North arrows, date of preparation, and scale on 8½" x 11" size paper
2. Name(s) of all adjacent or surrounding streets and right-of-way width(s)

3. Recorded property lines and their dimensions
4. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel
5. Dimensions of existing and proposed yard setbacks for buildings and structures
6. Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways
7. The location of proposed and existing signage
8. The location and type of all proposed and existing exterior lighting fixtures
9. The location, height and materials of all proposed and existing fences or retaining walls
10. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s)
11. Stormwater and erosion control plan
12. Other additional information that may be deemed appropriate by the Zoning Administrator.

11.6 Standards for Granting Special Use Permits

No Special Use permit shall be recommended by the Plan Commission or approved by the Town Board unless it shall find that:

1. **Zoning** The proposed use conforms to the general purposes and intent of the Marshfield Zoning Ordinance.
2. **Comprehensive Plan** The proposed use is consistent with the goals and objectives of the Marshfield Comprehensive Plan
3. **Traffic** Access to the property can meet access control requirements, if any
4. **Landscaping and screening.** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use.

11.7 Conditions, Guarantees and Validity Period

The following conditions, guarantees and validity period may be imposed upon the granting of a Special Use permit:

1. Upon a consideration of information supplied at the public hearing and a review of that standards contained in Section 11.6, the following conditions may be attached to the granting of a special use:
 - a. increased setbacks and yards.
 - b. specifications for water supply, liquid waste, and solid waste disposal facilities
 - c. landscaping and planting screens, sureties, operational controls, erosion prevention measures.
 - d. location of the use.
2. A performance bond may be required to insure compliance with such requirements. Violation of these conditions shall constitute a violation of this ordinance as provided in Section 17.
3. Prior to the granting of any Special Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon

the establishment, location, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest. In all cases in which Special Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deemed necessary (as proof that the stipulated conditions are being and will be complied with).

4. Special Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.
5. A Special Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Special Use has not been established within twelve (12) months of the issuance of the Special Use permit, the Special Use permit expires.
6. Any party who has been issued a Special Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Special Use Permit that has an expiration date as established by Town Board. Such notification shall be submitted to the Town Clerk thirty (30) days prior to the Special Use Permit expiration date.
7. A Special Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

The requirements and conditions described must be reasonable and, to the extent practical, measurable and may include conditions such as the permit's duration, transfer or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the Town relating to the special use are or shall be satisfied, both of which must be supported by substantial evidence. The Town's decision to approve or deny the permit must be supported by substantial evidence.

11.8 Types of Special Uses by Zoning District

Special uses that may be considered by a recommendation from the Plan Commission and action by the Town Board in all zoning districts other than the Residential Zoning District are as follows:

1. **In the Farmland Preservation Zoning District only:**
 - a. **Keeping Livestock** equal to or more than 500 animal units, subject to the Livestock Siting Application Process outlined in Section 5.9 of this ordinance.
 - b. **Transportation, communications, pipeline, electric transmission, utility, or drainage uses** if all of the following apply:
 - (1) The use and its location are consistent with the purposes of the district.
 - (2) The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - (3) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.

- (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- c. **Governmental, institutional, religious, or nonprofit community uses** if all of the following apply:
 - (1) The use and its location are consistent with the purposes of the farmland preservation zoning district.
 - (2) The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- d. Oil and gas exploration or production that is licensed by the department of natural resources under sub ch. II of ch. 295.
- e. Horse riding stables and equestrian trails for personal use that meet the requirements for an accessory use in the Farmland Preservation Zoning District. Further, such use is subject to a minimum of 2.5 acres of land for one horse, and an additional acre and a half for each additional horse.
- f. Dog kennels subject to meeting the requirements for an accessory use in the Farmland Preservation Zoning District.
- g. Topsoil removal and subsoil removal subject to meeting the requirements for an accessory use in the Farmland Preservation Zoning District.
- h. Other uses allowed by the Department of Agriculture, Trade, and Consumer Protection, by rule.

2. **In the Business District only:**

Because the Town of Marshfield is predominantly agricultural or residential, the following commercial uses will be required to obtain a special use permit (see Section 11):

- a. Retail stores and shops.
- b. Banks, post office, medical or dental clinics, business or professional offices.
- c. Service-type business, such as barbershop, beauty parlor, Laundromat, music, dancing, art or photography studio, servicing or repair or home appliances or farm equipment and similar uses.
- d. Automobile service stations and public garages; new or used car sales areas; new or used farm equipment sales areas; but not including the storage of wrecked vehicles or wrecked farm equipment.
- e. Hotel, motel, boarding or lodging houses, and dwelling units, located on the same lot with such a permitted use.

- f. Clubs, lodges, public meeting halls, theaters, bowling alley, and similar places of assembly or recreation.
- g. Blacksmith shops, machine shops, welding shops, sheet metal shops.
- h. Feed mill.
- i. Self-Storage Units.
- j. Septic Service, Well Drilling, Excavating, HVAC, Electrical, Plumbing, Home Improvement, Landscaping Services
- k. Any other use the Town Board determines is substantially similar to one of the other specifically enumerated special uses

3. **In the Industrial Zoning district only:**

- a. Automobile wrecking yard or junk yard.
- b. Non-Metallic Mining, subject to the following provisions:
 - (1) Mineral extraction operations, including washing, crushing, quarrying, borrow pits, or other processing or removal of mineral resources, the erection of buildings and the installation of necessary machinery used in the said extraction and processing, and the preparation of hot black top mix or ready-mix concrete, and the operation of lime kilns; provided that:
 - (a) An applicant for a permit shall include an adequate description of the operation; a plan of the site showing proposed and existing roads and drives, the sources, quantity and disposition of water to be used, if any; estimated dates for the completion of the extraction and commencement and completion dates for the reclamation; a reclamation plan, subject to Fond du Lac County "Non-Metallic Reclamation Ordinance (consistent with s.s. 295.13) adopted on July 19, 2007, , and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area.
 - (b) The operation complies with Subchapter I of Wis. Stat. Ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under Wis. Stat. Ch. 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
 - (c) The reclamation plan shall contain adequate provision that all final slopes around the area be flatter than a 3 to 1 horizontal slope in a sand and gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation; excavations below the grade of the nearest abutting public street or highway shall be set back from said street or highway a distance not less than that required for buildings and structures under this ordinance; all final slopes shall be covered with topsoil and seeded to prevent future erosion; the plan shall require that after completion of the anticipated operation the area shall be cleared of all debris and be left in a clean condition, subject to the approval of the Town Board or its agent.

