Zoning Bylaws
Town of Marshfield
Massachusetts

Adopted June 1, 1926
Amended up to April 27, 2015
(Includes 10/9/15 AGO on Section 11.14)

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MARSHFIELD ZONING BYLAW
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Amendments

(Index amended April 2006 ATM, Article XIII Superimposed Districts, Section 13.04 Storm Water Management Overlay District)
(Index Amended April 2007 ATM, Article XI, Section 11.14 Inclusionary Zoning for Affordable Housing)
(Section 11.05.8 Amended 10/19/09 Article 11 STM)
(Article XI Special Permit Conditions Section 11.15 WECF Enacted Article 20 April 2010 ATM)
(Article II Definitions amended April 2010 ATM Article 21)
(Article II Definitions amended April 2011 ATM)
(Amended Section 5.04 WECF Article 22 April 2010 ATM)
(Amended Section 5.04 renewable energy research & development April 2011 ATM)

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(Amended Section 5.04 ground mounted photovoltaic April 2011 ATM)
(Article VI Dimensional and Density Regulations Amended April 2012 ATM, new section 6.06 inserted)
(Article XII Section 12.03 inserted at April 2011 ATM, new section ground mounted solar was inserted)
(Article XII Section 12.02 6.(i) inserted at April 2011 ATM)
(Section 13.03 Water Resource Protection Overlay District bylaw replaced April 2011 ATM)
(Article XV, Floodplain Zoning Amended April 2012 ATM)
(Article II, adding definitions for Medical Marijuana, Mixed Use Building and Building Height, April ATM 2014)
(Article V, adding Medical Marijuana Treatment Center and Mixed Use Building, April ATM 2014)
(Article XII, adding 12.04 Medical Marijuana Treatment Center, April ATM 2014)
(Article XIII, adding 12.05 Brant Rock Village Overlay District, April ATM 2014)
(Article II, adding Definitions for Mixed Use Dwelling and Research Offices/Lab, Oct. FTM 2014)
(Article V, adding Dwelling, Mixed Use and Micro-Brewery, Oct. FTM 2014)
(Article XI, Revisions to Section 11.10 Traffic Impact Study and 11.05 PMUD, Oct. FTM 2014)
(Article II, adding Definition of Micro Brewery, April ATM 2015)
(Article XIII, revisions to Stormwater Management Overlay District, April ATM 2015)
(Article XIV, revisions to Inclusionary Zoning for Affordable Housing, April ATM 2015)
(Article XV, revisions to Floodplain Zoning, April ATM 2015)

ARTICLE I

TITLE, AUTHORITY, AND PURPOSE

Section 1.01 Short Title - This Bylaw shall be known and may be cited as the "Zoning Bylaw of the Town of Marshfield, Massachusetts," hereinafter referred to as "this Bylaw."

Section 1.02 Authority - This Bylaw is adopted pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called "The Zoning Act."

Section 1.03 Purpose - This Bylaw is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fires, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the town; to preserve the historical character of the town; to prevent contamination of and preserving the quantity and quality of ground and surface water which provides existing or potential water supplies for the Town's residents, institutions and businesses; and to preserve and increase its amenities. It is made with reasonable consideration to the character of the district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Planning Board, including the making of Marshfield a more viable and more pleasing place to live, work and play.

ARTICLE II
DEFINITIONS

For the purpose of this Bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered, " to be used or occupied; "the words "building", or "structure," "lot", "land" or "premises" shall be construed as though followed by the words "or any portion thereof" and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of Census.

Abandonment: The discontinuance or non-use by an owner of a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishing used in the nonconforming use, without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or building by a conforming use or building.

Administrative Officer: The Inspector of Buildings, Town of Marshfield, Massachusetts.

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

Adult Entertainment: shall refer to the following uses as defined in this Bylaw: "Adult bookstore", "adult motion picture theaters", "adult paraphernalia store", "adult video store" and "establishments which display live nudity".

Adult Motion Picture Theaters: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined by M.G.L. chapter 272, Section 31.

Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Adult Video Store: An establishment having a substantial or significant portion of its stock in trade, videos, movies or other film, material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by M.G.L. Chapter 272, Section 31.

Affordable or affordable: When applied to housing or housing units means housing or housing units constituting Low or Moderate Income Housing.

Age-Restricted Adult Village: A building, group of buildings or unit(s) occupied by or used exclusively for either:

1. The residence of persons age fifty-five (55) or older. Guests under age 55 are allowed, not to exceed 6 months in any consecutive 9 month period.

2. The residence of handicapped persons as defined in Chapter 121B of the MGL. In the case of a handicapped individual, one live-in personal care attendant with some shared facilities and services is permitted.
(Definition of ARAV amended Article 23 May 1, 2008 ATM)

Alteration: Any construction, reconstruction or other action resulting in a change in the structural parts, height, number of stories or exits, size, use or location of a building or other structure.

Alteration of Topography: All filling, excavation, or other changes in the landform (except after a storm or other natural disaster for the limited purpose of restoring the topography to its pre-existing condition).

Ambient Sound Level**:** The background A-weighted sound level that is exceeded 90% of the time, measured during operation of equipment.

Animal Feedlot: A plot of land on which 10 livestock or more per acre are fed on a regular basis.

Annual Compliance Report: an annual report of the Auditing Agency regarding the compliance of each applicant and development with the requirements of the "Affordable Housing" conditions set forth in the special permit or the LIP Regulations, home owner/association agreements, deed riders, Regulatory Agreement and the Use Restrictions applicable to such development.

Applicant or applicant: The individual or legal entity making application to the Planning Board for a special permit.

Area of Special Flood Hazard: The land within the floodplain within the Town of Marshfield subject to a one percent or greater chance of flooding in any given year. This area may be designated as an A or V zone.

Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Auditing Agency: The Marshfield Housing Authority or its designee.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: A portion of a building, partly below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six feet or more above the average finished grade.

Board: The Board of Appeals of the Town of Marshfield, Massachusetts unless where specifically another Board is so empowered.

Boarding House: A lodging house where meals are served to lodgers on a regular basis, on the premises, by, or with the permission of, the operator of such lodging house.

Board of Selectmen: The Board of Selectmen of the Town of Marshfield or its successors.

Building: A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls; built to form a structure for the shelter of persons, animals or property. For the purposes of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building, Accessory: A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

Building Area: The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, but exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces.

Building, Attached: A building having any portion of one or more walls in common with adjoining buildings.

Building Coverage: The building area expressed as a percentage of the total lot area.

Building Detached: A building having open space on all sides.

Building Height: The vertical distance from the average finished grade, measured 6'horizontally from the foundation of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of the hip, pitch or sloped roof. In connection with flood proofing a structure above the Base Flood Elevation as determined by the National Flood Insurance Rate Maps, the maximum building height listed in Section 6.10 Table of Dimensional and Density Regulations may be increased by the difference between the Base Flood Elevation as determined by the July 17,2012 Flood Insurance Rate Maps and the current Flood Insurance Rate Maps as adopted by the town.

Amended by STM 10/27/2014

Building Line: The line, parallel to the street line, which passes through the point of the principal building nearest to the front lot line.

Building Mounted WECF**:** A device that is mounted on a building that converts kinetic wind energy into rotational energy that drives an electrical generator.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Cellar: A portion of a building, partly or entirely below grade, which has more than one-half of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story.

CMR: Code of Massachusetts Regulations.

Comprehensive Permit: A permit for the development of Low or Moderate Income Housing pursuant to M.G.L. c 40B, Sections 20 through 23, as amended, or successor law, and its implementing regulations in 760 CMR 30.00 et seq. and 31.00 et seq. or successor regulations.

Conservation Restriction: A permanent restriction that meets the requirements of MGL Chapter 184, Sections 31-33. Conservation Restrictions shall be held by the Town or by a nonprofit conservation organization approved by the Planning Board or Conservation Commission and shall require that the property be maintained in an open or natural state and shall prohibit development of the subject property. The Conservation Restriction shall convey to the Town or the nonprofit organization the right to monitor the property and enforce the terms of the restriction.

Conversions: The changing of an existing non-Affordable housing unit to an Affordable housing unit.

Density Bonus: An increase in the number of market-rate units on the site in order to provide an incentive for the provision of Affordable housing pursuant to this Bylaw.

DEP: Massachusetts Department of Environmental Protection.

DHCD: The Massachusetts Department of Housing and Community Development or its successors.

District: A zoning district as established by Article III of this Bylaw.

Drive-In Establishment: A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term "drive-in" includes drive-in eating establishments where the food is purchased from a building on the lot, but is consumed in

the vehicle; drive-in service establishments such as banks, cleaners, and the like; and automotive service stations, gasoline stations, or the like. Drive-in movies are excluded from this definition.

Driveway: A space, located on a lot, which is not more than 24 feet in width built for access to a garage, or off-street parking or loading space.

Dwelling: A privately or publicly owned, permanently fixed structure containing a dwelling unit or dwelling units. The term "one-family," "two-family," or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer or dormitory.

Dwelling Unit: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

Dwelling, Mixed-use – A building in the PMUD overlay district that has a commercial use(s) on the first floor and 2 stories of residential above.
Amended by STM 10/27/2014

Dwelling, Multifamily: A building containing three or more dwelling units.

Dwelling, Two-Family: A building containing two dwelling units constructed on a single lot.

Dwelling Units, Affordable to Low to Moderate Income: Dwelling units that meet the State's affordable housing requirements for low to moderate income. These affordable units shall be marketed through the Marshfield Housing Authority, South Shore Housing Development Corporation, or other housing organization approved by the Board, with resale restrictions to assure continued affordability in perpetuity. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the development in which they are proposed.

Essential Services: Services provided by public utility or governmental agencies through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems; and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

Establishments Which Display Live Nudity: Any establishment which provides live entertainment for its patrons, which include the display of nudity as defined in M.G.L. Chapter 272, Section 31.

Family: An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three lodgers or roomers taken for hire.

> A group of individuals not related by blood or marriage, but living together as a single housekeeping unit may constitute a family.
>
> For purposes of controlling residential density, each such group of ten individuals shall constitute a single family. Residents of rooming, boarding or lodging houses shall not be considered a family as defined in this paragraph.

Filling of Land or Water Area: The filling of natural or man made depressions in the earth with soil, loam, sand, gravel or other similar earthen materials. The construction, operation, or maintenance of a sanitary land fill or other refuse facility shall not be deemed to be the filling of land or water area for purposes of this Bylaw.

Fixture: An electrical device which is secured to a wall, ceiling, pole or post and is used to hold lamps.

Flood Line: The limits of flooding from a particular body of water caused by lunar tides, a storm, or other natural phenomena whose frequency of occurrence is one in twenty years as determined and certified by a registered professional engineer qualified in drainage.

Floodway: The area subject to periodic flooding, the limits of which are determined by the flood line.

Floor Area, Gross: The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

Floor Area Ratio: The ratio of the gross floor area to the total lot area.

Floor Drains: An intended drainage point on a floor constructed to be otherwise impervious, which serves as a point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

Footcandles (Fc): A unit of measuring the amount of illumination equal to one lumen per square foot on a surface.

Groundwater: All the water found beneath the surface of the ground. In this Bylaw the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other

hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners; and all substances defined as hazardous or toxic under M.G.L. c.21C and 21E and 310 CMR 30.00.

Hazardous Material or Waste, Household Quantity of: Any or all of the following:

a. Six hundred and sixty (660) gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; and/or

b. Quantities of propane used for standard household or commercial heating or cooking purposes; and/or

c. The total bulk storage of twenty five (25) gallons (or the dry weight equivalent) or less of other toxic or hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and/or

d. A quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

Hazardous Waste: A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed or as further defined in the Massachusetts Hazardous Waste Regulations, 310 CMR, Section 30.010.

Height: The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of a hip, pitch or sloped roof.

Height (WECF): The height of a WECF measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

Home Occupation: An accessory use which customarily is carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use and which shall not occupy more than 25 percent or 400 square feet, whichever is less at the dwelling units used. (See Section 11.07)

Horizontal Footcandles: The amount of illumination equal to one lumen per square foot on a horizontal surface.

Hospital: A building providing medical service including 24-hour in-patient services for the diagnosis, treatment or other care of human ailments and may include a sanitarium, sanatorium, clinic, rest home, nursing home, and convalescent home.

Hotel: A building or any part of a building for transient occupancy containing rooming units which may have cooking facilities only in connection with central dining facilities, which may have either a common entrance or individual entrances and which include an inn, motel, motor inn, and tourist court, but not including an apartment house, a boarding house, lodging house, or rooming house.

Household or household: Two or more persons who will live regularly in a housing unit as their principal residence and who are related by blood, marriage, law or who have otherwise evidenced a stable inter-dependent relationship, or an individual.

Housing Partnership: The Marshfield Housing Partnership or its successors.

HUD: The United States Department of Housing and Urban Development or its successors.

Impervious Surface: Material covering the ground, including but not limited to macadam, cement, concrete, pavement and buildings, that does not allow surface water to penetrate into the soil.

Initial Footcandle: The amount of illumination (measured by footcandles) given off by a luminary at the point of installation.

Initial Sales Data: The data with respect to the original selling price of a specific Affordable housing unit and how such price was determined.

Junk: Any worn out castoff or discarded articles or materials which are ready for destruction or disposal or have been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged or without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

Kennel: Every pack or collection of more than three dogs over six months old owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

Leachable Wastes: Waste materials including solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.

LIP: The Local Initiative Program.

LIP Guidelines: Rules, standards and policies explaining and detailing regulatory provisions established by DHCD with respect to the Local Initiative Program, as amended from time to time.

LIP Regulations: The regulations with respect to the Local Initiative Program.

Livestock: Domestic animal such as cattle, horses, sheep, hogs, or goats raised for home use or for profit.

Loading Space: An off-street space used for loading or unloading, not less than 14 feet in width, 50 feet in length, and 14 feet in height, and containing not less than 1,300 square feet including both access and maneuvering space.

Local Action Project: A Local Initiative Program housing development permitted without a Comprehensive Permit.

Local Action Unit: A unit of Low or Moderate Income Housing which has been developed without a Comprehensive Permit and which meets the requirements set out in 760 CMR 45.03 and which has been approved as a Local Action Unit by the DHCD singly or as part of a Local Action Project.

Local Initiative Program: The DHCD Local Initiative Program described in 760 CMR 45.00 or successor regulations.

Local Preference: A preference given to Local Residents in accordance with LIP Regulations and LIP Guidelines in the selection of eligible applicants for the affordable housing units within a development.

Local Resident: A household which at the time of application and at the time of final determination of eligibility and qualification for an Affordable unit includes one or more members who (a) have its or their Principal Residence in the Town, (b) are the parents or step-parents or the children or step-children of someone who has their Principal Residents in the Town, or (c) are employees of the Town, such as teachers, firefighters, police officers, librarians, or employees of businesses located in the Town. The Town and a developer may negotiate other reasonable preference categories or variations of the above categories subject to approval by the DHCD.

Lodging House: A building or any part thereof containing two or more living or sleeping rooms which do not contain cooking facilities, and which rooms are separately leased to more than four individuals unrelated by blood or marriage.

Lodging Unit: One or more rooms for the use by one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, tourist houses, or rooming houses.

Lot: An area or parcel of land in common ownership, designated by its owner or owners as a separate lot on a plan filed with the administrator of this Bylaw and recorded in the Plymouth County Registry of Deeds.

Lot Corner: A lot at the point of intersection of, and abutting on, two or more intersecting streets, or a continuous street, a lot having an interior angle of not more than 100 degrees at the point of intersection of extended street line tangents.

Lot Depth: The shortest distance between the front lot line and the rear lot line within a width at least equal to the required lot width.

Lot Frontage: The total distance along a street line from one front lot corner to the other. On a corner lot the frontage on either street is the distance along the street line from a lot corner to the point of intersection of the two street lines, or that of their extensions in the case of their being connected by a rounded corner. It is required therefore that such frontage be a continuous uninterrupted line over an area of upland of a least 60% of the minimum required number of feet, and be contiguous to the minimum lot area (upland portion of the lot) as provided under Section 6.10 so as to provide opportunity for physical access to every lot.

Lot Line, Front: The property line between a lot and a street or the line defining the limit of a right of way set aside for road purposes. On a corner lot the owner shall designate one street line as the front lot line for the purpose of determining what line will be designated as the rear line.

Lot Line, Rear: The lot line most nearly parallel to, opposite, and farthest from the front lot line.

Lot Line, Side: Any lot line not a front or rear lot line or street line.

Lot, Nonconforming: A lot lawfully existing at the effective date of this Bylaw or any subsequent amendment thereto, which is not in accordance with all provisions of this Bylaw.

Lot, Through: An interior lot, the front and rear lot lines of which abut streets, or a corner lot, two opposite lines of which abut streets.

Lot Width: The distance between the side lot lines as measured parallel to the front lot line, at the rear building line and at all points between. No dwelling may be erected or placed unless within a circle of diameter equal to the required frontage under Section 6.10 which can be inscribed within the lot lines at some point between the front and rear lot lines.

Lottery Agent: The Marshfield Housing Authority or its designee.

Lottery Agreement: A contractual agreement between the Lottery Agent and a developer which authorizes and defines the lottery process for households to be selected for an Affordable unit.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

Low or Moderate Income: Household income, computed pursuant to LIP guidelines, which does not exceed 80% of median income for a comparable household size as determined by HUD for the area in which the households is located.

Low or Moderate Income Housing: Decent, safe and sanitary housing created through and subsidized by LIP or other state or federal housing production programs which is restricted to occupancy by persons or Families of Low or Moderate Income and which qualifies for inclusion on the Subsidized Housing Inventory.

Maintained Footcandles: The amount of illumination (measured by footcandles) given off by a luminary after being adjusted for light loss factors.

Marijuana: All parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes marijuana infused products except where the context clearly indicates otherwise.

Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in the Citizens Initiative Petition #11-11 (Question #3 on the November, 2012 state ballot) .

Marshfield Housing Authority: The Marshfield Housing Authority or its successors.

Marshfield Housing Partnership: The Marshfield Housing Partnership or its successors, or in the event the Marshfield Housing Partnership or its successors should no longer exist, an advisory group established and appointed by the Board of Selectmen with the responsibility for encouraging Low and Moderate Income Housing which has been recognized as a local housing partnership by the Massachusetts Housing Partnership Fund (or which has been recognized, certified or otherwise approved as may at the applicable time be required by applicable regulations of DHCD).

Massachusetts Architectural Access Board: The Massachusetts Architectural Access Board or its successors.

Maximum Groundwater Elevation: The seasonal high level of the groundwater table. This level shall be the same as the maximum groundwater elevation defined and determined in 310 CMR 15.00 (Title 5, State Environmental Code).

Medical Marijuana Facility*:* A "Medical Marijuana Treatment Center" shall mean a not-for-profit entity, as defined by Massachusetts law, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

Membership Club: A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

M.G.L.: Massachusetts General Laws.

Micro-brewery: A small scale business located in a building where the primary use is for a restaurant, retail or tasting room and which specializes in producing a maximum of fifteen thousand (15,000 barrels/ 465,000 US gallons) of specialty beer, malt liquor, or ale annually and sold for consumption either on or off premises. *Added by ATM 4/27/2015*

Mining of Land: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Minority: A member of any of the following groups of people:

Asian American: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent or Pacific Islands, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Samoa, Thailand, and Vietnam;.

Black: A person with origins in any of the black racial groups of Africa;

Hispanic: A person of Mexican, Puerto Rican, Cuban, Dominican, Central or South American origin;

Cape Verdeans: A person with origins in the Cape Verde Islands;

North American Indian: A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal

affiliation or community attachment with origins in any of the original peoples of North America, with cultural identification through tribal affiliation.

Mixed Use Building: A building that includes both commercial and residential uses within a single building.

Mixed Use District: A zoning district where the location of more than one permitted principal use in one building may be allowed by special permit. Mixed-Use Districts include the B-1 Business-Mixed-Use zoning district and the Planned Mixed-Use Development overlay district.

Municipal Wind Energy Conversion Facility**:** A Wind Energy Conversion Facility constructed by the Town. The primary purpose of the Municipal Wind Energy Conversion Facility is to provide power for municipal uses or to sell electricity to wholesale markets.

Noncommercial Kennel: A collection of more than three dogs more than six months old kept at, in, or adjoining a private residence for the hobby of the householder in connection with hunting, tracking, exhibition in dog shows, or field or obedience trials, provided the householder does not regularly engage in the purchase and sale of dogs for profit.

Non-Sanitary Wastewater Treatment Facilities: Commercial and industrial facilities which treat or dispose of wastewater on site and require a groundwater discharge permit per 310 CMR 5.00.

Non-Sanitary Wastewater: Discharges from commercial and industrial facilities as specified in the industry category list in 310 CMR 15.004 (g).

Open Dump: A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)) as amended, or the regulations and criteria promulgated thereunder relative to solid waste disposal, pursuant to 310 CMR 19.006.

Open Space: The space on a lot unoccupied by buildings, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage or total lot area.

Outdoor Lighting Fixtures: Outdoor artificial illuminating devices, installed or portable, used for flood lighting, general illumination or advertisement of commercial or industrial developments.

Owner: The duly authorized agent, attorney, purchasee, devisee, trustee, lessee or any person having legal or equitable interest in the use, structure or lot in question.

Parking Space: An off-street space at least 10 feet in width and 18 feet in length, having an area of not less than 180 square feet, plus 100 square feet of access and

maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle.

Petroleum Product: Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

Planned Development: A development involving the construction of two or more principal buildings on the same lot for any permitted use.

Planning Board: The Marshfield Planning Board or its successors.

Potable Water: Suitable for drinking.

Principal Residence: The principal home (domicile) occupied by all members of a household.

Private Swimming Pool: Any accessory structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a principal use structure and which is available only to the family and guests of the householder. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Recharge Area: Any area of porous, permeable geologic deposits, especially but not exclusively, deposits of stratified sand and gravel, through which water from any source drains into an aquifer, and includes any wetland or body of surface water surrounded by or adjacent to such area, together with the watershed of any wetland or body of surface water adjacent to such area.

Reflector: A method (in combination with the refractor) of controlling the distribution of light on the surface.

Regulatory Agreement: Has the meaning set forth in 760 CMR 45.00 or successor regulations.

Research Offices/Laboratory – Any office and/or laboratory engaged exclusively in the pursuit of scientific research and development, including the research and development of manufactured, processed or compounded products and classified as either Biosafety Levels 1 or 2.
Amended by STM 10/27/2014

Residential Business: A structure in the RB Zone consisting of business uses on the ground floor with a single accessory residential unit within the structure, with sufficient on-site parking for both uses.

Residential Accessory Apartments: An accessory apartment in an owner occupied dwelling is a second dwelling unit located within a single family home. Such accessory apartment shall be subordinate in size to the principal dwelling unit in a manner that maintains the appearance of the structure as a detached single-family home.