The reclamation plan shall indicate the proposed future use or uses of the site; however, the proposed re-use of the site for a dumping grounds shall have the concurrence of the Town Board.

- (d) Application for a permit for mineral extraction operations proposed to be located within 600 feet of a Residential district, a residential subdivision or a city or village limits line, or within 300 feet of any building occupied for residence purposes; or for a hot blacktop mix or a ready-mix concrete plant, shall not be granted except on approval of the Town Board given after the public hearing has been held.
- (e) The permit shall be for a period of time as stated in the application or as modified by the Town Board. Modification of the application or reclamation plan may be permitted through appeal, or additional conditions may be required. The Town Board, where such approval is required, shall consider the effect of the proposed operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The application and/or reclamation plan may be approved, approved specially, or rejected.
- (f) No permit shall be granted for a period of time exceeding 4 years, unless approved by the Town Board. A renewal may be granted upon application provided that the applicant has fully complied with the terms of this ordinance and the permit issued hereunder. The Town Board may require a public hearing prior to such renewal.
- (g) The Town Board shall determine a filing fee for each initial application and bi-annually shall determine a renewal fee.
- (h) All existing mineral extraction operation lawfully operated and existing shall be considered non-conforming uses and may be continued provided that they have been worked prior to the date of the adoption of this provision of this ordinance.
- (i) In the Farmland Preservation or General Agricultural district, mineral extraction operations may be authorized as a special use provided that the mineral extraction operation shall take place for less than two years, and the land shall be restored to agricultural production within another two years.

- c. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.
- d. Knitting mills and the manufacture of products from finished fabrics.
- e. Laboratories.
- f. Manufacture of goods from leather, but not tanning or hides, or manufacture of leather.

- g. Manufacturing of products not otherwise prohibited.
- h. Printing and publishing.
- i. Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.
- j. Repair, service and assembly of motor-propelled or non-motor-propelled vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles, blacksmithing, tinsmithing and welding shop.
- k. Storage and warehousing of fuel and materials, and the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids.
- l. Advertising and announcement signs as defined in Section 12.
- m. Any other uses similar in character to or customarily established in connection with the foregoing.
- n. Wireless communications structures and mechanical appurtenances.
- o. Public utility or public service corporation building or structures, provided that the Town Board shall find that the proposed location of such buildings or structures is reasonably necessary for the public convenience, safety or welfare.
- p. Municipal sewage disposal plants, subject to the provision that they shall be located not less than one thousand (1000) feet from the nearest dwelling, shall be properly and adequately screened and buffered from the highway and adjacent property, and shall be so constructed and operated that there shall be no offensive odors or noise, and that there is adequate provision for the effluent and for the disposal of all sludge and residues, and that the area shall be completely enclosed with an adequate chain link type of fencing in addition to shrubbery screening; and that the foregoing provisions and all the provisions required by state law or Administrative Code are maintained during the operation thereof.

4. **In the Farmland Preservation and General Agriculture districts only:**

Hunting cabins shall be a special use in the Farmland Preservation and General Agricultural Districts. To be considered a special use in the Farmland Preservation District, a hunting cabin must qualify as an “accessory use” as that term is used in the Farmland Preservation District. In addition to the general special use standards, the following standards apply to hunting cabins.

- a. No more than one hunting cabin may be allowed per lot of record provided all other standards are met.
- b. No more than one hunting cabin may be allowed per new lot provided the new lot is at least 10 acres in size and provided all other standards are met.
- c. The floor area of a hunting cabin must not be over 300 square feet.
- d. A hunting cabin must be set back at least 75 feet from all property lines.
- e. A hunting cabin must be accessible for inspection and safety purposes.
- f. An application for a special use permit for a hunting cabin must be accompanied by maps showing topography, ordinary high water lines, existing structures, land ownership, elevations, roads, vegetation, and the proposed hunting cabin site.
- g. A permit for a hunting cabin shall be granted subject to compliance with all standards contained in this ordinance. A permit shall not be granted for

a period longer than three (3) years, and may be renewed upon its expiration in the same manner in which an initial application is filed.

5. In all districts other than Farmland Preservation and Residential, the following special uses could be considered:

- a. Sanitary landfill.
- b. Canneries, cheese factories, condenseries, creameries, pea viners and such other establishments for the processing, packing or manufacture of the agricultural products as may have a nuisance factor not separable there from, such as the emission or effluence of noxious or odorous wastes or by-products.
- c. Charitable institutions.
- d. Horse Riding stables and equestrian trails for personal use, subject to a minimum of 2.5 acres of land for one horse, and an additional acre and a half for each additional horse.
- e. Governmental uses such as fire stations, highway storage garage, parks, and landing strips.
- f. Churches and cemeteries.
- g. The sale and service of machinery used in agricultural production.
- h. Dog Kennels.
- i. Two-family dwellings within existing residential structures only.
- j. Communication Tower, Commercial.
- k. Topsoil removal and subsoil removal in quantities allowed by the DNR standards.
- l. Public boat liveries and marinas, public beaches and bathhouses, public parks, golf grounds, picnic areas, and other recreational uses similar in character to or customarily established in connection with the foregoing; provided, however, that no permit shall be issued until plans for sanitary facilities shall have been approved as adequate by the County Sanitarian.

Section 12.0 Signs

12.1 Definitions.

The following definitions shall apply to this Section:

1. Sign - A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization, or business. Signs located completely within an enclosed building and not exposed to view from a street are not considered signs. Each display surface of a sign or sign face is considered a sign.
2. Sign Area - The space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure; or, where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers or design.
3. Sign Face - The entire display surface area of a sign upon, against, or through which copy is placed.
4. Freestanding – A sign erected and maintained on a freestanding frame, mast, or pole not attached to any building, and not including ground- mounted signs.

5. Government Sign - A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.
6. Ground-Mounted Sign - A sign that extends from the ground or has support that places the bottom of the sign less than two feet from the ground.
7. Highway Sign - A freestanding sign, Integral Sign, or Ground-Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.
8. Integral - A sign that is embedded, extruded, or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.
9. Marquee - A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.
10. Portable Sign - Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled, or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.
11. Roof Sign - A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascial.
12. Temporary Sign - A banner, pennant, poster, or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like materials and is intended to be displayed for a limited period of time.
13. Window Sign - A sign that is attached to or located within three feet of the interior of a window and can be seen through the window from the exterior of the structure.
14. Billboard - A sign intended to lease to third parties and is itself the primary income generator and commercial use of the property upon which it is located.
15. Digital Billboard - A sign that is static and changes messages by any electronic process or remote control.

12.2 Sign Permit.

No sign other than a Temporary Sign may be constructed, installed, or erected within the Town without a Sign Permit issued by the Town Board. The fee for a Sign Permit shall be as set forth in the Annual Fee Schedule.

12.3 Signs in Residential District.

1. Allowed Sign Types:
 - a. Freestanding Signs.
 - b. Government Signs.
 - c. Ground-Mounted Signs.
 - d. Integral Signs.
 - e. Portable Signs.
 - f. Window Signs.
2. Dimensional Restrictions.
 - a. No sign face may exceed 16 square feet in area.
 - b. Signs other than building-mounted signs may not exceed six feet in height above the ground, measured to the top of the sign structure.
 - c. Building-mounted signs must be flush mounted and must not project above the roof line.

- d. Signs may not be located within road right-of-way or otherwise located in a manner that obstructs road vision.
- e. No more than one sign is allowed on each lot.

12.4 Signs in Business & Industrial Districts.

- 1. Allowed Sign Types:
 - a. Freestanding Signs.
 - b. Government Signs.
 - c. Ground-Mounted Signs.
 - d. Highway Signs
 - e. Integral Signs.
 - f. Marquee Signs.
 - g. Portable Signs.
 - h. Roof Signs.
 - i. Window Signs
 - j. Billboards
 - k. Digital Billboards.
- 2. Dimensional Restrictions.
 - a. The total of all sign faces on a lot may not exceed 64 square feet, regardless of the number of signs located on the lot.
 - b. Signs other than building-mounted signs may not exceed eight feet in height above the ground, measured to the top of the sign structure.
 - c. Building-mounted signs must be flush mounted and must not project above the roof line.
 - d. Signs may not be located within road right-of-way or otherwise located in a manner that obstructs road vision.
 - e. No more than three signs are allowed on each lot.
- 3. Special Restrictions for Highway Signs.
 - a. Notwithstanding the foregoing restrictions in the Business & Industrial Districts, the following restrictions apply to Highway Signs
 - (1) No sign may exceed 300 square feet per face.
 - (2) Minimum sign spacing on all roads is 500 feet.
 - (3) Highway Signs must be placed on a permanent foundation.

12.5 Signs in General Agriculture & Farmland Preservation Districts.

- 1. Allowed Sign Types:
 - a. Freestanding Signs.
 - b. Government Signs.
 - c. Ground-Mounted Signs.
 - d. Integral Signs.
 - e. Marquee Signs.
 - f. Portable Signs.
 - g. Roof Signs
 - h. Window Signs
 - i. Billboards
 - j. Digital Billboards.

2. Dimensional Restrictions.

- a. No sign face may exceed 32 square feet in area.
- b. Signs other than building-mounted signs may not exceed 10 feet in height above the ground, measured to the top of the sign structure.
- c. Building-mounted signs must be flush mounted and must not project above the roof line.
- d. Signs may not be located within road right-of-way or otherwise located in a manner that obstructs road vision.
- e. No more than two signs are allowed on each lot.

12.6 Temporary Signs.

Temporary are allowed in all districts provided that no more than one temporary sign with a sign face no larger than 64 square feet may be on any lot at any time. No Temporary Sign may be displayed for a continuous period exceeding 60 days.

12.7 Illumination.

Signs that are illuminated must be effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of any nearby public way in such an intensity or brilliance as to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle. No lights shall be installed within 200 feet of any residential property.

12.8 Indemnification.

By applying for a Sign Permit, all persons engaged in the erection and maintenance of the sign, including the applicant, shall indemnify, defend, and hold harmless the Town, its officers, agents, and employees from and against any and all third-party claims arising out of the installation or maintenance of the sign, or otherwise related to the sign.

12.9 Abandoned Signs.

No sign in the Town may be abandoned by the owner. Any sign or billboard not properly and reasonably maintained by the owner shall be removed by the owner within thirty days of receipt of a written notice from the Town. Failure to remove an abandoned sign, plus any foundation, within that period shall cause the Town to remove the sign after an additional ten-day written notice is mailed to the owner. Removal expenses will be charged to the owner of the sign or to the owner of the land where the sign is located. In the event removal costs are unpaid, they may be charged against the property as a special charge.

12.10 Non-conforming signs

- 1. A sign loses its non-conforming status if one or more of the following occurs:
 - a. If the sign is damaged by fire, flood, explosion, or earthquake, war, riot or Act of God, the sign may be reconstructed and used as before if it is reconstructed within three months after such calamity, the sign is relocated.
 - b. The sign fails to comply to the Town requirements regarding maintenance and repair, abandonment or dangerous or defective signs.

- c. Nothing in this Article shall relieve the owner or lessee of a legal non-conforming sign from the provisions of this Ordinance regarding safety, maintenance and repair of signs

12.11 Penalty.

Any person, partnership, corporation, or other entity that violates or fails to comply with any provisions of this Section, or any regulations or permit issued hereunder, shall be subject to a forfeiture of not less than \$150 nor more than \$500, together with the costs of prosecution, including reasonable attorneys' fees. Each day that a violation continues shall be deemed a separate offense for purposes of calculating forfeitures. The Town may also pursue equitable relief, including injunctions and abatement orders, in the event of a violation.

Section 13.0 Zoning Board of Appeals

13.1 Purpose

Under the provisions of Section 62.23 (7)(e) Wisconsin Statutes, there is hereby established a Board of Appeals.