Roof Line: The surface of a horizontal roof; the highest horizontal line of a sloped roof. An ornamental roof structure not enclosing occupied space within a building shall not be used in the determination of the roof line of a building. A roof covering less than 25 percent of the building area shall not be used in the determination of the roof line of a building.

Rooming House: See lodging house, above.

Sanitary Landfill: Facility, place or site for disposal of solid waste on land in accordance with all Federal, State, and Local regulations and requirements including but not limited to rubbish, garbage, refuse, demolition waste, stumps, special waste such as pathogenic or infectious wastes, explosive materials, high and low level radioactive waste, chemical waste, asbestos, and other materials of a toxic or hazardous nature or materials requiring special handling procedures for disposal.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.

Sewerage Treatment Facility: Facilities which dispose of wastewater effluent into the ground or waters of the town. This shall include the construction of facilities serving commercial, industrial, multi-family residential and multiple lot residential developments. This shall exclude individual residential septic systems and the replacement of existing systems.

Sign: Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction or is designed to attract the eye by any means including intermittent or repeated motion or illumination.

Sign, Business: A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

Sign, General Advertising: Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within 200 feet of the building or other structure at which the products or services advertised thereon are available.

Sign, Identification: A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

Sign, Roof: A sign erected on or affixed to the roof of a building.

Sign, Standing: A sign erected on or affixed to the land including any exterior sign not attached to a building.

Sign, Surface Area of: For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall or window the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols.

Sign, Wall: A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom. A sign attached to a roof (or ornamental roof) with a roof slope (vertical dimension divided by horizontal dimension) or not less than 3:1 shall be considered to be a wall sign.

Single Housekeeping Unit: One or more persons living together and sharing in common all of one or more rooms which contain sleeping, sanitary and cooking facilities.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility.

Small Scale Ground Mounted Wind Energy Conversion Facilities**:** A device that is mounted on the ground, supported by a monopole type tower, that converts kinetic wind energy into rotational energy, which drives an electrical generator. Small Scale Ground Mounted WECF are not intended for commercial sale of electricity. Energy generated from a Small Scale Ground Mounted WECF is primarily for the principal use structure on the same property. Any surplus electricity not used on the property can be sold back to the electric utility. Small Scale Ground Mounted Wind Energy Conversion Facilities are accessory uses and are limited in height to a maximum of 150 feet above the existing ground elevation.

Solid Waste: Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

Special Permit Granting Authority: The Special Permit Granting Authority shall be the Zoning Board of Appeals as designated by the Zoning Bylaw for the issuance of Special Permits and Site Plan Approval for the construction and operation of all Wind Energy Conversion Facilities.

Story: That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six or more feet above the average finished grade.

Story, Half: A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed two-thirds of the floor immediately below when measured where the vertical distance between the floor and ceiling is four feet or more.

Street: A way, over 24 feet in right-of-way width, which:

1. is a public way laid out by a governmental entity or public authority pursuant to Mass. General Laws or is shown as a public way on an official map adopted by the Town pursuant to General Laws Chpt. 41, S. 81E or has been accepted by the Town as a public way; or

2. is shown on a plan approved and endorsed in accordance with the "Subdivision Rules and Regulations of Marshfield"; and General Laws Chpt. 41, S. 81K to 81GG; or

3. has, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and buildings erected or to be erected thereon.

Street Line: The line between a street and an adjoining piece of property defines the limits of the street.

Structure: A combination of materials assembled at a fixed location to give support or shelter, including, but not limited to, a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, windmill, solar devices or the like.

Structure (Article 15 only): A walled and roofed building or mobile home that is principally above ground; and includes gas or liquid storage tanks.

Structure, Nonconforming: A structure lawfully existing at the effective date of this Bylaw, or any subsequent amendment thereto, which does not conform to one or more provisions of this Bylaw.

Subdivision: A subdivision as defined in the State Subdivision Control Law, G.L. c.41, Sections 81K-81GG, as amended.

Subsidized Housing Inventory: The list compiled by DHCD containing the count of Low and Moderate Income housing units in the Town.

Subsidized Housing Units: Housing units qualifying for the Subsidized Housing Inventory including Local Action Units.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Evidence: Such evidence as a reasonable mind might accept as adequate to support a conclusion.

Substantial Improvement: Any reconstruction, rehabilitation, repair, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" or the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

Term of Affordability: The period of time that the unit shall remain Affordable is in perpetuity.

Total Cutoff: The point at which all light rays are completely shielded.

Town: The Town of Marshfield, Massachusetts.

Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies and to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, virulent infectious wastes, pesticides, herbicides, solvents, thinners and other materials which are listed as U.S. EPA Priority Pollutants.

Upland: Any land area not defined under the terms of Chpt. 131 Mass. General Laws or Article 37 of the Town of Marshfield Bylaws or regulations issued thereunder as "wetland."

Use: The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot or in the same structure as the principal use. No use may be considered an accessory use unless it is listed in Section 5.04 of this bylaw as an accessory use and any such use shall not exceed 40 percent of the total area of the structure (s) and/or lot in which such use is located.

Use, Nonconforming: A use lawfully existing at the time of adoption by this Bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this Bylaw.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this Bylaw. Any other use within the main structure or the use of any other structure or land on

the same lot and incidental or supplementary considered an accessory use. Only one principal use shall be allowed for each structure or lot except where permitted within a Mixed Use District. If more than one use is made of a structure or the lot and where it is not clear which use is the principal use, the Building Inspector shall designate one such use as the principal use.

Use Restriction: A deed restriction or other legal instrument approved by the DHCD and recorded with the relevant registry of deeds or land court registry district which effectively restricts occupancy of a Low and Moderate Income Housing unit to households of Low or Moderate Income during the Term of Affordability.

> For homeownership units the model deed rider specified in the LIP Guidelines shall be used as the Use Restriction.
>
> All references in this Bylaw to Federal or State regulations shall include any amendments to such regulations, any successor regulations, and any guidelines issued pursuant to any such regulations, as amended from time to time, whether or not expressly so stated.
>
> All references to dwelling units or units (when the reference is to units of housing) in this Bylaw shall include assisted living units or living units within facilities providing continuing care as defined in M.G.L. 93, Section 76, as amended, whether or not explicitly so stated.

Use, Substantially Different: A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

Utility-Scale Wind Energy Conversion Facility: A device that is mounted on a monopole structure that converts kinetic wind energy into rotational energy that drives an electrical generator. Utility-Scale Wind Energy Conversion Facilities are for commercial electricity production, where the primary use of the Facility is electricity generation to be sold to the wholesale electricity markets.

Variance: Such departure from the terms of this Bylaw as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Article X.

Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c.21. s.52A.

Wind Energy Conversion Facility or Facilities (WECF): A device that converts kinetic wind energy into rotational energy that drives an electrical generator. Wind Energy Conversion Facilities include all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to: transmission, storage, collection and supply equipment, substations, transformers, service and access roads.

Wind Monitoring or Meteorological Tower: A temporary tower equipped with devices to measure wind speeds and direction, used to predict the amount of electricity a site can be expected to generate through wind energy production.

Wireless Communication Facility: Means an antenna, satellite dish, or other communications device for commercial or public safety communications purposes located on an existing or proposed communications tower or non-residential structure. This definition shall not apply to private residential facilities or non-commercial facilities used by an individual business.

Yard: A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein, and having at least two sides open to lot lines.

Yard, Front: A yard extending for the full width of the lot from a street line to the nearest point of a building.

Yard, Rear: A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

Yard, Side: Yard extended for the full length of a building between the nearest building wall and the side lot line.

Zone II: The DEP approved area of an aquifer which would contribute water to a public water supply well if such a well were pumped continuously for a period of 180 days at its maximum safe yield without any natural recharge to the aquifer occurring, as defined in 310 CMR 22.00.

(Article II Definitions amended April 2007 ATM Article 19)
(Article II Definitions amended April 2010ATM Article 19)
(Article II Definitions amended April 2011 ATM)
(Article II Definitions amended April 2014 ATM Article 15,16 &17)
(Article II Definitions amended October 2014 STM Articles 16 & 20)
(Article II Definitions amended April 2015 ATM Article 14)

ARTICLE III

ESTABLISHMENT OF ZONING DISTRICTS

Section 3.01 Division into Districts - The Town of Marshfield, Massachusetts hereby divided into eleven zoning districts to be designated as follows:

Full Name	Class	Short Name
Residential - Rural	Residential	R-1
Residential - Suburban	Residential	R-2
Residential - Waterfront	Residential	R-3
Residential Business	Business	RB
Business – Mixed-Use	Business	B-1
Business - Highway	Business	B-2
Business - Neighborhood	Business	B-3
Business - Waterfront	Business	B-4
Office Park	Business	OP
Industrial	Industrial	I-l
Airport	Industrial	A

Zoning districts shall include the land within any lake, pond, stream, or other water body, lying therein, and shall include land under navigable waters as far as the ownership thereof and the jurisdiction of the Town of Marshfield extend under any other provisions of the law.

Section 3.02 Superimposed Zoning Districts - An Inland Wetlands Zoning District, a Coastal Wetlands Zoning District, a Water Resource Protection District, a Planned Mixed-Use Development District, a Storm Water Management Overlay District and a Flood Plain Zone are considered to be superimposed over the other districts shown on the Zoning Map, as a recognition of the special conditions which exist in such areas. See Article XI, XIII and Article XV for applicable regulations.

Section 3.03 Zoning Map - The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map of the Town of Marshfield, Massachusetts" dated April 24, 2012 with revisions through April 24, 2012 which accompanies and is hereby declared to be part of this Bylaw. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk, and the imprinted seal of the town under the following words: "This is to certify that this is the Zoning Map of the Town of Marshfield, Massachusetts, referred to in the Zoning Bylaw of the Town of Marshfield, Massachusetts, which was approved by the Town on April 24, 2012 with revisions through April 24, 2012."

Section 3.04 Changes to Map - Any change in the location of boundaries of a Zoning District hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such map, such changes to be dated and authenticated as prescribed in Section 3.03. The map thus altered is declared to be part of this Bylaw thus amended. The Town Clerk shall be responsible for certifying all changes to the Zoning Map. Such changes shall be made within 14 days of the final approval of the Attorney General's Office. An Official copy of the Zoning Map shall be located in the office of the Town Clerk. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

Section 3.05 Boundaries of Districts - Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map the following rules apply:

1. Where a boundary is indicated as a street, railroad, power line, watercourse or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.

2. Where a boundary is indicated as following approximately or parallel to a street, railroad, power line, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

3. Where a dimensioned boundary coincides within ten feet or less with a lot line, the boundary shall be construed to be the lot line.

4. Where a boundary is indicated as intersecting the centerline of a street, railroad, power line, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.

5. The boundary limits of the Coastal and Inland Wetlands Districts are not described by dimensions. Distance shall be determined by the use of the scale shown on the Zoning Map. If simple scaling cannot ascertain whether or not the parcel of land in question falls within the boundaries of the Coastal and Inland Wetlands Districts, the Building Inspector will determine by field inspection the location of the parcel with respect to the District. In such determination, the Building Inspector shall be guided by the Conservation Administrator; if he is not available then a Conservation Commissioner, and where such guidance is given, it shall become part of the record.

If the Building Inspector fails to accept the guidance of said Administrator or Commissioner, he shall state in the record in writing, his reasons for such action.

Notwithstanding the foregoing, the Planning Board shall make determinations of boundaries with respect to Flood Plain Zones pursuant to Article XV.

6. The abbreviation "PL" means property line as shown on the Town Assessors Maps as in effect at the effective date of this Bylaw. The abbreviation "PL" when used in conjunction with a subsequent amendment to this Bylaw, shall mean a property line as shown on the Town Assessors' maps as in effect at the effective date of such amendment.

7. The abbreviation "CL" means centerline and "CI" means center of intersection.

(Section 3.02 Superimposed Zoning Districts Amended April 2006 ATM)
(Section 3.03 Zoning Map Amended May 5, 2008 ATM)
(Section 3.03 Zoning Map Amended April 24, 2012 ATM)
(Section 3.04 Changes to Zoning Map Amended April 24, 2012 ATM)
(Section 3.05 (8) deleted April 24, 2011 ATM)

ARTICLE IV

INTERPRETATION AND APPLICATION

Section 4.01 Interpretation - The provisions of this Bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the Town of Marshfield, Massachusetts; and except for the Zoning Bylaw of the Town of Marshfield dated 1959 and all amendments thereto, the provisions of this Bylaw are not intended to repeal, or in any way impair or interfere with any lawfully adopted Bylaw, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any bylaw or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

Section 4.02 Application - Except as herein provided, or as specifically exempted by the Zoning Enabling Act, the provisions of this Bylaw shall apply to the erection, construction, reconstruction, alteration or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.

Section 4.03 Existing Buildings and Land - Except as herein provided, this Bylaw shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is legally used at the time of adoption of this Bylaw, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent.

Section 4.04 Mixed Uses - In cases of mixed occupancy, the regulation for each use each apply to the portion of the building or land so used. Allowable residential densities and non-residential square footage requirements shall apply to each use individually per lot provided, however, that building bulk, height, setbacks and other dimensional characteristics shall comply with the standards set forth in Sec. 6.10: Table of Dimensional and Density Regulations.

Updated through Fall Town Meeting 2014

ARTICLE V

USE REGULATIONS

Section 5.01 Applicability of Use Regulations - Except as in the Zoning Enabling Act or in this Bylaw, no building, structure, or land shall be used except for the purposes permitted in the district as described in this Section. Any use not listed shall be construed to be prohibited.

Section 5.02 Permitted Uses - In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by Special Permit in the District, in accordance with Article X, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district.

Notwithstanding any other provision of this Bylaw, the following lots owned by the Town may be used for beach parking, for residents and nonresidents, during the months of May, June, July, August and September of each year. Marshfield Assessors Map Lots M05-05-86 Beach Street and M07-03-01, Dyke Road. Any provisions of this Bylaw which may be deemed to require that such lots be paved prior to such use shall not apply thereto. The provisions of Article VIII of this Bylaw shall not apply to such use.

Section 5.03 Uses Subject to Other Regulations - Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this Bylaw.

There shall not be any business operation for vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.

Notwithstanding any other provisions of this Bylaw, the following uses shall be prohibited in the recharge areas of surface water drinking supplies as defined by the Massachusetts Department of Environmental Protection and as shown on the Marshfield Zoning Map as amended, and in areas within the zone of contribution of existing or potential public supply wells as defined by said Department:

a) Sewage treatment plant
b) Sanitary landfill
c) Incinerator
d) Application and storage of sludge and/or septage

The B-1 zoning district shall be considered a Mixed-Use District as defined within this Bylaw. Allowable uses within a Mixed-Use District are as shown in the underlying zoning districts in which the use is proposed as shown in the Table of Use Regulations unless otherwise specified herein.

Section 5.04 Table of Use Regulations - See table on accompanying pages which is declared to be a part of this Bylaw. In addition, uses are subject to Articles XI, XIII and XV where appropriate.

Section 5.04 TABLE OF USE REGULATIONS

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
RESIDENTIAL														
1. One-family detached dwelling	P	P	P	P	-	S	P	P	-	-	-	-	P	P
2. Open Space Residential Development (see Section 11.04)	S	S	S	S	-	-	-	-	-	-	-	-	S	-
3. Age Restricted Adult Village (See Section 11.08)	S	S	S	S	-	-	-	-	-	-	-	S	S	-
4. Small Scale Ground Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	S
5. Building Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	S
6. Mixed Use Building (see Article XIII. Superimposed Districts section 13.05 Brant Rock Village Overlay District)	-	-	-	-	-	-	-	-	-	-	-	-	-	S
7. Dwelling, Mixed Use	-	-	-	-	-	-	-	-	-	-	-	**S**	-	-
COMMUNITY FACILITIES														

Updated through Fall Town Meeting 2014

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
1. Church or other religious purposes	P	P	P	P	P	P	P	P	P	P	P	P	P	
2. Educational purposes which are religious sectarian, denomination or public	P	P	P	P	P	P	P	P	P	P	P	P	P	
3. Nursery School	P	P	P	P	-	-	-	-	-	-	-	S	S	
4. Public park, conservation area and preserved open spaces including areas for passive recreation, but not including active recreational facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	
5. Nonprofit recreational facility, not including a membership club	S	S	S	S	S	-	S	S	-	-	S	S	S	
6. Country, hunting, fishing, tennis, or boating club	S	S	S	S	-	-	S	S	-	S	S	S	S	
7. Day camp or other camp for children	S	S	S	S	-	-	-	-	-	-	-	-	-	
8. Town building except public works equipment garage	P	P	P	P	P	P	P	P	-	P	P	P	S	
9. Cemetery	S	S	S	-	-	-	-	-	-	-	-	S	-	
10. Public libraries, museums, historical association or society, nonprofit cultural institutions	P	P	P	P	P	P	P	P	P	-	-	P	S	
11. Hospital, sanitarium or philanthropic institutions	S	S	S	-	-	-	-	-	-	-	-	S	-	
12. Nursing, rest or convalescent home not to exceed 24 beds per acre	S	S	S	S	-	S	-	-	-	-	-	S	-	
13. Town equipment garage	-	S	-	S	-	P	-	-	-	P	P	P	-	
14. Public utility including water filter plant, sewage treatment plant and refuse facility	S	S	S	S	S	S	S	S	-	S	S	S	S	
15. Essential services	P	P	P	P	P	P	P	P	P	P	P	S	S	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
16. Golf course or facility	S	S	S	-	-	-	S	S	-	-	S	S	-	
17. Skating Rinks (indoor or outdoor), or other indoor athletic facilities	-	-	-	-	-	S	-	-	-	S	-	S	S	
18. Municipal Utility-Scale Wind Energy Conversion Facility	S	S	S	S	S	S	S	S	S	S	-	S	S	
19. Municipal Building Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	
20. Municipal Small Scale Ground Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	
21. Medical Marijuana Treatment Center	-	-	-	-	-	-	-	-	-	S	-	-	-	
AGRICULTURAL														
1. Agriculture, horticulture, and floriculture, including marine agriculture and the catching and taking of marine flora and fauna and the seeding of catchment areas; except a greenhouse or stand for retail sale	P	P	P	P	P	P	P	P	P	P	P	P	P	
2. Year-round greenhouse or stand for wholesale and retail sale of agricultural or farm products raised primarily on the same premises	S	S	S	P	S	-	P	-	P	P	S	P	S(1)	
3. Temporary (not to exceed erection or use for period exceeding five months in any one year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises	P	P	S	P	-	-	S	-	P	P	S	P	S(1)	
4. Raising and keeping of livestock, horses and poultry,	P	P	P	S	-	-	-	-	-	-	-	-	S(1)	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
not including the raising of swine or fur animals for commercial use														
5. Commercial stables, kennels or veterinary hospital in which all animals, fowl or other forms of animal life are completely enclosed in pens or other structures	S	-	-	S	S	S	-	-	S	-	-	-	S(1)	
6. Noncommercial forestry and growing of all vegetation	P	P	P	P	P	P	P	P	P	P	P	P	P	
7. Commercial forestry	S	S	-	-	-	-	-	-	-	S	S	S	S(1)	
8. Year-round greenhouse or stand for wholesale and retail sale of agricultural or farm product	-	-	-	P	-	P	-	-	-	-	-	P	-(1)	
(1) Applies to only lots under five acres in size.														
RETAIL AND SERVICE														
1. Retail establishment selling principally convenience goods including, but not limited to: food, drugs and proprietary goods (but not including the sale of gasoline).														
a. With a maximum floor area limitation of 8,000 sq. ft. for any single establishment	-	-	-	-	P	S	S	S	-	-	-	S	S	
b. With no limitation with respect to floor area	-	-	-	-	S	-	-	-	-	-	-	S	S	
2. Retail establishment selling general merchandise, including but not limited to														

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares, and hardware and including discount and limited price variety stores														
a. With a maximum floor area limitation of 8,000 sq. ft. for any single establishment	-	-	-	-	**P**	**S**	**S**	**S**	-	-	-	**S**	**S**	
b. with no limitation with respect to floor area	-	-	-	-	S	-	-	-	-	-	-	-	-	
3. Eating and drinking places not including drive-in establishments	-	-	-	S	P	P	P	P	-	-	-	S	S	
4. Drive-in eating establishments	-	-	-	-	**S**	**S**	-	**S**	-	-	-	S	**S**	
5. Sales by vending machines as a principal use	-	-	-	-	P	P	-	S	-	-	-	-	P	
6. Establishment selling new or new and used automobiles and trucks, new automobile tires and other accessories, aircraft, motorcycles and household trailers	-	-	-	S	-	P	-	-	-	-	-	-	-	
7. Establishment selling boats and boat accessories	-	-	-	-	-	P	P	P	-	-	-	-	-	
8. Establishments selling, renting aircraft and aircraft accessories or repairing aircraft	-	-	-	-	-	S	-	-	-	-	P	-	-	
9. Hotels and motels	-	-	-	S	-	S	-	-	-	S	S	S	S	
10. Bank	-	-	-	**P**	**P**	**P**	**P**	**P**	**P**	-	-	S	**S**	
11. Other personal and consumer service establishment	-	-	-	P	P	P	P	P	-	-	-	S	S	

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Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
12. Funeral establishment	-	-	-	P	P	P	-	-	P	-	-	-	S	
13. Membership Club	S	S	S	P	P	P	-	P	-	-	S	S	S	
14. Professional and business offices and services														
a. With a maximum floor area limitation of 8,000 sq. ft. for any single establishment	-	-	-	P	P	P	S	S	P	P	P	S	S	
b. With no limitation with respect to floor area	-	-	-	-	S	S	S	-	S	S	S	S	S	
15. Governmental offices and post offices	-	-	-	S	P	S	S	S	S	S	P	-	S	
16. Gasoline Sales, automotive repair, automobile service station or garage (not including a junkyard or open storage of abandoned automobiles or other vehicles), and including the sale of convenience goods, including but not limited to food, drugs and proprietary goods	-	-	-	S	-	S	S	-	-	-	-	-	-	
17. Boat marina or boat yard	-	-	S	-	-	-	-	P	-	-	-	-	-	
18. Miscellaneous business repair	-	-	-	S	P	S	-	-	-	S	-	S	S	
19. Motion picture establishment outdoor	-	-	-	-	-	S	-	-	-	-	-	-	S	
20. Motion picture establishment indoor	**-**	**-**	**-**	**-**	**S**	**S**	**-**	**S**	**-**	**-**	**-**	S	**S**	
21. Other amusement and recreation service, outdoor except amusement parks	-	-	-	-	-	S	-	S	-	-	-	-	S	
22. Other amusement and recreation service, indoor except coin-operated	-	-	-	-	S	S	-	S	-	-	-	S	S	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
amusement devices														
23a. Communications Tower containing Wireless Communications Facilities (in compliance with height requirements of Section 6.10) (See Section 11.12)	S	S	S	S	S	P	P	P	P	P	P	S	P	
23b. Other Communications Tower containing wireless Communications Facilities (See Section 11.12)	S	S	-	-	-	S	-	-	-	S	S	S	-	
24. Commercial parking lot (See Article VIII)	-	-	S	S	P	S	P	S	-	S	S	S	S	
25. Filling of land or water area (See Section 11.03)	S	S	S	S	S	S	S	S	S	S	S	S	S	
26. Planned business development (See Section 11.05)	-	-	-	-	S	S	S	S	-	-	S	S	S	
27. Construction of drainage facilities (other than essential services or damming up or relocating any watercourse, water body or wetland	S	S	S	S	S	S	S	S	S	S	S	S	S	
28. Residential Business	-	-	-	P	-	-	-	-	-	-	-	-	-	
29. Adult Entertainment	-	-	-	-	-	-	-	-	-	S	-	-	S(1)	
WHOLESALE, TRANSPORTATION AND INDUSTRIAL														
1. Removal of soil, loam, sand, gravel, quarry or other earth material	NOW GENERAL BYLAW ARTICLE 20													
2. Processing and treating of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding and milling operations (See Section	-	-	-	S	S	S	-	-	-	S	S	-	-	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
11.02)														
3. Construction industry including suppliers	-	-	-	P	S	P	-	-	-	P	-	S	S	
4. Manufacturing	-	-	-	-	-	-	-	-	-	S	-	S	S	
5. Bakery, laundry	-	-	-	-	S	P	-	-	-	-	-	S	S	
6. Motor freight terminal and warehousing	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**S**	**-**	**S**	**-**	
7. Bus passenger terminal	-	-	-	-	P	P	-	-	-	P	-	P	-	
8. Heliport	-	-	-	-	-	-	-	-	-	S	P	S	-	
9. Airport and airport facilities	-	-	-	-	-	-	-	-	-	-	P	-	-	
10. Other transportation services	-	-	-	-	S	S	S	S	-	S	S	S	-	
11. Wholesale trade and distribution	-	-	-	-	-	S	-	-	-	S	-	S	S	
12. Open storage of raw materials, finished goods, or construction equipment and structures for storing such equipment	-	-	-	P	-	P	-	-	-	S	-	S	-	
13. Research offices or establishments devoted to research and development activities														
a. With a maximum floor area limitation of 8,000 sq. ft. for any single establishment	**-**	**-**	**-**	**-**	**-**	**P**	**-**	**-**	**P**	**P**	**P**	**S**	**S**	
b. with no limitation with respect to floor area	-	-	-	-	-	S	-	-	S	S	S	S	S	
14. Planned industrial development (See Section 11.06)	-	-	-	-	-	-	-	-	-	S	S	S	S	
15. Dry Cleaning Plant	-	-	-	-	S	P	-	-	-	S	-	S	-	
16. Automobile graveyards	-	-	-	-	-	-	-	-	-	-	-	-	-	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
and/or junkyards														
17. Utility Scale Wind Energy Conversion Facility	S	S	S	S	S	S	S	S	S	S	-	S	S	
18. Building Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	
19. Small Scale Ground Mounted Wind Energy Conversion Facilities	S	S	S	S	S	S	S	S	S	S	-	S	S	
20. Renewable or alternative energy research & development facilities in buildings 50,000 sq/ft or greater	-	-	-	-	-	-	-	-	-	P*	-	P*	-	
21. Large scale ground mounted photovoltaic installations producing 250 KW DC or greater	-	-	-	-	-	-	-	-	-	P*	SP	-	-	
22. Micro-Brewery/Processing	-	-	-	-	-	**S**	-	-	-	P	-	**P**	**S**	
ACCESSORY USES														
1. Home occupation (See Section 11.07)	S	S	S	P	P	P	P	P	-	-	-	-	S	
2. Private day nursery or kindergarten, provided it shall not occupy more than 40 percent of the gross floor area of the structure and there shall be a minimum of 75 square feet of outside play area for each enrolled child	P*	P*	P*	P*	-	-	-	-	-	-	-	-	P*	
3. Accessory professional office of a licensed medical or dental practitioner, lawyer, engineer, optometrist or public accountant in an existing dwelling	S	S	S	P	P	P	P	P	P	-	-	-	S	
4. Accessory building such as a greenhouse, tool shed,	P	P	P	P	P	P	P	P	-	S	P	S	P	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
private swimming pool, or similar accessory structure. Subject to provisions of Article VI.														
5. Accessory private garage for not more than three noncommercial motor vehicles, and, except on a farm, not more than one-half ton rated or less in size commercial motor vehicle	P	P	P	P	P	P	-	P	-	-	-	-	P	
6. Accessory storage of a trailer, unregistered automobile, boat or accessory marine agriculture equipment provided: it shall either be stored within a principal or accessory building or not less than 25 feet from any front lot line and 10 feet from any side lot line and it shall not be used for dwelling or sleeping purposes. Maximum number - two trailers and autos and boats.	P	P	P	P	P	P	-	P	-	-	-	-	P	
7. Accessory repair and storage facilities in any retail sales or consumer established provided: it shall not occupy more than 25 percent or the gross floor area	-	-	-	P	P	-	P	P	-	-	-	-	S	
8. Accessory outside storage clearly necessary to the operation and conduct of a permitted principal wholesale, transportation, industrial and/or commercial use	-	-	-	S	S	S	S	S	-	P	P	P	S	
9. Accessory manufacturing use provided: it shall not	-	-	-	P	S	P	-	-	-	P	P	P	S	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
occupy more than 25 percent of the gross floor area of the building; and it shall not be located within 100 feet of any "R" district or within 50 feet of any street lot line														
10. Accessory building to a non-residential principal use occupied by a person employed on the premises and his immediate family, unless such structure is located in the rear of the principal building and has no immediate street frontage	-	-	-	S	P	S	P	S	-	S	S	S	P	
11. Newsstand, barber shop, dining room or cafeteria and similar accessory services only for occupants or users thereof within a hotel, office or industrial building, hospital containing more than 50 sleeping rooms, or transportation terminal facility	P	P	P	P	P	P	P	P	S	P	P	S	P	
12. Up to two lodging units in an existing dwelling	P	P	P	P	S	S	S	P	-	-	-	-	P	
13. Accessory signs subject to the provisions of Article VII	P	P	P	P	P	P	P	P	P	P	P	P	P	
14. Accessory off-street parking and loading spaces as required in Article VIII	P	P	P	P	P	P	P	P	P	P	P	P	S	
15. Licensed Day Care Centers	P	P	P	P	P	P	P	P	P	P	P	P	S	
16. Trailers: To be used as a temporary office in connection with a construction project provided that the use is authorized by	P	P	P	P	P	P	P	P	P	P	P	P	P	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
the Board of Selectmen and further provided that the trailer is not used for family habitation; trailers to be parked and occupied for a period of not more than six (6) months by the owner of the premises provided that the use is authorized by the Board of Selectmen and further provided that such owner is in the process of constructing or reconstructing a house thereon for his own occupancy and further provided that there are suitable facilities for running water and sanitary sewage disposal as approved by the Board of Health and further provided that not more than one six month extension is granted; trailers to be parked and occupied for family use for a period of not more than ten (10) days provided that the use is authorized by the Board of Selectmen and further provided that there are suitable facilities for running water and sanitary sewage as approved by the Board of Health. For the purpose of this Bylaw, a trailer shall be defined to be any trailer-type body, whether mobile or immobile.														
17. Agricultural - Raising and keeping of livestock, horses and poultry, not including the raising of swine or fur-bearing animals for commercial use	P	P	P	P	-	-	-	-	-	-	-	-	P	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
18. Accessory noncommercial kennel upon any lot occupied by an owner or tenant as a dwelling house provided that all dogs kept on such lot must be owned by the occupant	P	P	P	P	P	P	P	P	P	P	P	P	P	
19. Accessory Apartment (See Section 11.09)	S	S	S	-	S	S	-	-	-	-	-	S	P	
20. Accessory commercial parking lot to be operated only during the time the Marshfield Fair is being conducted each year, such parking lot to be used solely for the purpose of providing parking for persons attending the Marshfield Fair.	P	P	P		P	P	P	P	-	-	-	-		
21. Accessory Barn: Accessory barn for non-commercial use for agriculture, horticulture, floriculture, and related storage purposes.	P	S	S	-	-	-	-	-	-	-	-	-	S	
22. Accessory Communications Tower to a non-residential use (in compliance with height requirements of Section 6.10)(See Section 11.12)	S	S	S	S	S	P	P	P	P	P	P	P	P	
23. Accessory Communications Tower to a non-residential use (Not in compliance with height requirements of Section 6.10)(See Section 11.12)	S	S	S	-	S	-	-	-	-	S	S	-	-	
24. Wireless Communication Facility (placed on existing tower	S	S	S	S	S	P	P	P	P	P	P	S	P	

Principal Uses	Residential				Business					Indus-trial		Overlay		
	R-1	R-2	R-3	RB	B-1	B-2	B-3	B-4	OP	I-1	A	PMUD	WRPD	BRVO
complying with Section 6.10)														
25. Wireless Communications Facility (located on a tower not in compliance with Section 6.10 or other non-residential structure)	S	S	S	S	S	S	S	S	S	S	S	S	S	
26. Automatic Teller Machines, excluding drive through facilities.	-	-	-	-	P	P	P	P	-	-	-	P	-	

Key

S = Special Permit Required

P = Use Permitted

- = Prohibited Use

* = **Expedited Permitting -** The By-Right Site Plan Approval process administered by Zoning Board of Appeals for renewable or alternative energy research & development facilities in buildings 50,000 sq/ft or greater shall be completed within one year of the date of submission of a complete application package. All other locally required permits for renewable or alternative energy research & development facilities in buildings 50,000 sq/ft or greater shall also be issued within one year of the date of submission of a complete application package.

(Amended Section 5.04 ARAV use 5/1/08 Article 22 2008 ATM)
(Amended Section 5.04 WECF Article 22 April 2010 ATM)
(Amended Section 5.04 renewable energy research & development April 2011 ATM)
(Amended Section 5.04 ground mounted photovoltaic April 2011 ATM)
(Amended Section 5.04 mixed use building BRVO April 2014 ATM)
(Amended Section 5.04 Dwelling-mixed use PMUD October 2014 FTM)

ARTICLE VI

DIMENSIONAL AND DENSITY REGULATIONS

Section 6.01 Applicability of Dimensional and Density Regulations - The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, and minimum open space shall be specified in this section and set forth in the Tables of Dimensional and Density Regulations and subject to the further provisions of this Bylaw.

Section 6.02 Table of Dimensional and Density Regulations - See table on Accompanying pages plus attached notes, which is declared to be a part of this Bylaw.

Section 6.03 Reduction of Lot Areas - The lot, yard areas or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this Bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this Bylaw, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

Section 6.04 Separation of Lots - Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this Bylaw.

Section 6.05 Screening and Buffers - Industrial and Business Districts - Screening and buffers shall be required in any industrial or business district which adjoins a residential district as follows; this strip shall be at least 35 feet in width, it shall contain a screen of plantings in the center of the strip. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round.

At least 50 percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip by special permit. The strip may be part of the yard area.

Where an "I" or "B" District abuts an "R" District, no building within the "I" or "B" District shall be within 25 feet of the boundary line of the "R" District.

Section 6.06 Route 139 Grandfathering

Where any interest in a lot of land adjacent to the existing public way of Plain Street (State Route 139), between School Street and Furnace Street, is taken by eminent domain by the Town or the Commonwealth in connection with the widening of Plain Street, the remainder of the lot outside of the area subject to the taking shall be treated for purposes of dimensional and density requirements as though the portion of the lot acquired by eminent domain were still included as part of the original lot.

Section 6.07 Accessory Buildings – In the "R" District a detached accessory building shall conform to the following provisions: It shall not occupy more than 25 percent of the required rear yard; it shall not be less than 20 feet from the front street line, or less than 10 feet from any other lot line or from any principal building; and it shall not exceed 20 feet in height. An accessory building attached to a principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building. An accessory outdoor private swimming pool in any district shall comply with the State Board of Building Regulations and Standards, 780 CMR 421.0 Swimming Pools. No permanent swimming pool shall be located within any required front yard nor within 10 feet from any side or rear lot line. The height of an accessory barn may be increased to 35 feet if the minimum front setback is increased to 50 feet and the other lot line setbacks are increased to 30 feet.

Section 608 Other General Dimensional and Density Provisions - In addition to the Regulations 6.08 in Section 6.01 through 6.07, the following regulations shall apply;

1. Existing and permitted residential uses in the "B" or "I" District shall be subject to the dimensional density regulations of the nearest residential district as determined by the Building Inspector or, in the case of an Age-Restricted Adult Village as authorized under Sec. 11.08, shall be governed by the dimensional density regulations set forward therein and as approved by the SPGA;

2. Except for planned developments, community facilities, and public utilities, only one principal structure shall be permitted on a lot. In the case of planned developments, the minimum distance between the walls of such principal buildings which contain windows shall be twice the minimum side yard or side setback required in the district.

3. A corner lot shall have minimum street yards which shall be the same as the required front yard depths for the adjoining lots.

4. At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the district in which each street frontage is located.

5. Projections into required yards or other required open spaces are permitted only as follows:

   a. Balcony or bay window, limited in total length to one-half the length of the building, but not projecting more than two feet.

   b. Open decks, terraces, steps or stoops under four feet in height, up to one-half the required yard setback.

   c. Open decks, steps, or stoops over four feet in height, windowsills, chimneys, roof eaves, fire escapes, fire towers, storm enclosures or similar architectural features, not more than two feet.

   d. Corner boards, sheathing and the normal construction practice of squaring the structure, not more than four inches.

6. The provisions of this Bylaw governing the height of buildings shall not apply to chimneys, elevator bulkheads, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above roof, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20 percent of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20 percent of the lot area; nor to churches or public agricultural or institutional buildings or buildings of private schools not conducted for profit that are primarily used for school purposes, provided, however, that the height of all structures exempted by this paragraph shall not be more than four times the distance between the nearest lot line and the point directly below the specific structure and further provided the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Agency regulations. Any proposed Communications Tower that exceeds the height requirements set forth in Section 6.10 must file for a Special Permit with the SPGA.

7. The maximum gross floor area for a commercial establishment in the neighborhood business district shall be 8,000 square feet.

8. Where the existing development along a block amounts to more than 50 percent of the block frontage, and where said development has an average setback less than that required by this Bylaw, then any vacant lot setback may be reduced to said average of the existing development.

9. In all districts the lot width shall not be less than that prescribed in the Table of Dimensional and Density Regulations as measured at any point between the front lot line and the rear building line.

10. At no street intersection in any district shall any obstruction to vision exceeding 3 feet in height above the plane established by the intersecting streets be placed or permitted to grow, on any lot within the triangle formed by the lot lines abutting the intersecting streets and a line connected points on these lot lines at a distance of 25 feet from the point of intersection of the lot lines.

11. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over 3 feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such structure or vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the streets.

12. In all residential areas where buildings other than, single family dwellings are constructed, a buffer zone of thirty-five feet (35') must be provided as described in Section 6.05.

Section 6.09 Lot Width - The distance between the side lot lines as measured paralleled to the front lot line, at the rear building line and at all points between. No dwelling may be erected or placed unless within a circle of diameter equal to the required frontage under Section 6.10 which can be inscribed within the lot lines at some point between the front and rear lot lines.

(Section VI Dimensional and Density Regulations Amended April 2012 ATM, new section 6.06 inserted)

Section 6.10

TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

Zone	Use	Minimum lot area** (sq. ft.)	Width and frontage (ft.)	Minimum lot depth (ft.)	Minimum Yards Front (ft.)	Side (ft.)	Rear (ft.)	Maximum Height (ft.)	Maximum stories	Maximum Building area (percent)	Minimum open space area (percent)
R-1	Any permitted use	43,560	125	150	40	20	40	35	*2.5	15	50
R-2	Any permitted use	20,000	100	120	40	15	40	35	*2.5	25	40
R-3	Any permitted use	10,000	80	100	15	15	30	35	*2.5	40	30
R-B	a. Residential use	20,000	125	150	40	15	40	35	2.5	25	40
	b. Other use	20,000	125	150	40	15	40	##25	##1	40	30
OP	Any permitted use	20,000	125	100	40	20	40	25	2	40	30
B-1	Any permitted use	10,000	100	100	5	none	10	35	3	none	none
B-2	Any permitted use	20,000	150	150	40	#15	40	35	2.5	40	20
***B-3	Any permitted use	5,000	80	80	20	5	15	35	2.5	40	20
***B-4	Any permitted use	10,000	100	100	10	5	15	35	2.5	60	20
I-1	Any permitted use	40,000	150	150	40	20	40	65	2	none	30
A	Any permitted use	20,000	125	100	40	20	40	35	3	40	30

* In the R-1, R-2, R-3 Districts, the height may be increased to three stories if the minimum front yard is increased by 14 feet and the minimum side yard is increased by five feet.

** For lots partially within the Inland Wetlands or the Coastal Wetlands District, the application of the minimum lot areas set forth in this Article shall be governed by the regulations of Article XIII.

*** Except as noted in Section 6.08.

The minimum side yard setback may be reduced or eliminated as noted in Section 11.11 of the Bylaws.

Buildings may be increased by 1.5 stories (maximum 35 feet) for a residential unit above the first floor.

ARTICLE VII

SIGNS

Section 7.01 Applicability

Except as shall be exempt under the jurisdiction of the State Billboard Act Chapter 584, Section 4, of the Acts of 1955, and as amended, and except for signs of less than two square feet in surface area identifying occupancy of a residence, no signs shall be attached, erected or otherwise installed on any property without first obtaining a sign permit from the Building Inspector, such permit to be granted only in accordance with the following regulations:

Section 7.02 General Sign Regulations

1. No sign shall extend above the roof line of the building to which it is attached. Roof signs are not allowed.

2. Any traffic, directional, trespass or ownership sign owned or installed by a governmental agency shall be permitted.

   a. Public Interest Signs
   "Adopt a Street" Program
   Informational standing signs, not including general advertising signs, owned or installed by the Board of Public Works, may be erected on public ways and traffic islands by said Board, after receiving a permit therefor from the Inspector of Buildings. Such signs shall not exceed 12 square feet in surface area per side and shall be erected so that no portion of the sign is over 5 feet above the ground level beneath the sign. Such signs shall contain no more than 2 colors and shall not be illuminated. The Board may place on such signs the name(s) of persons or businesses who are participating in the so-called Adopt a Street program operated by the Department of Public Works. The Board of Public Works shall adopt and publish written policies and procedures consistent with this section governing the Adopt a Street program.

   b. Community Service Announcements
   Standing signs containing community service announcements, not including general advertising signs, may be erected on public ways and traffic islands with the approval of the Board of Selectmen, after receiving a permit therefore from the Inspector of Buildings. Such signs shall not exceed 12 square feet in surface area per side and shall be erected so that no portion of the sign is over 5 feet above the ground level beneath the sign. Such signs shall not be illuminated. Provided however that so-called banner type signs may be erected in the air

space over public ways without complying with the height and size limitations contained herein.

c. Welcome to Marshfield Signs
Signs which welcome travelers to the Town of Marshfield and which are owned or installed by the Board of Public Works may be erected on public ways and traffic islands at the entrances to the Town by said Board, with the approval of the Board of Selectmen, after receiving a permit therefore from the Inspector of Buildings. Such signs shall not exceed 24 square feet in surface area per side and shall be erected so that no portion of the sign is over 8 feet above the ground level beneath the sign. Such signs shall contain no more than 3 colors and shall not be illuminated.

3. Temporary interior window displays or temporary banners for drive-in establishments or automotive establishments shall be permitted except as provided in No. 4 below. Temporary shall be construed to mean any period not exceeding 30 consecutive days. Temporary political signs are permitted in any district, for a period of one month before election to three days after. Not more than one sign per candidate per lot, with permission of the owners shall be allowed. They shall be subject to all provisions of this By-law unless such provision be specifically superseded by this Section.

   Each political sign shall be free-standing and secured to a post or a stake driven into the ground. Such signs shall not be attached to public property, trees, fences, utility poles or rocks. Whenever the Building Inspector determines that any political sign has been erected in violation of the provisions of this paragraph, he shall so notify the candidate whose name appears on such sign, and/or any committee formed to advocate the candidacy of such person, of the violation. If the illegal signs are not removed within 24 hours from the time of such notice, then the candidate and committee shall both be liable for the penalties provided under Section 10.08 of this Bylaw.

   The maximum size of a political sign shall not exceed six (6) square feet. A permit must be obtained from the Building Department before any political sign can be erected or displayed. A permit fee of $10.00 shall be paid plus a deposit of $50.00 as a security for all signs erected for any one candidate. Removal shall be within three days after Election Day. The deposit shall be refunded upon the timely removal of the signs and verification of the Enforcement Officer. Signs not so removed at the end of that period shall be removed by order of the Enforcement Officer and the $50.00 security deposit shall be used for such purposes of removal and any excess amount of said deposit shall be forfeited to the Town.

4. A sign (including temporary interior window displays or banner) or its illuminator shall not by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs are not permitted and red, yellow or green colored lights shall not be permitted.
5. No more than two signs shall be allowed for any one business or industrial establishment in the "B" and "I" Districts.
6. No more than two permanent signs shall be allowed for any one premises in the "R" Districts.
7. The limitations as to the number of signs permitted does not apply to directory traffic or directional, or posting of trespassing or warning signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, of any business, industry or residence.
8. The supporting members of any pole sign, projecting sign, or any other sign shall be in acceptable proportion to the size of the sign.
9. No sign shall be erected so as to obstruct any door, window, or fire escape on a building.
10. At the boundary line of the town and within a street right-of-way, a sign not exceeding five square feet in area indicating the meetings of any Marshfield civic organization may be erected only after the granting of a special permit by the Board.
11. If lighting is provided, the source of light shall be shielded as to prevent direct glare from the light source onto any public street or onto adjacent property.
12. In any district one unlighted sign offering premises for sale or lease for each parcel in one ownership shall be permitted provided: it shall not exceed six square feet in surface area; and it shall be set back at least ten (10) feet from the street lot line.
13. In any Residential Class district, one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted provided; it shall not exceed four square feet in surface area; and it shall be set back at least ten (10) feet from the street lot line.

14. In Business and Industrial Districts one unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected shall be permitted provided: it shall not exceed 32 square feet in surface area; and it shall be set back at least ten (10) feet from the street lot line.

15. In the Business, Airport, Office Park and Industrial Zones, Site Plan Approval from the Board of Appeals may include recommendations from the Beautification Committee; the Board shall transmit one copy to the Beautification Committee which shall have thirty days to make recommendations to the Board in regard to the signs.

Section 7.03 Signs Permitted In Any "R" District

1. One Professional nameplate for each medical doctor, dental practitioner, lawyer, engineer, optometrist or home occupation, provided such sign shall not exceed two square feet in surface area.