13.2 Membership

The Boards shall consist of five citizen members and two alternates appointed by the Town Chairperson and subject to confirmation of the Town Board for terms of 3 years. The members of the board shall serve at such compensation to be fixed by resolution. The Town Chairperson shall designate one of the members as the Board of Appeals Chairperson. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

13.3 Power of the Board of Appeals

The Board of Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.
2. To authorize a variance from the terms of this ordinance, provided such variance will:
 - a. not be contrary to the public interest
 - b. give relief to the literal enforcement of the provisions of the ordinance that would cause practical difficulty or unnecessary hardship
 - c. not violate the spirit of this ordinance, public safety or welfare of the petitioner or surrounding property owners
3. To hear and decide if a nonconforming use may be changed or enlarged.
4. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days of filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the appeal action was taken.

5. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class I notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
6. When a Zoning line divides a parcel, the Board of Appeals is authorize to move such line to the nearest property line.
7. To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest. Variations for uses shall not be granted by the Board of Appeals.

13.4 Meetings of the Board of Appeals

The Board of Appeals shall adopt rules in accordance with the provisions of this section. Meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as the Board of Appeals may determine. Such chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record. The Chairperson shall notify the Town Clerk and Town Board of all decisions and resolutions.

13.5 Requirements of a Variance

In general the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board of Appeals finds that:

1. The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of this ordinance.
2. Special circumstances and conditions exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.
3. The variance will not permit the establishment of a use which is not permitted in the district.
4. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
5. Greater profitability, lack of knowledge of restrictions and other variances granted under similar circumstances are not being considered as sufficient cause for a variance.
6. Nonconforming uses of neighboring lands, structures or buildings in the same district, and permitted or nonconforming uses of lands, structures or buildings in other districts are not being considered as grounds for issuance of a variance.
7. That the variance is compatible with adjacent existing uses and structures or uses and structures likely to develop which are permitted in the district.
8. That adequate measures are taken to provide for drainage.

- 9. That ingress and egress to the property is provided in such a manner as to minimize traffic hazards and congestion.
- 10. That adequate parking and loading areas are provided.

13.6 Application Process

An application to the Board of Appeals must be submitted on a form provided by the Town or its representative and pay a processing fee as identified on the form.

13.7 Conditions of the Application

Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for a variance. The written application for a variance must demonstrate:

- 1. That special conditions exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
- 2. That literal enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.
- 3. That the special conditions and circumstances do not result from the actions of the applicant.
- 4. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same districts.
- 5. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
- 6. The application is in proper form and a fee has been paid. The Board of Appeals shall hold a public hearing on such matter. Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board of Appeals if it grants the application for variance.

13.8 Withdrawal

If the applicant elects to withdraw the appeal any time before final determination is made by the Board of Appeals, this fact shall be noted on the application, with the signature of the applicant, attesting withdrawal. Copies of the withdrawn application shall be returned to the secretary for the files of the Board of Appeals, to the Zoning Administrator and to the applicant.

13.9 Additional Information

If the appeal is not withdrawn, the Board of Appeals may request the applicant to provide such additional information as may be needed to determine the case and shall instruct the secretary to proceed with public notice of a hearing of the case.

13.10 Amendments

Amendment of an appeal by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case substantially different from its description in the notice of public hearing. If the amendment is requested by the applicant after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice the applicant shall pay an additional fee to cover the cost of amending the public notice. If the amended notice can be published within the time frame specified for the public hearing, the hearing on the amended appeal may be held on that date, otherwise the Chairperson of the of Board of Appeals shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for the deferral.

13.11 Public Hearing

Upon filing with the Board of Appeals of an appeal or an application for a variance, the Zoning Administrator shall fix a reasonable time (not more than 60 days from the filing date) for a public hearing. A Class 1 notice pursuant to Chapter 985 Wisconsin Statutes shall be published in the official newspaper of the Town of Marshfield specifying the date, time and place of the hearing and the matters to come before the Board of Appeals. The Zoning Administrator shall also mail a notice at least 10 days before the hearing to the owner's of property contiguous to the property, subject to the proposed variance of appeal. The owners shall be determined by the ownership indicated in the real estate records at the Fond du Lac County Treasurer's office. Any defect in providing this notice shall not affect the proceedings of the Board of Appeals.

13.12 Appeal of Board Decisions

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, Town Board, or town representative may appeal the decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in accordance with Section 62.23(7) Wis. Stat.

13.13 Exercise of Power

1. In exercising the above mentioned powers such Board of Appeals may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
2. The concurring vote of 4 members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.
3. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.

4. Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the zoning ordinance or the District Map. Such power and authority is reserved to the Town Board.

Section 14.0 Plan Commission

14.1 Purpose of Plan Commission

The Plan Commission has the responsibility for recommending land use changes consistent with the regulations in this ordinance and correctly interpreting the goals, objectives and intent of the Town of Marshfield's Comprehensive Plan.

14.2 Membership

The Plan Commission consists of five (5) members consisting of Town elected or appointed officials, except that at least three (3) must be citizen members who are not otherwise Town officials, and up to two (2) alternates. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson following spring elections in April to fill any expiring term (All appointments are subject to the advisory approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election of the Town Board. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Secs. 19.01 and 60.31, WI Stats.

14.3 Term of Office

The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three years, or until a successor is appointed. Any appointments would be made following the general elections in April.

14.4 General and Miscellaneous Powers

The Plan Commission shall:

1. Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning Ordinance of the Town of Marshfield and function and duty as set forth herein; The Plan Commission's function and duty herein established shall not be changed or waived without the affirmative vote of the Town Board.
2. Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this chapter.
3. Prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the Town, and from time to time to recommend amendments as it may deem appropriate.
4. Be enabled to promote Town planning.
5. Hear, review and offer its recommendations to the Town Board on applications for Special Use permits, subdivisions, street vacations and name changes, and other matters.
6. Make reports and recommendations (per sec. 62.23(4)) relating to the plan and development of the town to the Town Board other public bodies, citizens, public utilities and organizations.