2. One identification sign for each dwelling unit, provided; such sign shall not exceed two square feet in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall not be used other than for identifying the occupancy.

3. One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility or public utility use, provided; the sign shall not exceed ten square feet in surface area; and if lighted, it shall be illuminated with white light by indirect method only. Such sign shall be set back at least one-half of the required depth of the front yard.

4. One unlighted sign relating to a new residential subdivision during the actual period of construction, provided; it shall not exceed 20 square feet in surface area; and it shall be set back at least ten feet from any street lot line.

Section 7.04 Signs Permitted In Any "B" District

1. Signs permitted in Section 7.03, subject to the same regulations, and business signs. General advertising signs shall be prohibited. Projecting signs not more than ten square feet in area in lieu of a permitted pole sign or standing sign may be permitted by Special Permit from the Board of Appeals. Such permit may be granted under the conditions of Article X, Section 10.10, Special Permits. Upon receipt of such application, the Board shall transmit a copy of such plan to the Beautification Committee which may make recommendations. No recommendation within thirty days shall be deemed approval.

2. One wall sign for each lot street frontage of each establishment, provided, it shall be attached and parallel to the main wall of a building; the surface area of the sign shall not aggregate more than ten percent of the area of the wall on which it is displayed, or 40 square feet, whichever is lesser; and if lighted, it shall be illuminated internally or by indirect method only.

3. One pole sign for each street frontage lot held in single ownership regardless of the number of businesses on that lot; it may be double-faced, but shall not exceed 40 square feet in surface area per side; no portion of it shall be set back less than ten feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalks; and if lighted, it shall be illuminated internally or by indirect method with white light only.

4. One standing sign for each lot street frontage of a business establishment in the highway business district, provided; it shall not exceed 40 square feet in surface area, on any one side; no portion of it shall be set back less than 10 feet from any street lot line; it shall not rise to more than 12 feet from the ground or sidewalk; and it shall be illuminated internally or by indirect method with white or blue light only. Where a single lot is occupied by more than one business whether in the same structure or not, there shall not be more than one standing sign.

5. Businesses or civic institutions located within the area known as Library Plaza within the B-1 zoning district – said area including Assessors Parcels H7-05-07, H7-05-02 – said businesses not having legal frontage on a street but accessible from both Ocean Street and Webster Street, may be permitted to construct a total of two shared signs subject to the following conditions:

    a. One pole sign at the intersection of both Ocean Street and Webster Streets with the primary access road to Library Plaza, with said sign located on Town-owned land and held in ownership by the Town regardless of the number of businesses referenced on the sign; it may be double-faced, but shall not exceed 40 square feet in surface area per side; no portion of it shall be set back less than ten feet from any street lot line; it shall not be erected so that any portion of it is over 12 feet above the ground or sidewalks; and if lighted, it shall be illuminated by indirect method with white light only.

    b. Such permit may be granted under the conditions of Article X, Section 10.10, Special Permits. Upon receipt of such application,

the Board shall transmit a copy of such plan at least to the Planning Board, the Safety Officer and the Beautification Committee, if applicable, which may make recommendations. No recommendation within thirty-five days shall be deemed approval.

c. Any Site Plan Review permit issued for new construction, redevelopment or reuse within Library Plaza shall be conditioned upon approval of an amended sign design reflecting the addition of the new business to the shared sign or signs.

d. The commercial tenant(s) located on Assessors Parcel H7-05-01 may elect to be included on the two signs authorized herein provided that any reference on said sign(s) shall serve as the primary and only signage for said tenant(s) visible from either Ocean Street or Webster Street, and shall disallow, for the duration of the reference to said tenant(s) on the shared sign(s), the presence on any other sign on the parcel's frontage on Ocean Street.

Section 7.05 <u>Signs Permitted in the "I" District</u>

1. Wall signs permitted in Section 7.04, subject to the same regulations.

2. One standing sign for each lot street frontage, provided: it shall be set back at least 15 feet from any street lot line; it shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally or by indirect method with white light only.

3. In the Industrial Zone, a sign or assembly of signs which are similar in size and appearances, and which serve as a directory of occupants, is/are permitted, provided the aggregate area of such sign or signs does not exceed 40 square feet. Not more than one such directory sign may be located at each entrance roadway to the Industrial Zone within 250 feet of the boundary of the zone and not closer than 15 feet to the edge of the roadway. Illumination, if any, will be by indirect white light only.

ARTICLE VIII

OFF-STREET PARKING AND LOADING AND LIGHTING REGULATIONS

Section 8.01 Minimum Off-Street Parking Requirements - After the effective date of this Bylaw, off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use or any change in an existing use in its entirety in accordance with the Table of Off-Street Parking Regulations and the other requirements contained herein.

Table of Off-Street Parking Regulations

Uses	Minimum Number of Off-Street Parking Spaces per Unit
Dwelling, single- and two-family units.	Two per unit.
Lodging house, dormitory, bedroom fraternity, sorority, YMCA, YWCA and similar types of group quarters.	One per rental or sleeping unit. Any or group of two beds in a single room constitutes a sleeping unit.
Theater, restaurant, gymnasium, auditorium, church, or similar place of public assembly with seating facilities	One for each four seats of total eating capacity.
Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor which are unusually extensive in relation to customer traffic.	One per 1,000 sq. ft. of gross floor space. In the case of outdoor display areas, one for each 1,000 sq. ft. of lot area in such use.
Hotel, motel, tourist court	One for each sleeping room, plus one for each 400 sq. ft. of public meeting area and restaurant space.
Other retail, service, finance, insurance, or real estate establishment,	One per each 500 sq. ft. of gross floor space.

medical/dental office building.

Table of Off-Street Parking Regulations (cont)

Uses	Minimum Number of Off-Street Parking Spaces per unit.
Wholesale establishment, warehouse, or storage establishment.	One per each 1,000 sq. ft. of gross floor space.
Manufacturing or industrial establishment	One per each 600 sq. ft. of gross floor space OR 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger.
Hospital	Two per bed at design capacity.
Nursing Home	One per bed at design capacity.
Business, trade or industrial school or college, country clubs.	One per each 200 sq. ft. of gross floor area in classrooms and other teaching stations, plus space for gymnasium or auditorium, whichever has the larger capacity.
Other School	Two per classroom in an elementary and junior high school; four per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger capacity.
Community facility (town building, recreation, etc.)	One per each 400 sq. ft. of gross floor space.
Public utility	One for each 400 sq. ft. of gross floor space devoted to office space. One for each 800 sq. ft. of gross floor area per other use.
Transportation terminal	One for each 600 sq. ft. of gross

establishment; home occupation	floor area.

Table of Off-Street Parking Regulations (cont)

Uses	Minimum Number of Off-Street Parking Spaces per unit.
Any use permitted by this ordinance not determined interpreted to be covered by this schedule .	Closest similar use as shall be by the Building Inspector.

Section 8.02 Minimum Off-Street Loading and Unloading Requirements - For every building hereafter erected for Retail and Service, Wholesale, Transportation and Industrial, and Community Facility use as specified in the Table of Use Regulations and for every such use hereinafter established in an existing building or area, the off-street loading and unloading requirements presented in the Table of Off-Street Loading Regulations shall apply.

Table of Off-Street Loading Regulations

Use	Number of loading spaces per unit
Retail trade, manufacturing and hospital establishment with over 5,000 sq. ft. floor area	One per 20,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 60,000 sq. ft. or fraction thereof of gross floor area over 40,000 sq. ft.; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements.
Business services, other services, community facility (school, church, town building recreation, etc.) or public utility establishment with over 5,000 sq. ft. of gross floor area.	One per 75,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 200,000 sq. ft. or fraction thereof of gross floor area over sq. ft.

Section 8.03 Existing Spaces - Parking or loading spaces being maintained in any district in connection any district in connection with any existing use on the effective date of this Bylaw, or any spaces subsequently provided in accordance with this Bylaw, shall not be decreased or in any way removed from service to the use originally intended to be served so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this Article, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

Section 8.04 Computation of Spaces - When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of one-half or more shall require one space.

Section 8.05 Combined Facilities - Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots subject to approval by the Building Inspector where it is evident that such facilities will continue to be available for the several buildings or uses. Recognizing that parking requirements in the underlying zoning district may hamper development of village-style land use and development, the Board may, by way of special permit, permit the reduction of the parking space requirements to 80 percent of that required in the Table of Off-Street Parking Regulations where uses on adjacent lots generate substantially different peak-hour parking lot use patterns. In determining the appropriate reduction, if any, the Board may give consideration to the hours of usage of the proposed use/structure, hours of usage of other uses/structures within the district, amount of "shared" parking with other uses, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use/structure, as well as other relevant information to assist the Board in determining the need for additional parking for motor vehicles.

Section 8.06 Location and Design of Parking Spaces - Required off-street parking shall be provided on the same lot as the principal use they are required to serve or when practical difficulties as determined by the Board prevent their establishment upon the same lot, they shall be established no further than 300 feet from the premises to which they are appurtenant. The Board may permit parking spaces to be located greater than 300 feet but in no case further than 500 feet from the premises to which they are appurtenant where the applicant provides pedestrian improvements in addition to those required by this Bylaw, including but not limited to benches, lighting, bicycle racks and street trees, to the corridor between the parking spaces and the premises to which they are appurtenant.

1) Parking facilities and appurtenant driveways shall be designed to the extent feasible so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.
2) Pedestrian walkways shall be (i) integrated, to the extent feasible, into the interior and/or perimeter landscaping of parking lots; (ii) constructed with a paved or similarly firm surface, at least five (5) feet in width; and (iii) separated, to the extent feasible, from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.
3) To the extent possible, parking areas within the B-1 zoning district shall be located to the side and rear of the structure, and shall include provisions for the "parking" of bicycles in locations that are safely segregated from

automobile traffic and parking. No parking area shall be designed such that parking is within the required or authorized front yard setback.

4) To the extent possible, parking areas shall be shared with adjacent businesses in common ownership or where a written agreement to share parking exists between adjacent landowners.
5) Parking areas shall include adequate provisions for on-site retention and treatment of stormwater except where the Board determines that the overall site drainage plans are adequate.

Section 8.07 Location of Loading Spaces - The loading spaces required for the uses listed in the Table of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Bylaw.

Section 8.08 Parking and Loading Space Standards - All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

1. The area shall be effectively screened with suitable planting or fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any "R" District.

2. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices. The location of spaces shall be suitably marked by painted lines or other appropriate markings.

3. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks and screening materials.

4. The layout of the parking area shall allow sufficient space for the storage of plowed snow unless removal by some other means is assured.

5. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

6. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.

7. Parking shall not be located within the required front yard area, between the front lot line and the required setback in any district except residential.

8. Parking and loading spaces other than those required for single-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.

9. Parking and loading spaces serving new residential uses shall be surfaced with a durable pavement.

10. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curb line of an intersecting street except where subject to the provisions of Article XI, Section 11.11 in which case the minimum distance shall be 75 feet.

11. Any two driveways leading to or from a street, to or from a single lot, shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.

12. Any entrance or exit driveway shall not exceed 30 feet in width at the property line except for fire stations, in which case the widths may be increased to 40 feet.

13. The Board may, by way of special permit, permit the reduction of the parking space requirements to 80 percent of that required in the Table of Off-Street Parking Regulations where conditions unique to the use will reasonably justify such a reduction.

14. The board may, by way of special permit, permit the reduction of the size of the loading space where such reduced size is consistent with the dimensions of the commercial vehicle serving the premises.

15. The Board may, by way of special permit, permit the reduction of the size of the parking space to no less than 9 feet in width and 18 feet in length, plus 100 square feet of access and maneuvering space, for properties located within the B-1 zoning district where such reduced size allows for increased landscaping.

16. The Board may, by way of special permit, permit the reduction of the parking space requirements to 80 percent of that required in the Table of Off-Street Parking Regulations where there is adequate capacity to meet the standards set forth in the Table of Off-Street Parking Regulations within a Town-owned parking lot within 500 feet of the premises to which they are appurtenant.

Section 8.09 General Exterior Lighting Design Standards

1. The provisions of this bylaw shall apply to business and industrial uses only. The luminaries should be the shoe box type or decorative in nature (with interior directional shielded), consistent with the architectural theme of the development.

2. Flood and area lighting is unacceptable. All luminaries shall have a total cutoff of all light at less than ninety (90) degrees from vertical.

3. Reflectors of proper distribution shall be selected for maximum efficiency. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.

4. The light fixture shall not exceed 20'-0" in height. Light fixtures utilized for walkway lighting shall not exceed 12'-0" in height.

5. Where wall pack type luminaries are utilized for outdoor lighting fixtures, the fixture shall be equipped with a prismatic lens to reduce glare. Wall pack lighting should be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of wall pack luminaries shall not exceed 20'-0" in height.

6. The following footcandle levels shall be adhered to:
   a. The maximum horizontal footcandle level (initial) as measured directly below the luminaries at grade ... 8.0 Fc

   b. The minimum horizontal footcandle level (maintained) measured at the point of least illumination of grades ... 1.0 Fc

ARTICLE IX

NONCONFORMING USES, STRUCTURES, AND LOTS

Section 9.01 — Nonconformity by Initial Enactment or Amendment - The provisions of this Article apply to nonconforming uses, structures, and lots as created by the initial enactment of this Bylaw or by any subsequent amendment.

Section 9.02 — Extension and Alteration

1. Except where used primarily for agriculture, including marine agriculture and the catching and taking of marine flora and fauna and the seeding of catchment area, horticulture or floriculture, any nonconforming use of any structure or of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be altered or extended except in accordance with this Article IX.

2. Certain nonconforming principal or accessory uses or structures may be extended or altered by Special Permit from the Board of Appeals in accordance with the procedures established by Article X.

3. Any nonconforming one or two family residential structure may be altered, extended, or reconstructed and the use extended throughout the extended, altered, or reconstructed portion provided that any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located. Nonconforming structures may be altered or relocated on the same lot if it makes the altered or relocated structure more conforming with respect to the current building and yard regulations.

4. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

Section 9.03 — Residential Lot of Record - Any lot lawfully laid out by deed duly recorded, or any lot shown on a recorded plan endorsed by the Planning Board pursuant to Section 81P or 81U of M.G.L. C. 41, which complies at the time of such recording with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaws then in effect, may be built upon for residential use provided it has a minimum area of 5,000 square feet with frontage of at least 50 feet and is otherwise in accordance with the provisions of Section 6 of the Zoning Enabling Act.

Section 9.04 — Reduction or Increase

1. Any nonconforming lot or open space on the lot if already smaller or greater, as the case may be, than that required shall not be further reduced or increased so as to be in greater nonconformity.

2. No building area or floor area where already nonconforming shall be increased so as to be in greater nonconformity.

Section 9.05 Change

1. Any nonconforming use of a structure may be changed to another nonconforming use, provided: the changed use is not a substantially different use, determined by the Building Inspector.

2. Any nonconforming use which has been once changed to a permitted use shall not again be changed to a nonconforming use.

3. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

Section 9.06 Restoration

1. Any nonconforming structure or any structure occupied by a nonconforming use, which is totally destroyed by fire or other natural cause, may be rebuilt on its original foundation according to original floor area limitations, and used for its original use. Otherwise, it shall not be rebuilt, except in accordance with the use, dimensional, and density regulations of this Bylaw. Historical buildings may be exempt by special exception of the Board.

2. Any nonconforming structure or any structure occupied by a nonconforming use, which is damaged by fire or other natural cause, may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original use or a conforming use.

3. Restoration under this section shall be completed within two years of the fire or natural disaster.

4. This time frame may be extended by one year in the case of natural disasters when the Building Inspector makes a finding that the property owner has made a good faith effort to complete reconstruction within the said two year period. The provisions of this amendment shall be effective as of August 1, 1991.

Section 9.07 Abandonment - Any nonconforming use of a structure or lot which has been abandoned for a continuous period of two years or more shall not be used again except for conforming use. For agricultural, horticultural, or floricultural uses, the abandonment period shall be five years. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of 90 consecutive days. The abandonment of the use of a lot where such use was

for removal of soil, loam, sand, gravel, quarry or other earth materials, shall be governed by Section 11.02.

Section 9.08 Moving - Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of the structure, the use thereof, and the lot shall be conforming. Nonconforming historical structures may be moved by special exception of the Board.

Section 9.09 Unsafe Structure - Any structure determined to be unsafe and not subject to Section 9.06, may be restored to a safe condition provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, except for historic buildings if the cost to restore any structure shall exceed 50 percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

Section 9.10 Nonconforming Signs - Any sign which is nonconforming at the date of adoption of this bylaw by reason of its size, type, or lighting shall be altered so as to become conforming within five years of the date of adoption of this Bylaw or shall be removed within five years.

(Article IX Nonconforming Uses, Structures and Lots Section 902.3 amended April 2007 ATM)

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

Section 10.01 Administrative Official - It shall be the duty of the Inspector of Buildings to administer and enforce the provisions of this Bylaw. If the Inspector of Buildings receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Inspector of Buildings shall notify in writing the party requesting action of his refusal to act and the reasons therefore within 14 days of receipt of such request.

Section 10.02 Permit Required - Except for the erection of a structure enclosing an area of 64 square feet or less and except for the erection of signs of less than two square feet in surface area identifying occupancy of a residence, it shall be unlawful for any person to: (a) erect, construct, reconstruct, or alter a structure, or (b) change the use or lot coverage, increase the intensity of use, or extend or displace the use, of any building, structure, or lot, without applying for and receiving from the Building Inspector a building permit. It shall also be unlawful for any person to attach, erect, or otherwise install any sign without applying for and receiving from the Building Inspector a sign permit.

Section 10.03 Previously Approved Permit - The status of previously approved permits shall be as determined by "The Zoning Act."

Section 10.04 Certificate of Occupancy Required - It shall be unlawful to occupy any structure or lot for which a building permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy specifying thereon the use to which the structure or lot may be put. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning Bylaw and the Building Code in effect at the time of issuance. No such certificate shall be issued unless the building and its accessory uses and the uses of all premises are in conformity with the provisions of this Bylaw and of the Building Code at the time of issuance. A certificate of occupancy shall be conditional on the provision of adequate parking space and other facilities as required by this Bylaw and shall lapse if such areas and facilities are used for other purposes.

A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this By-Law:

1. Occupancy and use of a building hereafter erected or structurally altered.

2. Change in use of an existing building or the use of land to a use of a different classification.

Certificates of occupancy shall be applied for coincidentally with the application for a building permit, and shall be acted upon within ten days after receipt by the Building Inspector of approved inspection Certificates and/or provisions of all governmental bodies so lawfully designated as required by the applicable laws, by-laws, and codes. Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than ten days after issuance.

Section 10.05 Permit and Certificate Fees - Fees shall be as established by the Selectmen.

Section 10.06 Permit Time Limits - Any work for which a permit has been issued by the Building Inspector shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Inspector.

Section 10.07 Violations - The Building and Zoning Inspector shall serve a notice of VIOLATION AND ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

Section 10.08 Prosecution of Violation - If the notice of VIOLATION AND ORDER is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this Bylaw shall for each violation, upon conviction thereof, pay a fine of not more than one hundred dollars ($100). Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense. Penalties for violations in connection with the removal of soil, loam, sand, gravel, quarry, or other earth materials shall be as set forth in the Earth Removal Bylaw.

Section 10.09 Board of Appeals

1. Membership: There shall be a Board of Appeals of five members and two associate members.

2. Appointment: Members of the Board in office at the effective date of this Bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.

3. Powers: The Board shall have those powers granted under the Zoning Act.

4. Adoption of Rules: The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act.

5. Whenever a plan is required to be submitted under any provision of this Bylaw, for good cause shown, the board may waive the submission, or modify the requirements, of such plans, according to their judgment. Provided however that the Board shall not waive such submission if any other town official or agency required or requested to pass on such plan objects to such waiver.

   All plans required to be submitted to the Board of Appeals shall be drawn to the largest practicable scale which in no case shall be smaller than 1"=40'. They shall contain a locus map, shall show sufficient contour information to enable the Board to determine drainage flow, and shall contain all engineering information necessary for any proposed construction. All elevations provided must be relative to mean sea level as determined by the U.S. Geological Survey.

6. Appeals: Any appeal to the Board shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal specifying the grounds thereof with the Town Clerk who shall transmit copies to the Officer whose decision is being appealed and the permit granting authority. No appeal, application or petition to the Board of Appeals with respect to a particular parcel of land or with respect to any structure which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years after the date of such unfavorable action, except in accordance with M.G.L. Chapter 40A, Section 16.

Section 10.10 Special Permits - Certain uses, structures or conditions are designated as allowed by special permit in Article V, Table of Use Regulations, and elsewhere in this Bylaw. Upon written application duly made to the Board, the Board may, in appropriate cases subject to the applicable conditions set forth in Articles XI and XII of this Bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures and conditions. When site plan approval is required, the granting authority shall be the Zoning Board of Appeals except in the Planned Mixed-Use District where a special permit is also required and that special permit granting authority is the

Planning Board. In that case, the special permit granting authority for the site plan approval shall be the Planning Board.

1. Before granting an application for a special permit, the Board with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

    a. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this Bylaw.

    b. The requested use is essential or desirable to the public convenience or welfare.

    c. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

    d. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

    e. Any special regulations for the use, set forth in Article XI, are fulfilled.

    f. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.

2. The Board shall also impose in addition to any applicable conditions specified in this Bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this Bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

3. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan shall be submitted, in quadruplicate to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

   The Board shall within ten days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.

   The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.

4. The Special Permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. And provided further that such construction once begun shall be actively and continuously pursued to completion within a reasonable time.

5. The Board shall hold a public hearing within 65 days after the filing by the applicant of the appropriate forms and plans with the Town Clerk who shall forthwith transmit said application to the Board. They shall act within 90 days of the hearing on the petition; failure to do so shall be deemed approval.

6. The Planning Board may appoint an Associate Member. The term of office of such Associate Member shall be two years. The Chairman of the Planning Board may designate the Associate Member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any members of the Planning Board or in the event of a vacancy on the Board.

Section 10.11 <u>Variances</u> - The Board may authorize a variance for a particular use of a parcel of land or to an existing building thereon from the terms of this Bylaw where, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such parcel of such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the applicant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. The Board may impose conditions, safeguards and limitations both of time and of use, including the

continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance they shall lapse, and may be reestablished only after notice and a new hearing pursuant to this section.

Before any variance is granted, the Board must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.

2. Strict application of the provisions of this Bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Bylaw.

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Bylaw.

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

Section 10.12 <u>Permits for Extension or Alterations of Nonconforming Uses or Nonconforming Structures</u> - Upon written application, duly made to the Board and subsequent public hearing duly advertised by the Board, the Board may, in appropriate cases, subject to the applicable conditions set forth in Articles XI, XII, XIII, and XV of this Bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for an extension or alteration of a nonconforming use or structure. The Board may, subject to the same conditions, grant a special permit for expansion of parking and other accessory uses appropriate to said nonconforming use or structure or expanded nonconforming use or structure.