- 7. Recommend to the Town Board programs for public improvements and the financing of such improvements.
- 8. Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.
- 9. For itself, its members and employees, in the performance of their duties, enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. Entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

14.5 Town Comprehensive Planning Authority and Requirements

- 1. The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Marshfield Comprehensive Plan. On May 20, 2024, the Town Board adopted said Plan, along with accompanying maps, tables and descriptive and explanatory matter, which includes the nine (9) elements specified under the comprehensive planning law, sec. 66.1001 (2), Wis. Stats.
- 2. The Plan Commission will be responsible for reviewing and updating the Comprehensive Plan on a periodic basis to maintain relevancy to land use issues that may occur over time.
- 3. The Plan Commission will determine if every petitioned land use change applied for through the provisions of this ordinance is consistent with the adopted Comprehensive Plan.

Section 15.0 Enforcement

15.1 Town Board

It shall be the duty of the Town Board to enforce the provisions of this ordinance.

15.2 Building Permits

No building, structure or mobile home shall hereafter be created, moved or structurally altered, except as hereinafter provided, until a permit therefore shall have been applied for and issued. No permit shall be issued until the Building Inspector has satisfactory proof that the premises are in full compliance with the Fond du Lac County Subdivision Shoreland Zoning, and Flood Plain Zoning Ordinances, and that a Fond du Lac County Sanitary Permit for the installation of a private sewage system to serve the premises has been issued, except that lots served by public sewer shall not require a sewer permit.

15.3 Road Access Permit

- 1. A road access permit will be issued by the Town Clerk upon the approval of the Town Board specifically for construction of a driveway (with not greater than zero pitch for the first 15 feet of the driveway) that connects to a town road to ensure that there is no hazard to snowplows.
- 2. Property owners are required to construct driveways with a downward pitch leading away from the town road.

3. The actual pitch is to be determined by individual circumstances interpreted by a representative of the Town Board.
4. A new driveway shall be constructed as to provide an 18-foot wide base thus allowing two vehicles to pass side by side.
5. The permit will be issued regardless of whether the property is agricultural, residential, business, or industrial.
6. The Town Board will set a reasonable cost for the permit, reviewed annually, and will be on file in the Town Clerk's office.
7. A driveway that extends further than 500 feet from a public right-of-way must have a widened area to accommodate a passing lane for emergency vehicles (maintained in all weather conditions) and a paved 100 foot diameter turnaround adjacent to the residence, reviewable and acceptable to the Mount Calvary Fire District.
8. A 12 foot wide base with an 18 foot by 40 foot passing lane will be required every 500 feet

15.4 Building Plans

All applications for a building permit shall be accompanied by plans, drawn to scale, as close as possible, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing and/or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance.

15.5 Lot Surveys

All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

15.6 Certificate of Compliance

1. No vacant land shall be occupied or used, and no building or mobile home hereafter erected, altered or moved shall be occupied until the certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this ordinance.
2. Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary certificate of compliance for part of a dwelling.
3. Upon written request from the property owner, the Building Inspector shall determine in writing whether an existing building or existing premises is in compliance with the Town of Marshfield Zoning Ordinance at the time of its adoption. The Building Inspector, upon inspection, shall issue a Compliance Certificate or note the degree of non-conformity. The written inspection report shall be kept on file with the Town of Marshfield. The inspection fee that must be

paid by the property owner shall be set by the Town of Marshfield Board by resolution on an annual basis.

- 4. Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

Section 16.0 Fees

16.1 Building Permit Fees

A fee, in an amount determined by the Town Board, is required to be paid by the applicant for a building permit, or for a certificate of occupancy where no building permit was required. The fee shall be paid to the Town of Marshfield. A building permit must be secured prior to any construction or building site preparation. Refer to 4.1 (15) for payment where no building permit is obtained.

16.2 Fees for Plan Commission or Board of Appeals

A fee in an amount determined by the Town Board is required to be paid by the applicant for each application or appeal to the Plan Commission or the Board of Appeals, which fee shall be paid to the Town of Marshfield and receipt therefore filed with the application. This fee shall not be required of any township officers acting in his official capacity.

16.3 Zoning Amendment Fee

A fee in an amount to be determined by the Town Board is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town of Marshfield and receipt therefor filed with the amendment petition. In addition thereto, a petitioner shall be charged for the cost of notification. This provision shall not apply to amendments initiated by the Town Board.

Section 17.0 Violations and Penalties

17.1 Violations-Town Attorney

- 1. Any building, structure or mobile home hereafter erected, enlarged, altered, repaired or moved or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed as unlawful building, structure, or mobile home or use. The Town Clerk and Building Inspector shall promptly report all such violations to the Town Board, which shall instruct the attorney for the Town to bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building, structure or mobile home or the establishment of such use, or to cause such building, structure, mobile home or use to be removed.
- 2. As a pre-requisite to enforcement action by the Town Attorney, the Zoning Administrator is authorized to issue a municipal summons to any party violating this ordinance specifying the date(s) of the violation, the nature of the violation, the code section violated, and the amount of forfeiture applicable and include in

said summons a date and time at which such individual may appear before the Town Board to be heard. If the Town Board determines that violation is appropriate and the forfeiture is not paid within 20 days following said hearing, the Town Attorney then may proceed with further enforcement action in the Circuit Court for Fond du Lac County.

17.2 Penalties

1. At the discretion of the court, such person, firm or corporation may also be required, upon conviction, to forfeit not less than \$100 nor more than \$1000 for each offense, together with the costs of prosecution, including reasonable attorneys' fees, may be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.
2. Court action for injunctive relief and/or enforcement action to collect forfeitures may be brought by the Town Attorney in the Circuit Court or Small Claims Court, as applicable, for Fond du Lac County, naming the Town as Plaintiff and the violator as Defendant, in addition and subsequent to summons issued by the Zoning Administrator and hearing before the Town Board.

Section 18.0 Changes and Amendments

18.1 Power of Amendment

The Town Board may, from time to time on its own motion or on petition, amend, supplement or change this ordinance, including the Official Farmland Preservation Zoning Map.

18.2 Process for Application by Property Owner or Option Holder

1. An owner or owner's designated agent wishing to rezone his or her property shall meet or contact the Zoning Administrator to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the Zoning Administrator accompanied by a nonrefundable fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:
 - a. Applicant and property owner's name, address and telephone (cell) number.
 - b. Parcel information, including parcel number, legal description, street address, if any, dimensions and existing zoning, land use, and Land Use Plan designation.
 - c. Present zoning district and use of the property.
 - d. Proposed zoning district and description of proposed land use and/or structures.
 - e. Justification for rezoning.
 - f. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.

2. Notification to Adjoining Property Owners and Municipalities: As a matter of practice, an earnest effort will be made to send, by regular mail, a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Fond du Lac County Register of Deeds Office) of all lands located within 500 feet of any part of the parcel or parcels included in a zoning amendment petition, special use permit application, zoning amendment petition, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and/or Town Board or Board of Appeals.

18.3 Findings of Fact to Rezone Land Out of Farmland Preservation

The Plan Commission shall include a “findings of fact” in their recommendation to rezone land out of the Farmland Preservation District. If a petitioner is rezoning lands out of the Farmland Preservation District, the Plan Commission must find all of the following, after public hearing:

1. The land is better suited for a use not allowed in the farmland preservation zoning district.
2. The rezoning is consistent with any applicable comprehensive plan.
3. The rezoning is substantially consistent with the county certified farmland preservation plan.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

18.4 Town Board Findings of Fact

Upon consideration of the Plan Commission’s recommendations and “findings of fact”, the Town Board must make a motion to send the rezoning back to the Plan Commission for further consideration, approve the rezoning, or deny the rezoning. The Town Board has the option of revising the Plan Commission’s “findings of fact” in their motion. The Town Board’s decision to grant a rezoning out of the Farmland Preservation District shall also include “findings of fact” in writing, based on 91.48(1)(a) of the Wisconsin State Statutes as referenced in Section 18.3.

18.5 Public Hearing and Notice

No amendment of this ordinance shall become effective until it is forwarded to the Plan Commission for a public hearing and recommendation. At the public hearing, the Plan Commission shall allow parties in interest and citizens to be heard on the amendment. The public hearing shall be preceded by a Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes. The Plan Commission shall provide its recommendation to the Town Board within 60 days of the public hearing, after which the Town Board may take final action.

18.6 Reserved.

18.7 Final Approval by Town Board

An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change.

18.8 Notification of Amendment to Zoning Text

- 1. This zoning ordinance must be certified in accordance with Ch. 91.38 Wis. Stats. in order for owners of farms in the Town of Marshfield to claim tax credits under the Farmland Preservation Program.
- 2. An amendment to a certified farmland preservation zoning ordinance is automatically considered to be certified as part of the ordinance, except for the amendments described in Ch. 91.36(8)(b) Wis. Stats.

18.9 Rezoning Report

- 1. By March 1 of each year, the Town of Marshfield will provide a report to DATCP and to Fond du Lac County that lists the number of acres that the Town of Marshfield has rezoned out of a Farmland Preservation District the previous year and a map that clearly shows the location of those acres.

Section 19 Validity and Conflicts

19.1 Severability

Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

19.2 Conflict with Other Ordinances

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 20.0 Solar Energy Systems

20.1 Purpose

1. The purpose of this Section is to provide regulatory scheme for the construction and operation of Solar Energy Systems other than ground or wall mounted solar powered light fixture and solar powered electric fences in the Town of Marshfield, Fond du Lac County, Wisconsin. All regulations contained herein are adopted to preserve and protect the public health and safety.

20.2 Definitions

- 1. **Solar Energy System:** Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. “Solar Energy System” excludes solar powered light fixtures that are ground or wall mounted and solar powered electric fences.
- 2. **Solar energy system, free-standing:** An accessory use that is the installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see Solar energy system).

3. **Solar energy system, building-mounted:** An accessory use that is the installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.

20.3 Permit Required

1. No Solar Energy System may be installed or maintained in the Town of Marshfield without a Solar Energy System Permit granted pursuant to this ordinance, except that no permit is required for a free-standing solar energy system or a building-mounted solar energy system if it meets the following criteria:
 - a. Building-Mounted Solar Energy Systems are allowed without obtaining a permit as an accessory use on the following conditions:
 - (1) No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.
 - (2) The solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located.
 - (3) The panels of the solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
 - (4) The solar energy system may be mounted on the façade of a commercial building provided the installation does not project more than four feet from the face of the wall.
 - (5) All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Town Board.
 - (6) If the Town determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.
 - b. Free-Standing Solar Energy Systems are allowed without obtaining a permit as an accessory use on the following conditions:
 - (1) The surface area of the solar energy system shall not exceed 150 square feet when located in any residential district. The maximum surface area is 500 square feet in all other zoning districts. The surface area of the solar energy system shall not be included when determining the total accessory structure area allowed on the lot.
 - (2) There shall be no more than one Free-Standing Solar Energy system when located in any residential district. There shall be no more than ten Free-Standing Solar Energy systems when located in all other zoning districts.
 - (3) The solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district in which it is located.
 - (4) The solar energy system shall meet all setback requirements for an accessory structure for the district in which it is located.
 - (5) All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Town Board.

- (6) If the Town determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.

20.4 Application

1. Every application for a Solar Energy System Permit shall be made in writing and shall include the following information:

- a. Name and address of the applicant.
- b. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
- c. Scaled drawing of the Solar Energy System and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
- d. Site plan showing lot lines and dimensions of the Solar Energy System user's lot and neighboring lots that will be affected by the Solar Energy System.
- e. Documentation showing that no reasonable alternative location exists for the Solar Energy System that would result in less impact on neighboring lots.
- f. Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the Solar Energy System that would result in less impact on neighboring lots.
- g. Such additional information as may be reasonably requested.
- h. Any of the information required by this section may be waived by the Town at its discretion.
- i. An applicant for a solar energy system exceeding 5 MW shall deposit an application fee of \$10,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of \$5,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$5,000, the applicant shall deposit additional money to bring the account balance to \$7,500 within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.
- j. An applicant for a solar energy system up to 5 MW shall deposit an application fee of \$5,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of \$2,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$2,000, the applicant shall deposit additional money to bring the account balance to \$3,500 within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

20.5 Review of Solar Energy System Permit Application.

1. The Town will consider each Solar Energy System on a case-by-case basis. The Town may deny a permit for a Solar Energy System or may impose restrictions on a Solar Energy System if the Town finds that the denial or restrictions satisfy one of the following conditions:

- a. The denial or restriction serves to preserve or protect the public health or safety.
- b. The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
- c. The denial or restriction allows for an alternative system of comparable cost efficiency.