1. Before granting a special permit for extension or alteration of such nonconforming use or structure the Board with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

a. The use requested for extension or alteration is listed in the Table of Use Regulations as permitted, or permitted by Special Permit, in at least one district within the Town.

b. The requested extension or alteration of the use or structure is essential or desirable to the public convenience or welfare.

c. The requested extension or alteration of the use or structure will not further create undue traffic congestion or unduly impair pedestrian safety.

d. The requested extension or alteration of the use or structure will not further overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.

e. Any special regulations for the use or structure as set forth in Article XII are fulfilled.

f. The requested extension or alteration of the use or structure will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.

g. The requested extension or alteration of the use or structure will not bring the use or structure into violation of, or further violation of, the regulations set forth in Article IV, Table of Dimensional and Density Regulations, unless a variance is also granted subject to the provisions of Section 10.11 of this Bylaw.

h. The extended or altered use or structure will not be substantially different in character.

i. The extended or altered use or structure will not be more detrimental or objectionable to the neighborhood.

j. The extended or altered use or structure does not cause violation or further violation of Article VIII of this Bylaw.

2. The Board shall also impose in addition to any applicable conditions specified in this Bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purpose of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board;

modification of the exterior appearances of the structures; limitation upon the size, number of occupants, method of time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by the Bylaw. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.

3. In order that the Board may determine that the above mentioned restrictions are to be met, a site plan prepared by a registered land surveyor or registered professional civil engineer shall be submitted with six (6) copies to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and to other open uses, all facilities for sewage, refuse, and other waste disposal, wetlands, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

   The Board shall within ten days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.

   The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.

ARTICLE XI

SPECIAL PERMIT CONDITIONS

Section 11.01 Special Conditions - In addition to the general conditions set forth in Section 10.10 of this Bylaw for all special permits the following special conditions shall apply to the following uses in this article listed as special permits in various districts in the Table of Use Regulations.

Section 11.02 Removal of Soil, Loam, Sand, Gravel, Quarry or Other Earth Materials
NOW GENERAL BYLAW: ARTICLE TWENTY - Earth Removal

Section 11.03 Filling of Land or Water Area - For the filling of any land or water area where such filling is not covered by Article XIII of this Bylaw, where such filling in requires an amount of fill equivalent to 500 cubic yards or more; or where the area to be filled in exceeds 10,000 square feet, a permit must be issued by the permit granting authority prior to initiation of site work. Where said filling is proposed within a project subject to review by the Zoning Board of Appeals and/or the Planning Board, the reviewing Board shall serve as the permit granting authority under this Bylaw. Where a proposed project must receive permits from both Boards, or where the work does not require additional permits, the Zoning Board of Appeals shall serve as the permit granting authority. The following conditions apply to any filling authorized under this Bylaw shall except for the construction of a new subsurface disposal system or repair and/or alteration of an existing subsurface disposal system: (Such conditions shall include, where applicable, prior approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Highway Department under Chapters 130 and 131 of the General Laws.)

1. Submission of a location plan at a scale of 1"=1,000' showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie-in to the nearest road intersection.

2. Submission of a site plan to a minimum scale of 1"=40' of the lot and surrounding area within 100 feet showing in addition to number one above, existing and proposed contour lines at intervals of not more than two feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered land surveyor.

3. Provision for temporary and permanent drainage of the site.

4. Limitation of fill to terrace fills which are not to exceed ten feet at any one time nor be within ten feet of an adjacent lot line or any cut.

5. Regrading of all parts of the slopes resulting from such fill.

6. Replacement of at least four inches of topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

7. Submission of plan for lighting, if night operation is contemplated.

8. Where any fill will have a depth of ten feet or more and create a slope of more than one foot in two feet, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates. Such fence shall be located ten feet or more from the edge of the fill.

9. In granting a permit hereunder, the reviewing authority shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town which may include conditions as to the overall operation and as relating to the submitted items above.

10. Where filling proposed under this Bylaw is proposed within a project subject to review by the Zoning Board of Appeals and/or the Planning Board, the reviewing authority shall conduct a public hearing to consider the application for filling concurrent with the hearing to consider the project itself.

Section 11.04 <u>Open Space Residential Development</u>

1. <u>Purposes</u> - The purpose of the Bylaw is to: allow for flexibility and creativity in the design of residential developments; encourage preservation of scenic vistas, natural resources and existing and potential municipal water supplies; facilitate construction and maintenance of streets, utilities and public services in a more economical and efficient manner; encourage a less sprawling form of development that consumes less open land and conforms to existing topography and natural features better than a standard subdivision; preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails; encourage provision of diverse housing opportunities and integration of a variety of housing types; and further the goals and policies of the Town's comprehensive plan.

2. <u>Definition</u> - Open Space Residential Development (OSRD): A single family detached residential development in which the buildings are clustered together with reduced lot sizes and frontage. The land not included in building lots is permanently preserved as open space as defined herein. OSRD is the preferred form of residential development and/or redevelopment in the Town of Marshfield for residential developments of five (5) or more lots.

3. <u>Applicability</u> - The Planning Board may grant a special permit for an OSRD for any parcel or contiguous parcels of at least five (5) acres in any district

permitting single family residences subject to the regulations and conditions herein.

4. Procedural Requirements

Rules and Regulations: The Planning Board shall adopt Rules and Regulations consistent with the provisions of this bylaw and shall file them with the Town Clerk. Such rules shall address the size, content, and number of copies of Preliminary and Definitive plans and other submittals and the procedure for the review of special permits.

Density/Number of Dwelling Units: The number of dwelling units permitted shall not exceed that which would be permitted under a conventional subdivision that complies with the Marshfield Zoning Bylaws and the Subdivision Rules and Regulations of the Planning Board and other applicable laws and regulations of the Town or the state. The total number of dwelling units shall be determined by the following formula:

[Total area of land subject to the application] – [Area of wetlands/waterbodies] = Applicable Land Area.

[Applicable Land Area] x [.90] Divided by Minimum Lot Area = Total number of dwelling units.

A preliminary subdivision plan may be submitted to assist in demonstrating the allowable number of units. If the parcel lies in more than one zoning district, the total for each district shall be calculated separately.

Review and Decision: The Planning Board shall act on applications according to the procedure specified in MGL Chapter 40A, Section 9 with the exception that a decision shall be rendered within the timeframe for Definitive Subdivision Plans specified in Chapter 41, Section 81U whenever this timeframe is shorter. Public hearings for the subdivision application and the special permit application shall be held concurrently.

Criteria for Special Permit Decision:

a. Findings: The Planning Board may approve the development upon finding that it complies with the purposes and standards of the OSRD Bylaw and is at least equivalent to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The Planning Board shall consider the following criteria in making its decision:

   i) Upland open space as required by this Bylaw has been provided and generally conforms with Subsection 8 of this Bylaw.
   ii) Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on

open space areas and to provide views of and access to the open space for the lots.

iii) Lots meet the applicable dimensional requirements of Subsection 5 of the OSRD Bylaw and the Marshfield Zoning Bylaws.

The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the Bylaw.

b. Time Limit: Special Permits are granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.

c. Relationship to Subdivision Control Law: Nothing contained herein shall exempt a subdivision from compliance with other applicable provisions of these Bylaws or the Marshfield Subdivision Rules and Regulations, nor shall it affect the right of the Board of Health and Planning Board to approve, condition or disapprove a plan in accordance with the provisions of such Rules and Regulations and the Subdivision Control Law.

5. Standards and Dimensional Requirements - Where the requirements of this section differ from or conflict with the requirements in the Table of Density and Dimensional Standards found elsewhere in this bylaw, the requirements of this section shall prevail for OSRD developments.

Minimum Lot Size: One half the square footage otherwise required by the Zoning District in which the project is located or 15,000 square feet, whichever is less.

Minimum Frontage: The minimum frontage may be reduced from the frontage otherwise required in the Zoning District; provided however that no lot shall have less than 75' of frontage and provided further that such frontage reduction shall apply only to lots fronting on proposed internal roadways.

Lot Shape: All building lots must be able to contain a circle of a minimum diameter of 75' from the front lot line to the rear building line.

Setbacks: The Planning Board may permit a reduction by up to one-half of the setbacks otherwise listed in the Table of Dimensional Regulations in this Bylaw, if the Board finds that such reduction will result in better design, improved protection of natural and scenic resources and will otherwise comply with the Bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15' from the roadway right-of-way, and a minimum of 30' from the outer perimeter of the land subject to the application. This 30' setback shall be maintained in a naturally vegetated state to screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged.

Required Open Space: All land area not utilized for lots, roads, and drainage shall be set aside as permanent open space. A minimum of 50% of the upland area of the parcel ("applicable land area") shall be provided as open space. Applicants are encouraged to include wetlands and waterbodies within the open space; however, they do not count toward the open space requirement. Roadway layouts do not count toward the open space requirement.

6. Permissible Uses of Open Space

6.1 Purposes: Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents of the OSRD development and/or the public. Where appropriate, multiple use of open space is encouraged. At least half of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas. The Board may approve or disapprove the proposed uses.

6.2 Recreation Lands: Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) be of a shape, slope, location and condition to provide an informal field for recreation or community gardens for the residents of the subdivision.

6.3 Leaching Facilities: Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands, or waterbodies, and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be permanently maintained by the lot owners. Where a parcel straddles the boundary of the Water Resource Protection District, leaching facilities shall be located outside of the District to the maximum extent feasible.

6.4 Accessory Structures: Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking. With this exception, no other impervious areas may be included within the open space.

7. Ownership of Open Space

7.1 Ownership Options: At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be:

a. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use;

b. Conveyed to a non-profit organization, the purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Subsection 7.2 below. Such organization shall be acceptable to the Town as a bona fide conservation organization; or

c. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development ("homeowners association") and placed under conservation restriction as specified in Subsection 7.2 below. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other common facilities until such time as the association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining these areas. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

7.2 Permanent Restriction: In any case, where open space is not conveyed to the Town, a permanent conservation, agricultural or historical preservation restriction approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the endorsed definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained with good conservation practices.

7.3 Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

7.4 Maintenance of Open Space: In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town

shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lots to ensure payment of such maintenance expenses.

7.5 Monumentation: Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.

8. Design Requirements - The location of open space provided through this bylaw shall be consistent with the policies contained in the Marshfield Comprehensive Plan and the Marshfield Open Space and Recreation Plan. The following design requirements shall apply to open space and lots provided through this bylaw:

a. Open space shall be planned as large, contiguous areas whenever possible. Long this strips or narrow areas of open space (less than 100' wide) shall occur only when necessary for access, as vegetated buffers along wetlands, or as connections between open space areas.

b. Open space shall be arranged to protect valuable natural and cultural areas such as stream valleys, wetland buffers, forestland and significant trees, wildlife habitat, open fields, scenic views, trails and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized.

c. Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by foot trails.

d. Where the proposed development abuts or includes a body of water or a wetland, these areas and a minimum 50' buffer to such areas should be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.

e. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.

f. Open space shall be provided with adequate access, by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development.

g. Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections shall be provided where appropriate.

Section 11.05 Planned Mixed-Use Development – This section of the Zoning Bylaw is to allow a Planned Mixed-Use Development (PMUD) overlay district within a portion of the Industrial District as shown on the Zoning Map.

1. Purpose: The purpose of this planned mixed-use development section is as follows:

- To provide an opportunity to comprehensively plan large tract**s** of land in a pedestrian friendly, campus-like setting, around a public green.
- To ensure high quality site planning, architecture and landscape design to create a distinct visual character and identity for the development that provides the town with a mixed-use environment with convenience and amenities.
- To ensure any potential traffic impacts of the planned mixed-use development are properly mitigated and in keeping with the character of the Town of Marshfield.
- To generate positive tax revenue, while providing the opportunity for new business growth and additional local jobs.

2. Process: The applicant files a Special Permit Application with the Planning Board serving as the Special Permit Granting Authority (SPGA), for an element (or combination of elements) within the Plan Mixed-Used District. A new element is a tract in single or consolidated ownership at the time of application and shall be a minimum of seven (7) acres in size and contain at least 150 feet of frontage. An element can be planned for and developed in phases. Existing elements shall not require a minimum tract size. An element may be a single use or group of uses and may be broken into phases. Each element shall contain or provide for the overall road network, roadway drainage, a public green, park, and/or playground, bike and pedestrian ways, lots and proposed uses. A proposed element may, with the written approval of the Planning Board based on an express finding that off-site public improvements are in the public interest, provide financial support to off-site public improvements in lieu of on-site improvements as part of the application. When site plan approval is required for the proposed uses in the PMUD, the Site Plan Approval Authority shall be the Planning Board.

3. Applicability and Uses:
In addition to the uses allowed in the I-1 zone that are not specifically prohibited in the PMUD, the following uses may be allowed by special permit: Retail and Service; Eating and drinking places; Banks; Membership club; Hotel; Educational

campus; Medical facility or Offices, General offices; Research facilities; Other amusement / recreation service; Mixed-use buildings with commercial on first floor and residential units above with a base density of 6 units per acre (subject to affordability requirements under Section 11.05.6 below); Age Restricted Adult Village residential units with a base density of 4 units per acre (subject to affordability requirements under Section 11.05.6 below); Attached Nursing, rest or convalescent home not to exceed 24 beds per acre.

4. Required Performance Standards:

4.1 Uses shall be grouped together to maximize pedestrian access by connecting sidewalks and pathways. Buildings, when abutting a public green, shall be oriented around a public green and not Route 139 (Plain Street).

4.2 Access to Route 139 (Plain Street) from a proposed development or elements within the PMUD shall be through a secondary street as defined in the Planning Board Subdivision Rules and Regulations at a signalized intersection.

4.3 Maximum percentage of land area allowed by use within the Planned Mixed-Use Development overlay district.

Use	Maximum percentage allowed within the PMUD	Maximum in acres allowed within the PMUD
Major Retail and Service (including Grocery Store)	8%	17.3
Retail and Service Mixed-use (including but not limited to residential units above)	22% or a maximum of 75 residential units above whichever is more restrictive	48
Office/ Research/ Medical	35%	75.6
Age-Restricted Adult Village	5%	10.8
Nursing Home/ Assisted Living	10%	21.6
Hotel/ Motel (with conference center)	5%	10.8
Educational Campus (including residential units above)	5%	10.8
Profit Recreation	10%	21.6
Total	100%	216.5 Acres

4.4 Development of the future elements within the PMUD shall be required to balance commercial and other non-residential developments with residential elements. Future elements that are all residential (Age-Restricted Adult Village) shall be preceded by a minimum of 10,000 sq. ft. of commercial development.

4.5 The base number of dwelling units in the PMUD shall be determined by the following formula:

Total area of land subject to the application minus (-) wetlands/water-bodies multiplied (*) by applicable base density add (+) affordable housing and density bonus (see Section 11.05.6) equals (=) Total number of dwelling units.

4.6 Mixed-use residential units within the PMUD shall provide a minimum of 1.25 parking spaces for each bedroom. Age Restriction Adult Village/Attached residential units within the PMUD shall provide a minimum of two parking spaces per unit. Enclosed or covered parking may be allowed as an accessory use in the rear of the first floor of a Mixed-use building.

4.7 The majority of the parking shall be located to the rear or sides of buildings. All parking and loading areas shall be completely screened from Route 139 (Plain Street) by a minimum 50-foot wide raised and landscaped buffer. Parking lots and loading areas shall be appropriately screened from roadways within the overlay district by a minimum 20-foot wide raised and landscaped buffer. Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.

4.8 Reduction in parking space requirements may be permitted by written request in the application as part of the granting of the special permit where by design and use it is shown to the Planning Board's satisfaction that the parking is compatibly shared by multiple uses. However, in no case shall a parking requirement reduction exceed twenty (20) percent of those parking spaces required under normal application of requirements for the non-residential uses proposed.

4.9 Individual retail establishments shall be limited to a maximum gross floor area of 55,000 square feet. An individual retail establishment may be increased to 65,000 square feet where the Planning Board finds that individual sections of the retail establishment front a public green with access and windows or where the additional space is used as small retail uses lining the wall facing the public green of the large retail establishment.

4.10 All elements that create mixed-use residential or attached residential units are required to provide affordable housing in compliance with Section 11.05.6. All affordable housing created by this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements of the Massachusetts Department of Housing and Community Development LIP Program. Affordable housing units will count toward the Town's Subsidized Housing Inventory, in accordance with M.G.L. CH. 40B.

4.11 All residential development which occurs as a result of this Bylaw shall meet the Affordable housing requirements and shall be entitled to a Density Bonus as follows: The number of Affordable units and Density Bonus units shall equal the number of base density units multiplied by twenty-five (25 %) percent and rounded up to the next even number divided by two. (Example: A base density of 9 units will result in 9 base density units plus 4 units (.25 x 9 units = 2.25 units rounded up to 4 units, 2 Affordable units and 2 Density Bonus units) or 13 units in total. A base density of 31 units will result in 31 base density units plus 8 units (.25 x 31 units = 7.5 units rounded up to 8 units, 4 Affordable units and 4 Density Bonus units) or 39 total units.

4.12 The development site design shall be integrated into the existing terrain and surrounding landscape to provide the least amount of site disturbance, and shall be designed, including with appropriate noise, light and open space buffering and screening to protect abutting properties, neighborhood and community amenities. Building sites shall, to the extent deemed feasible by the Planning Board;

a. Preserve unique natural or historical features.
b. Minimize grade changes, removal of trees, vegetation and soil.
c. Maximize buffers to wetlands and water bodies.
d. Screen objectionable features from neighboring properties and

roadways.

4.13 All elements of the PMUD shall provide for access on roads and driveways that in the opinion of the Planning Board have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the proposed development. The development shall maximize the convenience and safety of vehicular, bike and pedestrian movement within the site and in relation to adjacent ways through proper layout, location and design.

4.14 All dead end roads and driveways shall terminate in a cul-de-sac or provide if approved by the Planning Board as part of the special permit, other accommodations for vehicles to reverse direction when it is deemed in the public interest to do so. Turn around areas shall be designed to accommodate the largest emergency vehicles of the Town of Marshfield. Dead end streets and connecting driveways shall not exceed 800' in length, measured from the intersection of the road that provides access.

4.15 The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves. Plans shall provide information and elevations to show massing of buildings, height and spacing between buildings. Plans shall provide a table with properties, entity, use, area (in acres) and area (in percentage) for both the proposed element and total for the overlay district.

4.16 Architectural details, including elevation plans of all sides, shall be submitted of new buildings and additions, and textures of walls and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.

4.17 The building's location shall be oriented parallel or perpendicular to the public green(s) and/or street. Where the minimum setback cannot be maintained, the applicant shall provide adequate spatial definitions through the use of walls, fences and/or other elements, which will maintain the street line.

4.18 The buildings' main entrance may be placed to the side of the front facade to facilitate access to parking.

4.19 Mixed-use and residential building façades in excess of forty (40) feet shall incorporate recesses and projections, of a minimum of two (2) feet in depth or otherwise be designed, to break up the building's mass and scale.

4.20 A minimum of 60% of the building's public green(s) and/or street side façade shall contain windows and other appropriate architectural elements, excluding the façade facing Route 139 (Plain Street) where the landscaped buffer is determined by the Planning Board to be adequate. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building façade; metal awnings are discouraged.

4.21 All utility connections to buildings and structures shall be located underground.

4.22 All building rooftop utilities such as air conditioners shall be appropriately screened from public view and from the view of abutting properties.

4.23 All ground mounted utilities such as transformers, switching units, and ventilation pipes shall be appropriately screened from view.

4.24 All loading docks and service entrances where equipment, furniture, goods and materials are loaded into buildings shall be appropriately screened from view.

4.25 All dumpsters and other waste refuse containers shall be covered and appropriately fenced and screened from view. Collection times for dumpsters and other waste refuse containers located in the Mixed-use and residential parcels of the PMUD overlay district shall be scheduled for normal daytime (7AM to 5 PM) residential collection hours.

4.26 Individual special permit applications shall comply with Section 11.10 (Traffic Impact Study).

4.27 The large retail establishment shall either provide an entrance to the public green or it should be designed so that the façade facing the public green is lined with accessory shops or uses to enhance pedestrian activities.

4.28 A public green, playground, recreation field or other recreational amenities (trails/paths/bikeways) shall be required for each element of development within the PMUD. The public green(s) shall be a minimum of one-half (½)

acre in size per every seven (7) acres within an element and shall be designed as a bike and pedestrian friendly park. The public green(s) shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. Each green shall be used solely for active and passive recreation purposes and shall be open to the public. The total acreage of the green in each element may be used toward the land area calculations to determine allowable density within that element. The Planning Board may allow for an off-site location for the public green, playground, recreation field or other recreational improvement if determined to be in the best interest of Town. The public green, playground, recreation field or other recreational improvement requirement may (with Planning Board's approval) be met by adding to an existing public green, playground or recreation field or facility.

4.29 Setbacks for the overlay district shall be as follows:

Minimum Yards	
Building setbacks	Minimum (ft.)
Public Green (where applicable)	5
Front	20
Front (Mixed-use)	5
Side	10
Rear	30

4.30 Front setbacks for buildings facing the public green(s) may vary. All other standards for I-1 zoning districts contained in the Sec. 6.10 Table of Dimensional and Density Regulations shall apply.

4.31 In cases where the proposed traffic mitigation is deemed by the Planning Board to be out of character for the town, the applicant may propose additional open space from within the PMUD district or adjacent districts, or may donate an amount equal to the cost of the proposed mitigation to the Town for the purpose of open space acquisition. Where permanently protected open space is provided in lieu of traffic mitigation, said open space shall be at least equal in area to the total acreage of land of said proposed use.

5. Ownership of Public Green

5.1 Subject to approval by the Planning Board, all areas designated as public greens shall be either placed under a permanent conservation restriction or deeded to the Town as a condition of special permit and site plan approval. If placed under a conservation restriction, said restriction shall be in a form approved by Town Counsel and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, that shall be recorded to ensure that such land shall be kept in an open state. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court with the issuance of the building permit.

5.2 Maintenance of Public Green: The Town shall be granted an easement over such public green sufficient to ensure its perpetual maintenance as recreation land. Such easement shall provide that in the event the owner fails to maintain the public green in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the undeveloped lots within the corresponding phase of the PMUD to ensure payment of such maintenance expenses.

5.3 Monumentation: Where the boundaries of the public green are not readily observable in the field, the Planning Board shall require placement of permanent surveyed bounds sufficient to identify the location of the public green.