20.6 Solar Energy System Restrictions

1. The Town may impose restrictions on a Solar Energy System relating to any of the following:

- a. Location of the Solar Energy System.
- b. Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
- c. Wiring and electrical controls of the Solar Energy System.
- d. Reimbursement for emergency services required as a result of the Solar Energy System.
- e. Solar Energy System ground clearance.
- f. Solar Energy System height.
- g. Decommissioning and reclamation.
- h. Any other matters that the Town finds appropriate.

20.7 Revocation

1. Any permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

Section 21.0 Mobile Tower Siting Permit Regulations

21.1 Title

This Section is entitled the Town of Marshfield Mobile Tower Siting Permit Regulations.

21.2 Purpose

The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

21.3 Authority

The town board has the specific authority under ss. 62.23 and 66.0404, Wis. Stats., to adopt and enforce this ordinance.

21.4 Adoption Of Ordinance

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

21.5 Definitions

A. All definitions contained in s. 66.0404(1) are hereby incorporated by reference.

21.6 Subdivision And Numbering Of This Ordinance

Sections of this ordinance may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

21.7 Siting And Construction Of Any New Mobile Service Support Structure And Facilities

A. Application Process

1. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a special use in the town obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. A permit application will be provided by the town upon request to any applicant.
 4. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 5. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90-day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - b. Make a final decision whether to approve or disapprove the application.
 - c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 6. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
 7. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
 8. The fee for the permit is \$3,000.

B. Limitations.

1. The Town Board may impose additional conditions on the permit pursuant to Section 11, as amended, of the Town of Marshfield Zoning Ordinance except for conditions prohibited by Wis. Stat. § 66.0404. In addition, the permit shall provide the following:

- a. That driveways on the subject property shall be adequately maintained year-round to provide access to emergency services, including snow removal within a reasonable period of time as determined by the Town.
- b. That the subject property shall be given its own address for emergency purposes.
- c. That, if required by the Town Board, the permittee shall allow a post-construction site inspection to determine compliance with the permittee’s permit.

21.8 Class 1 Collocation

A. Application Process

1. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a special use in the town obtainable with this permit.

2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:

- a. The name and business address of, and the contact individual for, the applicant.
- b. The location of the proposed or affected support structure.
- c. The location of the proposed mobile service facility.
- d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

3. A permit application will be provided by the town upon request to any applicant.
4. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
5. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90-day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision’s building code and, subject to the limitations in this section, zoning ordinances.
 - b. Make a final decision whether to approve or disapprove the application.
 - c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
6. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant’s search ring and provide the sworn statement described under paragraph 2.f.
7. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
8. The fee for the permit is \$3,000.

B. Limitations.

1. The Town Board may impose additional conditions on the permit pursuant to Section 11 of the Town of Marshfield Zoning Ordinance except for conditions prohibited by Wis. Stat. § 66.0404. In addition, the permit shall provide the following:
 - a. That driveways on the subject property shall be adequately maintained year-round to provide access to emergency services, including snow removal within a reasonable period of time as determined by the Town.
 - b. That the subject property shall be given its own address for emergency purposes.
 - c. That, if required by the Town Board, the permittee shall allow a post-construction site inspection to determine compliance with the permittee’s permit.

21.9 Class 2 Collocation

A. Application Process

1. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the town upon request to any applicant.
4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject under the Town’s Ordinances.
5. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
6. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45-day period:
 - a. Make a final decision whether to approve or disapprove the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
7. The fee for the permit is \$500.

21.10 Penalty Provisions

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$50 nor more than \$500, plus the applicable surcharges, assessments, costs, and attorneys’ fees, for each violation. Each day

a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town may seek injunctive relief from a court of record to enjoin further violations.

21.11 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

21.12 Effective Date

This ordinance is effective on the day following publication per s. 60.80.

Section 22.0 Wind Energy Systems

22.1 Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Marshfield, Fond du Lac County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat., § 66.0401 and PSC 128 and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

22.2 Definitions

Wind Energy System: Has the meaning given in Wis. Stat., § 66.0403(1)(m) and is used to convert wind energy to electrical energy. "Wind Energy System" includes Small Wind Energy Systems.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

22.3 Permit Required

No Wind Energy System may be installed, constructed or expanded in the Town without a Wind Energy System Permit granted pursuant to this ordinance.

22.4 Application

Every application for a Wind Energy System Permit shall be made in writing and shall include the following information:

- (1) Wind Energy System description and maps showing the locations of all proposed wind energy facilities.
- (2) Technical description of wind turbines and wind turbine sites.
- (3) Timeline and process for constructing the Wind Energy System.
- (4) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
- (5) Information regarding noise anticipated to be attributable to the Wind Energy System.
- (6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.
- (7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System.
- (8) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
- (9) Information regarding the anticipated effects of the Wind Energy System on line- of-sight communications.

- (10) A list of all state and federal permits required to construct and operate the Wind Energy System.
- (11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.
- (12) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.18(4)(b). An owner may file plans using confidential filing procedures as necessary.
- (13) A decommissioning and site restoration plan providing reasonable assurances that that the owner will be able to comply with PSC 128.19.
- (14) A representative copy of all notices issued under Section 7 and PSC 128.105(1)(a) and 128.42(1).
- (15) Any other information necessary to understand the construction, operation or decommissioning of the proposed Wind Energy System.

22.5 Accuracy of Information.

The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

22.6 Duplicate Copies.

The applicant shall file an original and ten copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

22.7 Notice to Property Owners and Residents.

- (1) On the same day an owner files an application for a Wind Energy System, the owner shall, under s. 66.0401(4)(a)3., Stats., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy shall be provided to the Town. The notification shall include all of the following:
 - a. A complete description of the Wind Energy System, including the number and size of the wind turbines.
 - b. A map showing the locations of all proposed Wind Energy System facilities.
 - c. The proposed timeline for construction and operation of the Wind Energy System.
 - d. Locations where the application is available for public review.
 - e. Owner contact information.
- (2) After the Town receives an application for a Wind Energy System, the Town shall publish the notice required by Wis. Stat., § 66.0401(4)(a)1), which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

22.8 Public Participation.

- (1) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall and the Town website.
- (2) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (3).
- (3) The Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

22.9 Joint Application Review Process.

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

22.10 Application Completeness:

(1) COMPLETE APPLICATIONS.