6. Affordable Housing Provisions

6.1 The requirement for Affordable units shall be met by one or a combination of the following methods:

A. On-Site Development: Constructed or rehabilitated on the locus subject to the special permit; (Preferred) or

B. Fees-in-Lieu of Construction: The applicant may offer, and the Planning Board, upon receiving a favorable recommendation from the Housing Partnership, may approve fees-in-lieu-of construction of Affordable housing units as satisfying the requirements of Sub-Section 4.0 above. The applicant shall make the payment of the fee-in-lieu of construction to the Marshfield Housing Authority for the sole purpose of creating affordable housing units in the Town of Marshfield that meet the state's LIP and adds to the town's subsidized Housing inventory as determined by the Housing Partnership. Fees-in-lieu of construction are more fully addressed below.

The applicant may offer, and the Planning Board may accept, a combination of the On-Site and Fees-in Lieu of construction; provided that in no event shall the total number of Affordable units provided on site and the number of Affordable units for which a fee-in-lieu of construction is paid be less than the equivalent number or value of Affordable units required for the applicable development by this Bylaw. Note: If affordable units are for rent, the provisions below Fees- in Lieu of construction are not applicable.

6.2 Provisions of Affordable Housing Units On-Site:

A. Location of Affordable Units: All Affordable units shall be situated within and dispersed throughout the development so as not to be in less desirable locations than market-rate units in the development and shall,

on average, be no less accessible to public amenities, such as open space, than the market-rate units.

B. Minimum Design and Construction Standards for Affordable Units: Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be identical to the market-rate units in size, design, appearance, construction, building systems such as HVAC, electrical and plumbing, and quality and types of materials used in all interior space including bedrooms, kitchen, bathrooms, living rooms, studies, hallways, closets, garages and basements and provided with identical amenities and appliances such as, but not limited to, decks, central vacuum cleaning systems, stoves, refrigerators, compactors, disposals, dishwashers and landscape fencing, walls and plantings unless otherwise approved in the special permit by the Planning Board. No changes to these standards may be made by the Planning Board without the approval of the Housing Partnership.

C. Marketing Plan for Affordable Units: Applicants shall submit a marketing plan which describes the number of Affordable housing units, their approximate sales price or rent level, the means for selecting buyers or tenants of the Affordable units, how the applicant will accommodate Local Preference requirements and the method of affirmatively marketing the Affordable units (including the marketing of such units) to minority households, in a manner that complies with the LIP Guidelines. This requirement is further addressed in Section 11.14.9 of this Bylaw.

D. The marketing plan shall be developed by the applicant with the assistance of the Lottery Agent and submitted to the Housing Partnership. The Housing Partnership shall review the marketing plan to determine its appropriateness in addressing the Affordable housing needs within the community and its compliance with applicable federal and state statutes and regulations, the LIP Guidelines and this Bylaw. The Housing Partnership may require modifications of the marketing plan or, if it determines the plan to be satisfactory, may forward it to DHCD with a favorable recommendation. Following the approval of the marketing plan by DHCD, the Housing Partnership shall notify the Planning Board and the Lottery Agent. The special permit and building permits may be granted prior to receiving DHCD approval so as to facilitate the construction of the development; however, occupancy permits, whether for Affordable or market-rate units, shall not be issued until such time as the Marketing Plan has been approved by DHCD.

E. Applicants shall comply with the requirements of the Lottery Agent and certify their acceptance and willingness to comply with the lottery process or other requirements of the Lottery Agent for the selection of qualified housing buyers or renters for the Affordable units. The lottery system and requirements are further addressed in Section 11.14.9 of this Bylaw. Applicants may use a lottery agent from a list of DHCD approved lottery agents or may use the Marshfield Housing Authority as its lottery

agent. The recommended lottery agent shall be approved by the Housing Partnership.

6.3. Provision for Fees-in-Lieu-of Construction of Affordable Housing Units

A. Fees-in-Lieu of Construction of Affordable Housing Units: An applicant may propose to pay a fee-in-lieu of construction of affordable housing units to the Marshfield Housing Authority. A fee-in-lieu of construction shall be for the sole purpose of creating affordable housing in the Town of Marshfield that meet the State's LIP and adds to the Town's Subsidized Housing Inventory as determined by the Housing Partnership. The fee-in-lieu of construction shall be held in trust and in separate interest bearing accounts by the Marshfield Housing Authority for such purpose.

B. For each Affordable unit for which a fee-in-lieu of construction is paid, the cash payment per unit shall be equal to sixty-five percent (65%) of the average price being asked for the market-rate units in the applicable development.

C. The fee-in-lieu of construction shall not result in an increase in the total number of units contained in the application for the special permit approved by the Planning Board.

D. The Marshfield Housing Authority shall submit to the Housing Partnership annually and upon request, reports and other documentation of the use of its financial accounting for the fees-in-lieu of construction.

E. The Marshfield Housing Authority shall hold all fees-in-lieu of construction of Affordable housing units paid to it and all investment income and profit thereon received by it separately from all other moneys of the Marshfield Housing Authority. It shall cause such fees, income and profit to be audited at least once a year by an independent, Certified Public Accountant or independent firm of Certified Public Accountants experienced in auditing accounts of governmental entities (which may be its regular auditor if such regular auditor meets the foregoing criteria); such audit to be completed no later than the general audit of the Marshfield Housing Authority's financial statements for the applicable fiscal year. A copy of such audit shall be promptly submitted to the Town Accountant, the Town Treasurer, the Town Administrator, the Board of Selectmen, the Housing Partnership, and the Planning Board. Such audit may be combined with the general audit of the Marshfield Housing Authority as long as all matters relating to such fees, income and profit are set forth separately from all other accounts of the Marshfield Housing Authority.

F. Schedule of Fees in Lieu of Payments: Fees-in-lieu of construction payments shall be made prior to application for the first residential occupancy permit of the element.

7. Criteria for Review and Approval

The Planning Board shall review all applications for Planned Mixed-Use Development to determine compliance of the proposal with the following criteria:

7.1 Section 11.05 (1) purpose;
7.2 Section 11.05 (4) required performance standards;
7.3 That the proposed element provides the proper fiscal balance for the Town, ensuring that additional non-residential growth (within the PMUD) occurs prior to or at the same time as additional residential development;
7.4 That any proposed residential units provide the Town with the type of affordable housing as called for in the Housing Production Plan.
7.5 That the projected traffic increase of the proposed uses to the local road(s) and Route 139 is within the capacity of the existing road network, or that the applicant's proposed traffic mitigation measures will adequately address actual and proposed traffic impacts from the proposed element and all other projected development in accordance with standard traffic impact assessment practices and traffic flow.
7.6 That the proposed streets have been aligned to provide vehicular access to lots and/ or buildings in a reasonable and economical manner. Lots, buildings, parks, playgrounds and streets have been located to avoid or minimize adverse impacts on wetlands and water-bodies;
7.7 That the proposed development improves pedestrian and bicycle access and safety;
7.8 That suitable public green(s) and facilities have been provided;
7.9 Acceptability of building and site design;
7.10 That the proposal conforms with the goals of the Marshfield Master Plan and Housing Production Plan as amended.

The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the special permit. The Board shall impose conditions in its decision as needed to ensure compliance with the Bylaw.

8. Severability
If any provision or provisions of this Bylaw is or are declared unconstitutional or inoperative by a final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the remaining parts of said chapter shall not be affected thereby.

9. Exemption
The Marshfield Planning Board shall have the right to waive strict compliance with the provisions of this Bylaw for nonprofit recreational uses proposed on any municipally owned land within the PMUD.

(Section 11.05. 8. Amended 10/19/09 Article 11 STM)

(Section 11.05 Amended 10/27/14 Article 18 STM)

Section 11.06 Planned Industrial Development - For the planned development of land for industrial purposes subject to area regulations less than the minimum required in Table of Density and Dimensional Regulations, provided:

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.

2. A site plan shall be presented for the entire tract showing two-foot finished contours, existing and proposed drainage, sewerage, water, parking, street access and landscaping, and shall be subject to approval by the Planning Board where it constitutes a Subdivision as per the Subdivision Control Law.

3. Individual lot sizes shall not be reduced more than ten percent below that normally required for manufacturing or service industrial purposes in the district.

4. The total number of lots in the development shall not exceed the number of lots which could be developed under normal application requirements of the district.

5. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.

6. The development shall be served by a public water system.

7. At least ten percent of the total tract area (of which at least 80 percent shall not be wetlands or land with a slope of over five percent) shall be set aside as common land and shall be either deeded to the town or covenanted to be maintained as permanent "open space" in private or cooperative nonprofit ownership. The common land shall be either in a single contiguous parcel or in several separated parcels as deemed appropriate by the Board.

8. Such common land shall be deeded to the town or permanently covenanted simultaneously with the Planning Board's approval of the Subdivision plan, if any.

9. Such common land shall be restricted to open space, play field, golf course, or conservation areas.

10. Such common land shall have suitable access to a street.

Section 11.07 Home Occupation - For the use of a dwelling in any "R" District for a home occupation, the following conditions shall apply:

1. No more than one nonresident shall be employed therein.

2. The use is carried on strictly within the principal building.

3. Not more than 25 percent of the existing net floor area not to exceed 400 square feet is devoted to such use.

4. That there shall be no display of goods or wares visible from the street.

5. No advertising on the premises other than a small non-electric sign not to exceed two square feet in area, and carrying only the occupant's name and his occupation such as physician, artisan, teacher, day nurse, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist and similar occupations or professions.

6. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.

7. Any such building shall include no feature or design not customary in buildings for residential use.

8. Such uses as clinics, barber shops, bakeries, gift shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, and others of a similar nature shall not be considered as home occupations.

Section 11.08 <u>Age-Restricted Adult Village</u>

For Age-Restricted Adult Village (ARAV) housing not subject to the Table of Dimensions and Density Regulations nor subject to Sec. 10.10 of the Zoning Bylaw, the following regulations shall apply:

1. <u>Applicability and Use</u>

   1.1 The tract of single or consolidated ownership at the time of application shall be at least six (6) acres in size in all residential zones, and shall be subject to approval by the Planning Board acting as the Special Permit Granting Authority (SPGA).

   1.2. The following uses shall be permitted: attached ARAV housing units, community facilities such as: religious, recreational, educational or membership club for the exclusive use of the residents of the ARAV.

2. <u>Required Performance Standards</u> - In addition to other minimum requirements stated elsewhere in this bylaw, the following improvements,

performance standards and/or conditions are required for all Age-Restricted Adult Villages (ARAV) in the Town of Marshfield.

2.1 Yield Plan

Applicants shall submit a Yield Plan that shows how many acres are available for development after subtracting all areas needed for storm water management facilities, roads and common driveways. The Yield Plan will determine the total number of acres available for calculating the number of As-of –Right (AOR) housing units. One acre is equal to one AOR unit.

2.2 Density of Housing

The total number of housing units allowed in an ARAV in all residential zoning districts shall be determined by the following formula that includes: As-of- Right units, Affordable and density bonus units. The number of Affordable units and Density Bonus units shall equal the number of As of Right (AOR) units multiplied by twenty-five (25 %) percent and rounded up to the next even number, divided by two. (Example: A 9 unit AOR development will result in 9 AOR units plus 4 units (.25 x 9 units = 2.25 units rounded up to 4 units, 2 Affordable units and 2 Density Bonus units) or 13 units in total. A 31 AOR unit development will result in 31 AOR units plus 8 units (.25 x 31 units = 7.5 units rounded up to 8 units, 4 Affordable units and 4 Density Bonus units) or 39 total units.

2.3. Natural Open Space

a. In all residential zones, at least fifty (50) percent of the total tract area subject to the ARAV Special Permit application shall be upland natural open space. The natural open space shall be set aside as common land and shall be either deeded to the Town or placed under a Conservation Restriction, as defined in Article II, and maintained as permanent "open space" in private or cooperative non-profit ownership. The SPGA shall provide for the disposition and control of the open space land in a manner and form acceptable to them and approved by Town Counsel.

b. Natural open space is the area of the parcel(s) that is left undisturbed, in its natural state, as described further in this section. Areas of natural open space shall be preserved for: wildlife habitat, aquifer protection, historic preservation, passive recreation and / or forestry management. Natural open space shall not be used for any of the following activities: buildings or structures, impervious surfaces, above-ground utilities or subsurface infrastructure with the exception of storm water management facilities as noted below. Natural open space areas should encompass or protect valuable natural and cultural resources such as: large tracts of forest land, buffer zones to wetlands and water bodies, significant trees, scenic views, river

valleys, geological features, archeological sites, historic trails or ways and open fields. Natural open space areas shall be contiguous areas of land. Narrow parcels or portions of lots less than 50' wide cannot be included in required natural open space calculations unless they are used for access to a walking trail. Walking trails may be constructed of organic materials such as wood chips or stone dust.

c. For the purpose of calculating the required 50% natural open space, the area of proposed development activity shall be enclosed within a polygon. The inside of the polygon shall be considered the area of the development footprint. Remaining areas outside of the development footprint, greater than 50' in width, shall be used to satisfy the 50% natural open space requirement. Areas of natural open space may be managed utilizing standard, accepted forestry practices. Additional landscape plantings can be planted in natural open space areas to supplement existing vegetation. Storm water management facilities may be allowed within the area of natural open space, with the approval of the SPGA, if site conditions leave no other feasible alternatives. However, the area of the storm water management facilities shall not be included in the 50% calculation for natural open space. Areas disturbed for construction of storm water management facilities must be restored with native vegetation.

2.4 Mandatory Affordable Housing

a. All ARAV's are required to provide Affordable housing in compliance with Section 11.14 Inclusionary Zoning for Affordable Housing. All Affordable housing created by this bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements of the Massachusetts Department of Housing and Community Development LIP Program. Affordable housing units will count toward the Town's Subsidized Housing Inventory, in accordance with M.G.L. CH. 40B, sec. 20-23.

2.5. Site Design

The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent deemed feasible by the SPGA;

a. Minimize obstruction of scenic views from publicly accessible locations.

b. Preserve unique natural or historical features.

c. Minimize grade changes, removal of trees, vegetation and soil.

d. Maximize open space.

e. Maximize buffers to wetlands and water bodies.

f. Screen objectionable features from neighboring properties and roadways.

2.6 Roads and Driveways

a. The ARAV shall provide for access on roads that have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the proposed ARAV. The development shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through proper layout, location and design.

b. All roads and driveways serving more than one dwelling unit shall be designed and constructed in accordance the following sections of the Subdivision Rules and Regulations of the Planning Board of the Town of Marshfield. Section 4. Design Standards and Required Improvements. With the exception of Subsections 4.1.5 and 4.4.9 in their entirety and Subsection 4.1.4 – Note **, which are exempt from this requirement. Roads and driveways serving more than one dwelling unit shall also be designed and constructed in accordance with Section 5 - Completion of the Way, Subsections 5.2, 5.4, 5.6 and 5.7 only.

2.7 Dead End Roads

a. All dead end roads and common driveways shall terminate in a cul-de-sac or provide other accommodations for vehicles to reverse direction. Turn around areas shall be designed to accommodate emergency vehicles.

b. Dead end streets and connecting common driveways shall not exceed 800' in length, measured from the intersection of the road that provides access to the ARAV.

2.8 Architecture

a. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and sitting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings. All buildings shall be separated a minimum distance of 1 1/2 times the height of the proposed buildings.

b. The maximum building height shall be 35 feet from the existing natural elevation.

2.9 Parking

a. The proposed development shall provide two (2) parking spaces per each unit, plus one (1) visitor parking space for every ten (10) units, plus one (1) parking space per each two hundred (200) square feet of non-residential area.

b. Parking areas, including maneuvering space for parking and loading areas, shall not be located within the required 40' buffer areas.

c. Parking areas shall be screened from public ways and adjacent or abutting properties by building location, fencing, and/or dense landscape plantings.

d. No parking shall be allowed on interior streets or ways.

2.10 Landscaping

a. Connecting tree-lined walkways shall be provided between structures, parking areas and abutting public ways. A mixture of shade trees shall be spaced a minimum of forty (40) feet apart along streets and walkways. Landscape plans should be prepared and stamped by a professional landscape architect. The type, size and location of all plantings shall be included in the landscape plan.

b. Exposed storage areas, machinery, service areas, truck loading areas, solid waste disposal facilities, utility buildings, structures and other unsightly uses shall be set back and/or screened to protect neighbors and residents from objectionable views, noise, odors and vibration.

c. A fifty (50) foot wide natural buffer shall be required along the perimeter of the property, except for access roads, which in the opinion of the SPGA, provides suitable screening of abutting properties. The SPGA may require the natural buffer to be supplemented with additional plantings if the natural buffer does not provide adequate screening of abutting properties.

2.11 Lighting

All exterior lighting on roads, walkways and buildings shall be approved by the SPGA. Lighting specification cut-sheets shall be submitted for all lighting in the ARAV. Lighting shall be designed to avoid unnecessary glare to abutting properties. Sufficient lighting should be provided to accommodate the needs of senior residents. A lighting plan shall be provided showing the intensity of light on the property. Reflectors and shields shall provide total cut-off of all light at the property boundaries.

2.12 Storm Water Management

The storm water management system shall be designed so that the volume and rate of run-off shall not exceed predevelopment conditions. The use of Low Impact Development principals is encouraged, such as bioretention

areas, and decentralized storm water management facilities. Groundwater recharge shall be maximized, surface and ground water quality shall be maintained or improved by employing Best Management Practices. Neighboring properties shall not be adversely affected. The SPGA may require that existing problems on/or adjacent to the site be mitigated as a condition of approval of a special permit under this section. Open air drainage facilities shall have a minimum fifteen (15) foot landscaped evergreen buffer area around the facility (excluding basin clean out access way).

2.13 Utilities

All electric, telephone, cable TV, and other such utilities shall be located underground. An evergreen landscaped buffer shall be provided around all transformers and other utility facilities.

2.14 Water Resource Protection Districts

Applicants submitting ARAV Special Permit applications within the Water Resource Protection District (WRPD) shall file for a WRPD Special Permit concurrently with the ARAV Special Permit and conform to the performance and design standards of Section 13.03.

2.15 Waste Water

Waste water treatment systems in all other ARAV developments shall be designed to not exceed 10 parts per million for the concentration of nitrate-nitrogen loading for the subject property as a whole, measured at the property boundaries.

2.16 Historic Resources

The SPGA and applicant shall seek guidance from the Historical Commission to insure the protection, restoration, or preservation of historic locations, artifacts or structures within the proposed development.

2.17 Management of Common Areas

a. If an ARAV is owned or converted to ownership of more than one ownership entity, a non-profit Community Association (CA) shall be established, requiring membership of each property owner in the development. The CA shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, roads, storm water management and recreational facilities. Prior to the closing of the public hearing, the applicant shall submit a CA agreement guaranteeing continuing maintenance of common utilities, land and facilities. The CA shall assess each home owner an equal share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the SPGA.

b. CA agreements or covenants shall provide that in the event that the association fails to maintain common facilities such as the waste water treatment system or storm water management system, in reasonable order and condition, in accordance with the agreement, the Town may, after notice to the CA and a public hearing, enter upon the property and conduct necessary maintenance, to protect the environment. The cost of any work shall be assessed equally against the properties within the development. All costs incurred by the Town for needed maintenance will be reimbursed by the CA.

3. Administrative Procedures - The Planning Board shall be the Special Permit Granting Authority (S.P.G.A.) for ARAV applications. Applicants shall follow the administrative procedures relative to the issuance of Special Permits set forth in the Marshfield Planning Board Rules Governing Housing for the Elderly and Handicapped Persons as adopted on 3/19/90 and most recently amended on 3/17/03, or any successor regulations. Copies of the abovementioned administrative rules shall be on file with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in MGL CH. 40A, Section 9.

4. Criteria for Review and Approval

4.1 The S.P.G.A. shall review all applications for ARAV developments to determine the suitability of the site to the following criteria:

a. Compliance with 11.08 (2) Required Performance Standards;

b. Compatibility with the surrounding neighborhood;

c. Compliance with adopted public plans;

d. The requested use will not overburden any public infrastructure such as water, roads, drainage or sewer system or any other municipal system to such an extent that the proposed ARAV in the immediate area, or in any other area of the Town will be subjected to development related impacts that would adversely affect health, safety or the general welfare;

e. Acceptable design and layout of streets and common driveways;

f. That the projected traffic increase to the local road(s) is within the capacity of the existing network and does not impair pedestrian safety;

g. Compliance with environmental performance standards;

.

h. Appropriateness of building architecture, orientation and site design; and

i. The preservation of important areas of open space or items of historical and / or archaeological significance.

5. Decisions

a. The findings, including the basis of such findings, of the SPGA shall be stated in the written decision of approval, conditional approval, or denial of the application for Special Permit, and shall require a 4/5 majority vote for approval. For approval of a Special Permit granted under this section, an affirmative finding of the SPGA shall be required for all of the nine (9) criteria listed above.

b. The SPGA may also require, in addition to any applicable conditions specified in this Bylaw, such conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, modification of the architectural design and exterior appearance of the structures; lighting, regulation of the number and location of driveways, or other traffic features; off-street parking or loading or any other special features beyond the minimum required by this bylaw.

c. Such conditions shall be provided in writing, and the applicant may be required to post a performance bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

d. The Special Permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown as determined by the SPGA. Once construction has begun, it shall be actively and continuously pursued to completion within a reasonable time.

(Section 11.08 Amended 5/5/08 Article 21 ATM)

Section 11.09 Residential Accessory Apartments

1. Purpose - The creation of any accessory apartment within an existing owner occupied, single-family residence, may be authorized by Special Permit in order to achieve the following objectives:

a. To enable home owners who wish to remain in their homes and neighborhoods to do so.

b. To promote more efficient use of the existing housing stock by allowing flexibility in response to changing household size.

c. To promote affordable rental housing and home ownership for small households.

d. To protect and maintain the character of the surrounding neighborhood.

2. Applicability - Special Permits may be granted within R1, R2, R3, Bl, and B2 districts by the Board of Appeals, acting as the Special Permit Granting Authority (SPGA), when the plan submitted meets the review criteria contained in Section 3.

3. Review Criteria - In reviewing and evaluating the plan, and in making a final determination regarding the Special Permit application, the SPGA may grant a Special Permit, provided that the following criteria are met. These criteria are the minimum over and above any other criteria which may be set forward in any portion of this bylaw which is specifically necessary to carry out the stated purposes for owner-occupied accessory apartments.

a. Only one accessory apartment shall be allowed per single-family dwelling unit;

b. The accessory apartment shall occupy no more than forty percent (40%) of the total living area of the dwelling;

c. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. In general, any new entrance shall be located on the side or rear of the building. Reasonable deviation from this condition shall be allowed in order to facilitate access and mobility for disabled persons;

d. Compliance with Board of Health policies and regulations;

e. Approved water conservation devices shall be required for new installations. This would include low flow shower heads and water efficient toilets;

f. The dwelling must be in existence, and not substantially altered, for a period of three years prior to the filing of the "Application for" Special Permit;

g. Required minimum lot size shall be for property in zones B1 and R3 - 10,000 square feet; in zone B2 and R2 - 20,000 square feet and in zone Rl - 40,000 square feet;

h. Sufficient parking space shall be provided on the lot, including at least one additional space to serve the accessory apartment. Said additional space shall have access to the driveway serving the principal dwelling;

i. The principal dwelling shall be occupied by the applicant/owner as his or her principal residence;

j. Compliance with the State Building Code.

4. Plan Requirements - The applicant shall comply with Section 10.10 Special Permits of this by law. In addition, the following information shall be furnished:

   a. the existing and proposed square footage of each dwelling unit;

   b. the existing and proposed floor layouts of each unit;

   c. any proposed changes to the exterior of the building;

   d. all plans should be prepared by a registered land surveyor; and

   e. requirements for open space should be maintained.

5. Transfer of Ownership of a Dwelling with an Accessory Apartment - The Special Permit for an accessory apartment in a single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling.

   The new owner(s) shall be required to apply for a new approval of a Special Permit for an accessory apartment and shall submit a written request to the SPGA.

6. Recertification of Owner Occupancy - Not later than January 31 of each year following issuance of a Special Permit for an accessory apartment, the owner of the premises must certify under the pains and penalties of perjury on forms to be available at the office of the Building Inspector that the premises continue to be occupied by the owner as his or her principal residence. Failure to recertify in a timely manner shall result in the automatic termination of the Special Permit.

Section 11.10 Traffic Impact Study – A detailed traffic impact analysis shall be submitted for any application for a development which requires a) a special permit for a principal use within the B-1, B-2 or I-1 zoning district, or b) which would have an anticipated average peak hour trip generation in excess of **80** vehicle trip ends or an average weekday generation in excess of **800** vehicle trip ends; except that the requirement for traffic impact analysis may be waived where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed in the past 12 months and is acceptable to assess the impacts of the proposed project; or where it is determined by the Board that the primary traffic impacts of the proposed development affect Route 139 and where the Town and/or

MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, and where the applicant is willing to contribute funds to a traffic mitigation fund in an amount at least equal to the cost of a traffic impact analysis, as determined by the Board upon consultation with at least the Building Inspector, Board of Public Works, the Planning Board and the applicant. Calculation of anticipated average peak hour trip generation and average weekday generation shall be determined as follows:

1. Determination of Traffic Impact:

    a. In determining traffic generation under this provision, the data contained in the most recent edition of The Institute of Transportation Engineers' publication "Trip Generation" shall be used.

    b. If a principal use is not listed in said publication, the Special Permit Granting Authority (SPGA) may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed principal use.

    c. If no such listed use is sufficiently similar, a traffic generation estimate, along with the methodology used, prepared by a registered professional engineer experienced and qualified in traffic engineering, shall be submitted for approval by the SPGA.

2. Preparation: The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. Firms and individuals preparing traffic impact analyses for submittal to the Board shall comply with any specific standards or requirements for qualifications as the Board may adopt.

3. Scope of Traffic Impact Study: The traffic impact study shall include the following information:

    a. Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous three years, and levels of service (LOS) of intersections and streets likely to be impacted by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1000 feet of the project boundaries, and shall be no more than 12 months old at the date of the application, unless other data are specifically approved by the SPGA. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

b. Projected traffic conditions for design year of occupancy: statement of design year of occupancy, average annual background traffic growth, impacts of
proposed developments which have already been approved or are pending before town boards.

c. Projected impact of proposed development: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in 3.a. above).

d. Proposed mitigation: A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car pooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:

(i) Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection be degraded below the Level of D.

(ii) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.

(iii) Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.

e. Adequacy of Mitigation: If the proposed mitigation is deemed by the Board to be inadequate to achieve the standards set forward in Sec. 11.10(3)(d) above, the applicant shall provide alternative proposals to meet the standards, including: reduction in the size of the development; change in proposed uses on the site; contributions to off-site street and intersection improvements; or construction of off-site street and intersection improvements. Where the alternative proposals submitted by the applicant are inadequate, and where it is determined by the Board that the primary traffic impacts of the development as proposed affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, the applicant may be required as a condition of special permit approval to

contribute funds to a traffic mitigation fund at least equal to $300.00 per parking space required to serve the proposed use under this bylaw. For purposes of this standard:

a. "Level of Service" (LOS) shall be determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council;
b. "Impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project; and
c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections.

4. Administrative Procedures: The Special Permit Granting Authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other town boards and departments, the SPGA may grant such a permit.

(Amended STM 10/27/2014)

Section 11.11 Curb Cut Bylaw

1. Applicability and Use - All driveway openings for special permit uses must be approved by the Special Permit Granting Authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.

2. Required Performance Standards - The following standards shall guide issuance of curb cut permits by the SPGA:

a. One curb cut shall be allowed per parcel. If frontage exceeds 600', one additional curb cut may be permitted where it will aid access to and

circulation within the parcel. For the purpose of this provision, "parcel" shall mean the entire property subject to an application and any other contiguous land in common ownership or control on or after the date of this bylaw (as amended at the Annual Town Meeting on April 29, 1999). Lots shall not be subdivided for the purpose of increasing the number of permissible curb cuts.

b. Curb cuts shall be no closer than 75 feet to existing curb cuts and 75 feet to intersecting roadways.

c. Wherever possible, access shall be provided onto side streets to avoid the need for a curb cut onto major roadways.

d. Joint or shared curb cuts with adjoining parcels are encouraged. When it will facilitate such an arrangement, the SPGA may reduce or eliminate the required side yard setback on the parcel. In such cases, the applicant must submit proof of such an arrangement such as reciprocal easements.

e. Curb cut widths shall be the minimum necessary for safe access and egress. The maximum width of curb cuts shall be 30 feet. Curb cuts shall be clearly defined with curbing. The Special Permit Granting Authority may modify these width requirements where necessary to promote safe access to or circulation within the parcel.

f. Applicants proposing redevelopment or expansion of existing uses shall correct existing access problems by better defining curb cuts or eliminating excess curb cuts.

g. The SPGA may restrict curb cuts to right turn in/right turn out only when, in the opinion of the SPGA, such restriction is necessary for public safety and to minimize traffic congestion.

h. Where state curb cut approval is required, applicants are encouraged to apply for such approval concurrently with local approval in order to maximize coordination between local and state review.

3. Administrative Procedures - The SPGA shall adopt rules and regulations relative to the issuance of a curb cut permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purpose of this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

After notice and public hearing, and after due consideration of the reports and recommendations of other town boards/departments, the SPGA may grant such a permit.

Section 11.12 Communications Towers and Wireless Communications Facilities

1. Purpose, Applicability and Use - The purpose of this bylaw is to establish appropriate siting criteria and standards for communications towers and facilities including but not limited to radio, television, and cellular communications in order to minimize adverse visual impacts and maintain the residential character of the town, and preserve scenic views to and from the town's roadways and waterways. This bylaw is intended to establish reasonable regulations while allowing adequate service to residents, the traveling public and others within the town and to accommodate the need for the minimum possible number of such facilities within the Town of Marshfield. The requirements of this bylaw shall apply to all communications towers and wireless communication facilities that require a special permit in accordance with Section 5.04 of this Bylaw, excluding in-kind or smaller replacement of existing equipment.

2. Required Performance Standards

a. Any tower shall be set back from property lines a distance at least equal to the height of the tower.
b. No towers may be constructed within areas subject to protection under the inland/coastal wetlands bylaw (Sections 13.01 and 13.02).
c. Any tower shall be at least 500 feet from any existing building.
d. Accessory structures housing support equipment for towers shall not exceed 400 square feet in size and fifteen feet (15') in height and shall be screened from view.
e. Clearing of natural vegetation should be limited to that which is necessary for the construction, operation, and maintenance of the tower.
f. Night lighting shall be prohibited unless required by federal authorities and shall be the minimum necessary.
g. One tower shall be permitted per lot.
h. No tower shall be more than 150 feet above the natural grade.
i. Shared use of towers and co-location of communications devices is encouraged. All towers constructed as principal uses shall be designed to accommodate the maximum number of communications facilities possible.
j. Wherever feasible, wireless communication facilities shall be located on existing towers or other non-residential structures, minimizing construction of new towers.

k. Wireless communication facilities placed on existing buildings shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building. No facility shall project more than five feet (5') above the existing roofline of the building. Any equipment associated with the facility shall be located within the building.

l. Towers and facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment.

3. Administrative Procedures - Site plan approval (pursuant to Section 12.02) and Special Permit shall be granted by the Board of Appeals in accordance with M.G.L. Chapter 40A, Section 9. The Board of Appeals shall adopt rules relative to the issuance of special permits, including application fees, and file a copy with the Town Clerk.

4. Criteria for Review and Approval

a. The SPGA shall review all applications for communications towers and shall find;

(i) that the location of the tower or device is suitable and that the size, height, and design is the minimum necessary for that purpose;

(ii) that the proposed tower or devices will not adversely impact historic structures or scenic views;

(iii) that there are no feasible alternatives to the location of the proposed tower or devices (including co-location) that would minimize their impact and that the applicant has exercised good faith in permitting future co-location of facilities at the site; and that the proposed tower or device is in compliance with federal and state requirements regarding aviation safety.

The findings, including the basis for such findings, of the Board shall be stated in the written decision of approval, conditional approval, or denial of the application for Special Permit, and shall require a 4/5 majority vote for approval.

b. The Board shall also impose, in addition to any applicable conditions specified in the Bylaw, such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise service the purposes of this Bylaw, including, but not limited to: screening, buffering, lighting, fences, modification of the exterior appearance of the structures, limitation upon the size, method of access or other traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

The Special Permit is granted for a period of two (2) years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. And provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. Any extension, addition of cells or construction of new or replacement towers shall be subject to an amendment of the Special Permit following the same procedure as for an original grant of a Special Permit.

Section. 11.13 Adult Entertainment

11.13.1 Authority to Regulate - This section is enacted pursuant to M.G.L. Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

11.13.2 Purpose - The purpose of this Adult Entertainment Section of the Town of Marshfield Zoning Bylaw is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate, adverse impacts on the property values of residential and commercial property and adverse impacts on the quality of life. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Marshfield and its inhabitants.

The provisions of this Section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that is protected by the Constitutions of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

11.13.3 Regulation of Adult Entertainment Uses

1. "Adult entertainment", as defined in this Bylaw, shall be permitted only in the "I" Zoning District, upon the issuance of a special permit from the Planning Board. The Planning Board shall act on applications according to the procedure specified in MGL Chapter 40A, Section 9A.

2. No adult entertainment special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28.

11.13.4 Dimensional Requirements:

1. The distances specified below shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of any of the residential zoning district or to the nearest property line of any of the other uses set forth below:

   a. Any such proposed use shall be located a minimum of seven hundred [700] feet from any residential Zoning District.
   b. Any such proposed use shall be located a minimum of seven hundred [700] feet from any residential uses.
   c. Any such proposed use shall be located a minimum of seven hundred [700] feet from any public or private school, public library, day-care facility or religious facility.
   d. Any such proposed use shall be located a minimum of seven hundred [700] feet from any public or private playground, park or recreational area, or youth center.
   e. Any such proposed use shall be located a minimum of seven hundred [700] feet from any other adult entertainment use approved under the provisions of this bylaw.
   f. Any such proposed use shall be located a minimum of seven hundred [700] feet from any establishment licensed under the provisions of MGL Chapter 138, Section 12.

2. No more than one structure to be used for adult entertainment shall be located on any one lot.
3. The maximum gross floor area of any structure to be used for adult entertainment shall not exceed 20,000 square feet per acre.

11.13.5 Expiration – A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date or issuance and shall be automatically renewable for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority.

11.13.6 Severability – The provisions of this Section are severable and, in the event that any provision of this Section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

Section
11.14 Inclusionary Zoning for Affordable Housing

11.14.1. Purpose: The purpose of this section of the Bylaw is to promote the development of housing that is affordable to Low and Moderate Income Households, meet the requirements of the Local Initiative Program and qualify for inclusion on the Subsidized Housing Inventory.

11.14.2. Applicability**:**

1. The Inclusionary Zoning Bylaw shall apply to the R-1 and R-2 districts within the Town of Marshfield, except the Water Resource Protection District.

2. The Inclusionary Zoning Bylaw shall not apply to any development undertaken by the Town of Marshfield for any municipal purposes.

3. The Inclusionary Zoning Bylaw shall not apply to any development carried out under Chapter 40B of the Massachusetts General Laws, as amended.

11.14.3. Voluntary Provision of Affordable Units:

1. The use of this Section of this Bylaw shall be voluntary.

2. The applicant for a special permit, under this Bylaw shall comply with the provisions described in Section 11.14.4 and otherwise comply with this Section of this Bylaw, and the Planning Board shall require such compliance in the Special Permit.

11.14.4. Provision of Affordable Units - Bonuses and Incentives:

1. Affordable Units and Density Bonus - All development which occurs as a result of this Bylaw shall meet the Affordable housing requirements and shall be entitled to a Density Bonus as follows: The number of Affordable units and Density Bonus units shall equal the number of As of Right (AOR) units multiplied by twenty-five (25 %) percent and rounded up to the next even number divided by two. (Example: A 9 unit AOR development will result in 9 AOR units plus 4 units (.25 x 9 units = 2.25 units rounded up to 4 units, 2 Affordable units and 2 Density Bonus units) or 13 units in total. A 31 AOR unit development will result in 31 AOR units plus 8 units (.25 x 31 units = 7.5 units rounded up to 8 units, 4 Affordable units and 4 Density Bonus units) or 39 total units.

2. The requirement for Affordable units shall be met by one or a combination of the following methods:

a. On-Site Development - Constructed or rehabilitated on the locus subject to the Special Permit (see Section 11.14.6); or

b. Fees-in-Lieu of Construction - The applicant may offer, and the Planning Board, upon receiving a favorable recommendation from the Housing Partnership, may approve fees-in-lieu-of construction of Affordable housing units as satisfying the requirements of Section 4.0 of this Bylaw. The applicant shall make the payment of the fee-in-lieu of construction to the Marshfield Housing Authority for the sole purpose of converting non-Affordable housing units to Affordable housing units in the Town of Marshfield. Fees-in-lieu of construction are more fully addressed in Section 11.14.7.

The applicant may offer, and the Planning Board may accept, a combination of the Section 4.2.a and 4.2.b requirements; provided that in no event shall the total of number of Affordable units provided on site and the number of Affordable units for which a fee-in-lieu of construction is paid be less than the equivalent number or value of Affordable units required for the applicable development by this Bylaw.

All Affordable units shall meet the requirements of the Local Initiative Program for Local Action Units and be eligible for inclusions on the Subsidized Housing Inventory.

3. Location of Affordable Lots - The location of affordable lots shall be determined in consultation with the Planning Board during the special permitting process.

11.14.5 Standards and Dimensional Regulations:

1. Applicability - Where the requirements of this section differ from or conflicts with the requirements in the Table of Density and Dimensional Standards found in Article VI of the Town's Zoning Bylaw, the requirement of this section shall prevail for developments being constructed under this section of the Bylaw.

2. Minimum Frontage - The minimum frontage may be reduced from the frontage otherwise required in the Zoning District; provided however that no lot shall have less than 75' of frontage and provided further that such frontage shall apply only to lots fronting on proposed internal roadways.

3. Lot size - The Planning Board may allow reductions in the minimum lot sizes listed in Article VI, Section 6.10, Table of Dimensional and Density Regulations to allow for the creation of the Affordable and density bonus units, if the Planning Board finds that such reductions will result in better design and improved protection of natural and scenic

resources; provided however, that the average lot size in a development shall not be less than 50% of the applicable minimum lot size listed in Article VI, Section 6.10.

4. Lot shape - All building lots must be able to contain a circle of a minimum diameter of 75' from the front line to the rear building line.

5. Setbacks - The Planning Board may permit a reduction by up to one-half of the setbacks otherwise listed in the Table of Dimensional Regulations in the Zoning Bylaw, if the Board finds after receiving an opinion from the Conservation Commission that such reduction will not affect natural resources, would result in better design, improved protection of the natural and scenic resources and will otherwise comply with the Bylaw. Notwithstanding this provision or the requirements of the Zoning Bylaw, every dwelling fronting on the proposed roadways shall be set back a minimum of 15' from the roadway right-of-way, and a minimum of 30' buffer setback from the outer perimeter of the land subject to the application. This 30' setback shall be maintained in a naturally vegetated state or planted to create a screen and buffer the development. Wherever feasible, construction of the dwelling at the front setback line is encouraged.

   The applicant shall provide a narrative describing any requested modifications of setback requirements as specified in Section 11.04 (5.4) of the Zoning Bylaw and noting the proposed lots for which setback reductions are being sought.

11.14.6 Provisions of Affordable Housing Units On-Site:

1. Location of Affordable Units - All Affordable units shall be situated within and dispersed throughout the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, than the market-rate units. Affordable lots shall not be smaller than the average lot within the development and shall not have drainage or utilities easements on them.

2. Minimum Design and Construction Standards for Affordable Units - Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be identical to the market-rate units in size, design, appearance, construction, building systems such as HVAC, electrical and plumbing, and quality and types of materials used in all interior space including bedrooms, kitchen, bathrooms, living rooms, studies, hallways, closets, garages and basements and provided with identical amenities and appliances such as, but not limited to, decks, central vacuum cleaning systems, stoves, refrigerators, compactors, disposals, dishwashers and landscape fencing, walls and plantings unless otherwise approved in the

special permit by the Planning Board. No changes to these standards may be made by the Planning Board without the approval of the Housing Partnership.

3. Timing of Construction or Provision of Affordable Units or Lots - Unless otherwise approved by the Planning Board, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of Affordable units be delayed beyond the schedule noted below:

Market-Rate Unit %	**Affordable Housing Unit %**
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

Fractions of units shall not be counted.

Compliance with this requirement shall be monitored by the Building Inspector and the Auditing Agency (see Section 11.14.10), on the basis of building permits issued and occupancy permits requested for both the Affordable housing units and market-rate units. Occupancy permits for any market-rate housing units or nonresidential space shall not be issued if the required Affordable housing units are not being provided in accordance with this schedule.

4. Marketing Plan for Affordable Units - Applicants shall submit a marketing plan which describes the number of Affordable housing units, their approximate sales price or rent level, the means for selecting buyers or tenants of the Affordable units, how the applicant will accommodate Local Preference requirements and the method of affirmatively marketing the Affordable units (including the marketing of such units) to minority households, in a manner that complies with the LIP Guidelines. This requirement is further addressed in Section 11.14.9 of this Bylaw.

The marketing plan shall be developed by the applicant with the assistance of the Lottery Agent and submitted to the Housing Partnership. The Housing Partnership shall review the marketing plan to determine its appropriateness in addressing the Affordable housing needs within the community and its compliance with applicable federal and state statutes and regulations, the LIP Guidelines and this Bylaw. The Housing Partnership may require modifications of the marketing plan or, if it determines the plan to be satisfactory, may forward it to DHCD with a

favorable recommendation. Following the approval of the marketing plan by DHCD, the Housing Partnership shall notify the Planning Board and the Lottery Agent. The special permit and building permits may be granted prior to receiving DHCD approval so as to facilitate the construction of the development; however, occupancy permits, whether for Affordable or market-rate units, shall not be issued until such time as the Marketing Plan has been approved by DHCD.

Applicants shall comply with the requirements of the Lottery Agent and certify their acceptance and willingness to comply with the lottery process or other requirements of the Lottery Agent for the selection of qualified housing buyers or renters for the Affordable units. The lottery system and requirements are further addressed in Section 11.14.9 of this Bylaw.

11.14.7. Provision for Fees-in-Lieu-of Construction of Affordable Housing Units

1. Fees-in-Lieu of Construction of Affordable Housing Units - An applicant may propose to pay a fee-in-lieu of construction of Affordable housing units to the Marshfield Housing Authority. The fee-in-lieu of construction shall be for the sole purpose of converting non-Affordable housing units to Affordable housing units in the Town as part of the Local Initiative Program and shall be held in trust and in separate interest bearing accounts by the Marshfield Housing Authority for such purpose.

2. For each Affordable unit for which a fee-in-lieu of construction is paid, the cash payment per unit shall be equal to **sixty five percent (65%)** of the average price being asked for the market-rate units in the applicable development.

3. The fee-in-lieu of construction shall not result in an increase in the total number of market rate units contained in the application for the special permit approved by the Planning Board.

4. The Marshfield Housing Authority shall submit to the Housing Partnership annually and upon request, reports and other documentation of the use of or its financial accounting for the fees-in-lieu of construction.

5. The Marshfield Housing Authority shall hold all fees-in-lieu of construction of Affordable housing units paid to it and all investment income and profit thereon received by it separately from all other moneys of the Marshfield Housing Authority. It shall cause such fees, income and profit to be audited at least once a year by an independent, Certified Public Accountant or independent firm of Certified Public Accountants experienced in auditing accounts of governmental entities (which may be its regular auditor if such regular auditor meets the foregoing criteria), such audit to be completed no later than the general audit of the Marshfield Housing Authority's financial

statements for the applicable fiscal year, and a copy of such audit shall be promptly submitted to the Town Accountant, the Town Treasurer, the Town Administrator, the Board of Selectmen, the Housing Partnership, and the Planning Board. Such audit may be combined with the general audit of the Marshfield Housing Authority as long as all matters relating to such fees, income and profit are set forth separately from all other accounts of the Marshfield Housing Authority.

6. Schedule of Fees in Lieu of Payments - Fees-in-lieu of construction payments shall be made according to the schedule set forth in Section 11.14.6 (3)., above.

11.14 8. Preferences Applicable to Buyer/Renter Selection

1. Local Preference:

a. Local Preference shall be given to Local Residents in the selection of eligible applicants for seventy (70%) percent of the Affordable units in a development.

b. Verification of local residency may require several forms of verification. The Lottery Agent shall make the determination as to the types of documentation required for verification of residency.

c. The application of Local Preference shall be in compliance with all applicable fair housing laws and LIP Guidelines.

2. Minority Preference:

a. Affirmative Marketing Goal: An affirmative marketing goal established for the Town by the DHCD shall be made part of the selection criteria for residents in all developments to which this Bylaw applies.

11.14.9 Lottery Selection of Buyer/Renter

1. The Marshfield Housing Authority or its designee shall serve as the Lottery Agent and shall assist in the development of a Marketing Plan as provided in Section 6.4 for each development to which this Bylaw applies. The Marketing Plan shall describe the buyer selection process for the Affordable units, including any lottery or similar procedure for choosing among eligible purchasers, and will provide for affirmative fair marketing of Affordable housing units. The Marketing Plan shall include Local Preference as provided in Section 11.14.6.(4).