- a. An application is complete if it meets the filing requirements set by this ordinance and PSC 128.50(1).
- b. The Town shall determine the completeness of an application, and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
- c. The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.
- d. An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. b.
- e. If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION.

The Town may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

22.11 Owner Requirements

Pursuant to PSC 128.10(1), the Town incorporates by reference all owner requirements set forth in Subchapter II of PSC 128.

22.12 Written Decision.

- (1) The Town shall issue a written decision to grant or deny an application. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Wind Energy System, the Town shall provide the owner with a duplicate original of the decision.
- (2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Fond du Lac County, Wisconsin.
- (3) The Town shall keep a complete written record of its decision-making relating to an application for a Wind Energy System. The record of a decision shall include all of the following:
 - a. The approved application and all additions or amendments to the application.
 - b. A representative copy of all notices issued under ss. PSC 128.105(1)(a), 128.30(5) and 128.42(1).
 - c. A copy of any notice or correspondence that the Town issues related to the application.
 - d. A record of any public meeting under s. PSC 128.30(6)(c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.

- e. Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under s. PSC I 28.30(6)(b).
 - f. Minutes of any Town Board or committee meetings held to consider or act on the application.
 - g. A copy of the written decision under s. PSC 128.32(3)(a).
 - h. Other materials that the Town prepared to document its decision-making process.
 - i. A copy of any Town ordinance cited in or applicable to the decision.
- (4) If the Town denies an application, the Town shall keep the record for at least seven (7) years following the year in which it issues the decision.
- (5) If the Town approves an application, the Town shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.
- (6) The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan prior to June 2, 2009 or on such maps adopted by the Town after December 31, 2015 under Wis. Stat., § 66.1001(2)(1).

22.13 Effect of Ownership Change on Approval

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide timely notice to the Town of any change of ownership of the Wind Energy System.

22.14 Fees

- (1) The Town requires at the time of the application a deposit of \$5,000. All costs incurred by the Town relating to the review and processing of the application shall be billed against the deposit and a minimum of \$2,000 shall remain in the account until the review process and construction (if approved) is completed. The Town will refund any remaining balance in the account within 60 days after final inspection of the constructed wind energy system.
- (2) The Town's fee or reimbursement requirement under par. (1) is based on the actual and necessary cost of the review and processing of the Wind Energy System application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

22.15 Additional Requirements

The Town requires the following as conditions for approval of an application to construct a Wind Energy System:

- (1) **INFORMATION.** The owner shall inform the Town in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- (2) **STUDIES.** The owner shall cooperate with any study of the effects of Wind Energy System coordinated by a state agency.
- (3) **MONETARY COMPENSATION.** The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in 2011. For

agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat., § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.

- (4) **AERIAL SPRAYING.** The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under s. PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
 - b. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- (5) **PERMITS.** The owner shall submit to the Town copies of all necessary county, state, and federal permits and approvals.
- (6) **ANNUAL REPORTS.** The owner shall file an annual report with the Town documenting the operation and maintenance of the Wind Energy System during the previous calendar year.

22.16 Post-Construction Filing Requirement

Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Town an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18(1)(g).

22.17 Modifications to an Approved Wind Energy System

MATERIAL CHANGE.

- (1) An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b) 1. or 2.
- (2) An owner shall submit to the Town an application for a material change to an approved Wind Energy System.

REVIEW LIMITED.

- (1) The Town, upon notice of receiving an application for a material change to a Wind Energy System under Section 17(2) shall not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- (2) An application for a material change is subject to ss. PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
- (3) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- (4) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

22.18 Monitoring Compliance

- (1) **MONITORING PROCEDURE.** The Town may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this ordinance.
- (2) **THIRD-PARTY INSPECTOR DURING CONSTRUCTION.** The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

22.19 Notice of Complaint Process

- (1) **NOTICE OF PROCESS FOR MAKING COMPLAINTS.** Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- (2) **NOTICE TO TOWN.** An owner shall provide a copy of the notice provided under subsection (1) to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

22.20 Small Wind Energy Systems

The provisions of Subchapter VI of PSC 128 are incorporated by reference and shall apply to Small Wind Energy Systems.

- (a) All of the provisions of this Ordinance apply to Small Wind Energy Systems except for provisions adopted under the following subsections of PSC 128: PSC 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3), and (4), 128.30(2)(L) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41, and 128.42.
- (b) The standards in this Ordinance applicable to Wind Energy Systems are modified for Small Wind Energy Systems as follows:
 - (1) The pre-application notice shall be filed at least sixty (60) days before an owner files an application to construct a Small Wind Energy System and the notice shall be provided only to adjacent landowners and the Town.
 - (2) Setback distances for Small Wind Energy Systems are as set forth in PSC 128.61(3).
 - (3) An owner shall provide notice of the requirements of PSC 128.14 only to each adjacent nonparticipating residence or occupied community building before the initial operation of the Small Wind Energy System.
 - (4) For purposes of PSC 128.19(1) a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.
 - (5) For purposes of PSC 128.30(2)(g), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall be only for parcels adjacent to the Wind Energy System.
 - (6) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.
 - (7) Under PSC 128.30(6)(c) the Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed Small Wind Energy System.

22.21 Revocation

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provision of this ordinance or the provisions of a Wind Energy System Permit granted pursuant to this ordinance.

22.22 Severability

If any section, subsection, sentence or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

22.23 Relationship of Parties

By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town’s approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

22. 24 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this Ordinance refer to the current version of the statute or regulation referenced, as amended from time to time.

22.25 Guaranty/Warranty

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk

Section 23.0 Effective Date and Repeal of Previous Zoning Ordinance

23.1 Date

This ordinance, and all amendments thereto, shall be in force from and after its passage, approval, publication and recording according to law.

Passed and Adopted by the Town of Marshfield Town Board on _____.

Published: _____.

Attest:

John Bord, Town Chairman

Marlene Sippel, Town Clerk