2. The Lottery Agent shall determine income and asset eligibility of all applicants for Affordable housing according to LIP Guidelines and LIP Regulations, age restrictions, when applicable, and Local Preference described in Section 11.14.8 when conducting its marketing and lottery. There shall be

no discrimination on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin, or any other basis prohibited by law in the selection of occupants for the affordable housing units.

3. Prior to marketing or otherwise making available for sale or rental of any of the units, the applicant and the Lottery Agent must obtain DHCD's approval of the Marketing Plan. When submitted to the Housing Partnership for approval, the Marketing Plan shall be accompanied by a letter from the Board of Selectmen to the effect that the Town will perform any aspects of the Marketing Plan which are set forth therein as responsibilities of the Town.

4. The Lottery Agent shall be compensated by the applicant for its services as Lottery Agent in the amount and in the manner described in the approved Marketing Plan and Schedule of Fees established in accordance with Section 11.14.12 of this Bylaw.

11.14.10 Auditing Agency

1. The Marshfield Housing Authority or its designee shall serve as the Auditing Agency for all developments approved under this Bylaw and shall represent the interest of the Town and the Local Initiative Program. The Auditing Agency shall audit all applicable developments to determine compliance with the affordability and other requirements of the LIP, this Bylaw, and to conditions relating to affordability, special permit, Regulatory Agreement, and Use Restrictions, for all applicable developments.

2. Initial Sale - The Auditing Agency will review the initial sales data and determine the compliance of the development with the affordability requirements, as described in the LIP Guidelines and LIP Regulations. The Auditing Agency shall also ensure the applicant's compliance with the approved Marketing Plan and lottery process. Upon completion of its review of initial sales data, the Auditing Agency will deliver to the Housing Partnership a copy of such data together with the Auditing Agency's determination of whether the affordability requirements have been met.

3. Re-sale - The Auditing Agency shall audit re-sales of Affordable units, including appraisal and selling price, deeds, Use Restriction, Regulatory Agreement and other applicable documents, for compliance with LIP Guidelines and LIP Regulations. The Auditing Agency shall evaluate the affordability of the unit and whether the unit should remain affordable or funds should be recaptured and turned over to the Town. Upon completion of its review of re-sales information, the Auditing Agency will deliver to the Housing Partnership a copy of its findings together with its recommendations. The Housing Partnership shall make a determination as whether the unit is to remain affordable or whether the excess proceeds should be returned to the Town. If the determination of the Housing Partnership is to retain the unit as affordable, the Auditing Agency shall locate and select an eligible buyer in

compliance with the approved LIP Guidelines and LIP Regulations, marketing plan and lottery process.

4. Annual Report - The Auditing Agency shall prepare and deliver annually, an Annual Compliance Report with respect to each development to which this Bylaw pertains to the Housing Partnership regarding the construction progress (where applicable) of the applicant with respect to any Affordable units to be provided on site and any handicapped accessible units required to be provided and compliance of the applicant with all matters to be reviewed by the Auditing Agency as set forth in Section 11.14.10.1 through 11.14.10.3 above. The Annual Compliance Report shall indicate the extent of any noncompliance with such matters, describe efforts being made by the applicant to remedy such noncompliance and, if appropriate, recommend possible enforcement action against the applicant. The Auditing Agency shall deliver the Annual Compliance Report within one hundred twenty (120) days of the end of each calendar year.

5. The applicant and the Town shall submit any information, documents or certifications requested by the Auditing Agency which the Auditing Agency shall deem necessary or appropriate to evidence the continuing compliance of the applicant and the Town with the LIP and this Bylaw.

6. The Marshfield Housing Authority shall be compensated by the applicant for its services provided as Auditing Agency in the amount and in the manner described in the approved Marketing Plan and the Schedule of Fees as set forth in Section 11.14.12 of this Bylaw.

11.14.11 Maximum Incomes and Selling Prices: Initial Sale:

1. To ensure that only eligible Households purchase Affordable housing units, potential buyers are required to submit all income and asset documentation to the Lottery Agent, as requested by the Lottery Agent, necessary and appropriate to determine whether the annual income exceeds the maximum level as established by the DHCD, and as may be revised from time to time.

2. The price of an Affordable unit shall be determined in accordance with the most current LIP Guidelines and LIP Regulations.

3. The occupants of an Affordable unit shall provide promptly to the Auditing Agency, all documentation requested by the Auditing Agency, for the determination of initial and continued eligibility and any other matter regarding compliance with the LIP or this Bylaw.

4. The method of determining the sale price for an Affordable unit shall be recorded on the deed as a Use Restriction on the resale of the Affordable unit.

5. The Town shall have the right of first refusal to either find a qualified buyer for the Affordable unit or to purchase the unit to ensure that it remains

affordable, should a qualified buyer not be found. The right of first refusal shall be recorded on the deed as a Use Restriction.

11.14.12. Fees

1. A Schedule of Fees shall be developed and maintained by the Planning Board in consultation with the Auditing Agency, Lottery Agent, Housing Partnership and Board of Selectmen.

2. Fees established by the Planning Board shall include, but not be limited to, administrative fees, consultant fees, legal fees and any additional fees the Planning Board may determine to be appropriate for the issuance of the Special Permit and the administration of this Bylaw and the Local Initiative Program. Fees established by the Planning Board shall be subject to a public hearing prior to their adoption by the Planning Board.

3. The Lottery Agent and Auditing Agency shall establish a fee schedule to defray the cost of implementing and auditing the lottery system and the affordable units in consultation with the Planning Board, Housing Partnership and Board of Selectmen. A copy of the fee schedule shall be forwarded to the Planning Board.

11.14.13 Criteria for Review and Approval

The Planning Board shall review all applications for Inclusionary Zoning for Affordable Housing to determine compliance of the proposal with the following criteria:

13.1 Section 11.14.1 Purpose;
13.2 Section 11.14.5 Required Standards and Dimensional Regulations;
13.3 Compatibility through design, architecture and buffering with surrounding neighborhood;
13.4 Acceptability of road layout and site design;
13.5 Preservation of important natural, historic and or archaeological resources;

The Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the Special Permit. The Board shall impose conditions in its decision as needed to ensure compliance with the Bylaw.

11.14.1**4** Conflict with Other Bylaws/Ordinances - The provisions of this Section of the Bylaw shall be considered supplemental to the other provisions of the Zoning Bylaws. To the extent that any conflict exists between this Section of the Bylaw and others, the more restrictive provision shall apply.

11.14.1**5** Severability - If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or

sections of this Bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

Section 11.15 Wind Energy Conversion Facilities (WECF)

11.15 1. Purpose and Applicability

Wind energy is an abundant, renewable and nonpolluting energy resource; its conversion into electricity will reduce our dependency on nonrenewable energy resources that adversely impact our air and water quality.

The purpose of this bylaw is to provide by Special Permit for the construction and operation of Wind Energy Conversion Facilities (WECF) or Facility and to provide standards for the placement, design, construction, monitoring, modification and removal of WECF. These regulations are intended to protect public health and safety, minimize impacts on scenic, natural and historic resources of the town, while allowing wind energy technology to exist. These regulations also provide adequate financial assurance for the decommissioning of WECF.

This Bylaw applies to: (1) Utility-Scale, (2) Building Mounted and (3) Small Scale Ground Mounted WECF proposed to be constructed after the effective date of this Bylaw. Any physical modifications made after the effective date of this Bylaw to existing WECF that materially alter the type or increases the size of such WECF or other equipment shall require a Special Permit.

11.15 2. General Requirements

No WECF shall be erected, constructed, installed or modified, as provided in this Section, without first obtaining a Special Permit from the Zoning Board of Appeals. The construction of a WECF shall be permitted, subject to the issuance of a Special Permit, in compliance with Sections 10.10 Special Permits, Section 12.02 Site Plan Approval and the requirements of Sections 5.04 Schedule of Use Regulations. WECF must comply with all requirements set forth in this Bylaw. All such WECF shall be constructed and operated in a manner that minimizes any adverse, safety and environmental impacts. No Special Permit shall be granted unless the Special Permit Granting Authority, the Zoning Board of Appeals, makes findings in writing that:

(a) the specific site is an appropriate location for such use;

(b) there is not expected to be any serious hazard to pedestrians, vehicles or abutting properties from the use;

(c) adequate and appropriate facilities will be provided for the proper operation of the use.

The Special Permit decision from the Zoning Board of Appeals may impose reasonable conditions and safeguards that may require the applicant to implement measures to mitigate adverse impacts of the WECF, if it is determined by the ZBA that they are likely to occur.

Wind monitoring or Meteorological Towers shall be permitted in all zoning districts that allow for WECF, as listed in Sections 5.04 Schedule of Use Regulations. Wind monitoring towers are subject to the issuance of a building permit for a temporary structure and are also subject to reasonable regulations concerning the height of structures, lot area and setback requirements.

11.15 3. Compliance with All Laws, Bylaws and Regulations

The construction and operation of all WECF shall be in compliance with all applicable local, state and federal laws and regulations, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

11.15 4. Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount and for a duration of time sufficient to cover loss or damage to persons and structures occasioned by the failure of the Facility.

11.15 5. Site Control

At the time of an application for a Special Permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed Facility. Documentation shall also include proof of control over setback areas and access roads if required.

11.15. 6. General Siting Standards

11.15. 6.1. Height

WECF shall be no higher than 300 feet in elevation above the existing natural grade of the land. WECF may exceed 300 feet if:

(a) the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited WECF;

(b) the additional benefits of a higher tower outweigh any increased adverse impacts;

(c) the Facility satisfies all other criteria for the granting of a Special Permit under the provisions of this Section;

(d) The height of the Facility is approved by the FAA and the MA DOT Aeronautics Division if required.

11.15. 6.2. Setbacks

WECF shall be set back a distance equal to the overall blade tip height plus the required setback in the applicable Zoning District. The Zoning Board of Appeals may allow reduced setbacks for municipally owned WECF if the abutting property is owned by another Town entity and that entity / agency agrees to allow the structure near property under their control. In no case will the setback be less than the height of the Facility to any existing structure.

11.15. 6.3. Setback Waiver

The Zoning Board of Appeals may reduce the minimum setback distance as appropriate based on site-specific considerations if the project satisfies all other criteria for the granting of a Special Permit under the provisions of this Section.

11.15. 7. Design Standards

7. 1. Color and Finish

The Zoning Board of Appeals shall have discretion over the turbine color. A neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged. Color renderings of the proposed WECF shall be submitted to the Zoning Board of Appeals for review and approval.

7. 2. Lighting and Signage

7.2.1. Lighting

WECF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of other parts of the WECF, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

7.2.2 Signage

Signs on the WECF shall comply with the requirements of the Town's sign regulations contained in Article VII of this Bylaw, and shall be limited to:

(a) those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger;

(b) Educational signs providing information about the Facility and the benefits of renewable energy.

WECF shall not be used for displaying any advertising except for identification of the manufacturer or operator of the wind energy Facility.

11.15. 7.3. Utility Services

All utility transmission lines from the WECF shall be located underground. The Zoning Board of Appeals may waive this requirement depending on soil conditions and topography of the site and any requirements of the utility provider. Electrical transformers, substations and disconnect devices for utility interconnections may be above ground if required by the utility provider.

7. 4. Appurtenant Structures

All appurtenant structures to a WECF shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall be architecturally compatible with each other. Structures shall only be used for housing of equipment for the subject property. Whenever feasible, structures should be screened from view by a solid fence, wall or evergreen vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

7. 5. Support Towers

Monopole towers are the preferred type of support for the WECF.

7.6 Ground mounted WECF are not permitted to host telecommunication equipment.

11.15. 8. Safety, Aesthetic and Environmental Standards

8.1. Emergency Services

The applicant shall provide a copy of the application package to the Department of Public Works, Fire and Police Departments. The applicant shall coordinate with those departments listed above in developing an emergency response plan.

8.2. Unauthorized Access

WECF and other appurtenant structures shall be designed with a security barrier, structure, wall or fence at least 6’ in height to prevent unauthorized access. To prevent access to the support tower by unauthorized persons,

climbing apparatus shall be no lower than ten feet from the ground or by placing secure shielding over the climbing apparatus.

8.3. Shadow/Flicker
WECF shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect will not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

8.4. Noise
The WECF and associated equipment shall conform to the following requirements, whichever is more restrictive:

(a) Article XII Special Regulations Section 12.01 (10) of this Bylaw; or

(b) The provisions of the State Department of Environmental Protection (DEP), Division of Air Quality Noise Regulations (310 CMR 7.10). A source of sound will be considered to be violating these regulations if the source:

(1) Increases the broadband sound level by more than 10 dB above ambient, or;

(2) Produces a "pure tone" condition – when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria shall be measured at both the property line and at the nearest inhabited residence.

11.15. 8.5. Land Clearing
Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the WECF. No site alteration, clearing activities or grading shall take place on the site prior to the issuance of a Special Permit, except for construction of a temporary Wind Monitoring Meteorological Tower.

11.15. 8.6. Monitoring and Maintenance
Facility Conditions
The applicant shall maintain the WECF in good condition in compliance with manufacturers' specifications, all state electric code requirements and the provisions of this Bylaw. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Police and Fire departments. The project owner shall be responsible for the cost of maintaining the WECF and any access road unless accepted as a public way, and for the cost

of repairing any damage occurring to the access road as a result of construction and operation.

8.7. Modifications
All material modifications to a WECF made after issuance of the Special Permit shall require approval by the Zoning Board of Appeals as provided in this Section.

11.15 9. Abandonment or Decommissioning

9.1. Removal Requirements
Any WECF which has reached the end of its useful life or has been abandoned shall be removed. When the WECF is scheduled to be decommissioned, the applicant shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the WECF no more than 150 days after the date that operations are discontinued. At the time of removal, the WECF site shall be restored to the state it was in before the Facility was constructed. More specifically, decommissioning shall consist of:

(a) Physical removal of all WECF structures, equipment, security barriers and transmission lines from the site;

(b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations;

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion.

The Zoning Board of Appeals may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

9.2. Abandonment
Absent notice of a proposed date of decommissioning, the Facility shall be considered abandoned when the Facility fails to operate for more than one year without the written consent of the Zoning Board of Appeals. If the applicant fails to remove the WECF in accordance with the requirements of this Section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to enter the property and physically remove the Facility.

9.3. Financial Surety
The Zoning Board of Appeals shall require the applicant for a Utility Scale WECF to provide a form of surety that will be available for use for the operating life of the WECF, either through escrow account, bond or other

acceptable form of surety. The surety bond will be sufficient to cover the cost of removal in the event the Town or its contractor must remove the Facility, in an amount and form determined to be reasonable by the Zoning Board of Appeals. In no event shall the surety bond exceed more than 125 percent of the estimated cost of removal. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

9.4. Term of Special Permit

A Special Permit issued for a WECF shall be valid for 25 years, unless extended or renewed. The time period may be extended or the permit renewed by the Zoning Board of Appeals upon satisfactory operation of the Facility. Request for renewal must be submitted at least 180 days prior to expiration of the Special Permit. Submitting a renewal request shall allow for continued operation of the Facility until the Zoning Board of Appeals acts. At the end of the term (including extensions and renewals), the WECF shall be removed as required by this Section.

The applicant or Facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

11.15 10. Application Process & Requirements

10.1. General

The application for a WECF shall be filed in accordance with the rules and regulations of the Zoning Board of Appeals concerning Special Permits, Article X Administration and Enforcement Section 10.10 and Article XII Special Regulations Section 12.02 Site Plan Approval. All applications for Special Permits shall be filed by the applicant with the Town Clerk pursuant to Chapter 40A Section 9 of the Massachusetts General Laws.

10.2. Required Information

The applicant shall provide the Zoning Board of Appeals with 16 copies of the application. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. The following information shall be included in the application:

(a) Name, address, phone number and signature of the applicant, as well as all co-applicants and property owners;

(b) The name, contact information and signature of any agents representing the applicant;

(c) Documentation of the legal right to use the WECF property.

10.3. Siting and Design

The applicant shall provide the Zoning Board of Appeals with a description of the property which shall include a location map from a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed WECF site and the area within a two mile radius from the proposed WECF.

10.4. Site Plan

Applicants shall submit a detailed site plan, stamped by a Massachusetts licensed professional engineer, showing the proposed WECF property and the following site features:

(a) Property lines for the site parcel and adjacent parcels within 300 feet;

(b) Outline of all existing buildings, identifying their use (e.g. residence, garage, etc.) on the subject property and all abutting properties;

(c) Location of all existing and proposed access roads, public and private on the site and adjacent parcels within 300 feet and proposed roads or driveways either temporary or permanent;

(d) Existing areas of tree cover, including the predominant height of trees, on the site parcel and adjacent parcels;

(e) Proposed location and design of WECF, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access and fencing etc;

(f) Location of all vantage points referenced below in Section 11.15.10.5.;

(g) Location of all resource areas, wetlands, Natural Heritage and Endangered Species Estimated and Priority Habitat areas, migratory bird flyways, prominent and natural and historical site features;

(h) All proposed grading shown in two-foot contour intervals;

(i) All proposed lighting shall be shown on the site plan. All lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution, except as required by the FAA and/or MA DOT Aeronautics Division;

(j) Drainage calculations for the storm water management system for all proposed impervious surfaces;

(k) Zoning District;

(l) Existing site topography at two foot contour intervals.

11.15. 10.5. Visual Simulations

5.1. Photo Simulations
The Zoning Board of Appeals shall select between three and six sight lines, including from the nearest building with a view of the WECF, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the WECF. Computer generated photo simulations shall have the following requirements:

(a) Photo simulations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the WECF;

(b) All view representations shall include existing and proposed vantage points, distances and angles, WECF structures, buildings and tree coverage;

(c) A description of the technical procedures used in producing the photo simulations vantage points, distances and angles.

5.2. Balloon Test
The applicant shall conduct a balloon test to help visualize the height of the proposed WECF. A large, brightly colored balloon that can be seen from a distance shall be raised to the same height as the highest point of the blade of the proposed WECF. The time and date of the balloon test shall be determined at the first public hearing and advertised by the applicant in a newspaper of general circulation in Marshfield. A second date for the test shall be provided in the event of poor weather / visibility. Balloon tests shall be scheduled between the hours of 9:00 AM and 5:00 PM. All balloon tests shall be conducted during daylight hours and clear weather conditions.

11.15. 10.6. Landscape Plan
A landscape plan shall be provided that shows the location of all existing and proposed plantings. The landscape plan shall specify the size, type and location of all proposed plantings. The WECF shall be screened from adjacent properties by one or a combination of the following: (1) a minimum 6’ high evergreen vegetative buffer, (2) a 6’ high solid fence or (3) a 6’ high wall.

10.7. Operation & Maintenance Plan

The applicant shall submit a plan for maintaining access roads and the storm water management system, as well as general procedures for operational maintenance of the WECF in accordance with manufacturer's specifications.

10.8. Compliance Documents

The applicant shall provide the following information as part of the Special Permit application:

(a) A description of financial status of the owner of the proposed WECF;

(b) Proof of liability insurance;

(c) Certification of structure height approval from the FAA and from the MA DOT Aeronautics Division if required by applicable Federal regulations;

(d) A statement certified by an acoustical engineer that demonstrates compliance with Section 11.15.8.4 of this Bylaw and provides the existing ambient sound levels and maximum projected noise levels from the WECF;

(e) Design plans of the WECF foundation and manufacturers' design plans for the structure, stamped by a Massachusetts licensed professional engineer;

(f) One or three line electrical diagram detailing the WECF components and electrical interconnection methods, including all National Electrical Code compliant disconnects and over current devices;

(g) Documentation of the WECF manufacturer and model, rotor diameter, tower height and tower type.

11.15 11. Independent Consultants

Upon submission of an application for a Special Permit, the Zoning Board of Appeals will be authorized to hire outside consultants, as needed, to advise them on technical issues related to the WECF application, pursuant to Chapter 44 Section 53G of Massachusetts General Laws. The applicant will be required to pay this consultant's fees.

11.15 12. Building Mounted Wind Energy Conversion Facilities

12.1. Building Mounted

Building Mounted WECF are allowed subject to a building permit and a Special Permit issued by the Zoning Board of Appeals as an accessory use.

Applications for a Building Mounted WECF shall comply with the requirements of Article X Section 10.10 Special Permits of this Bylaw.

12.2. Turbine Size
The blade tip of a Building Mounted WECF shall be no lower than 15' from the ground elevation and no higher than 20' above the ridge line of the roof.

12.3. Noise
The WECF shall comply with the noise regulations listed in Section 11.15.8.4 of this Bylaw.

12.4. Number Allowed
One WECF is allowed per building.

12.5. Additional submission requirements
Applicants shall submit architectural elevation drawings of the building showing the proposed WECF. Detailed manufacturer's specifications for the WECF shall be submitted.

12.6. Shadow/Flicker
Building Mounted WECF shall comply with Section 11.15.8.3 Shadow/Flicker of this Bylaw.

12.7. Discontinuance
WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner shall be removed within 30 days of an order from the Building Commissioner to remove the WECF.

12.8. Setbacks
Building Mounted WECF shall be set back from the property line a distance equal to the length of the turbine blades plus the minimum setback required in the applicable Zoning District.

11.15 13. Small Scale Ground Mounted Wind Energy Conversion Facilities

13.1 Small Scale Ground Mounted WECF are allowed as an accessory use subject to a building permit and a Special Permit issued by the Zoning Board of Appeals. Applications for a Small Scale Ground Mounted WECF shall comply with the requirements of Article X Section 10.10 Special Permits and Article XII Special Regulations Section 12.02 Site Plan Approval of this Bylaw.

13.2. Turbine Size
The blade tip of the WECF shall be no lower than 15' from the existing ground elevation. The maximum height of a Small Scale WECF is 150' above the existing ground elevation.

13.3. Noise
The WECF shall comply with the noise regulations listed in Section 11.15.8.4 of this Bylaw.

13.4. Additional submission requirements
Applicants shall submit an elevation drawing of the proposed WECF that illustrates the ground mounted WECF on the property in relation to existing buildings, landscaping and other prominent site features. Detailed manufacturer's specifications for the WECF shall be submitted.

13.5. Shadow/Flicker
Building Mounted WECF shall comply with Section 11.15.8.3 Shadow/Flicker of this Bylaw.

13.6. Discontinuance
Ground mounted WECF that are not functionally operating for more than one year or have been determined to be a safety hazard by the Building Commissioner shall be removed within 30 days of an order from the Building Commissioner to remove the WECF.

13.7. Location
Ground mounted turbines are not permitted within the front setback area of the lot, facing a public or private way.

13.8. Setbacks
Ground mounted WECF shall comply with the setback requirements for the Zoning District, as required in Article VI Dimensional and Density Regulations Section 6.10. The setback distance shall be measured from the tip of the blade to the lot line.

13.9. Security
All ground mounted WECF shall comply with the requirements of Section 11.15.8.2 of this Bylaw.

(Article XI Special Permit Conditions Section 11.14 Inclusionary Zoning For Affordable Housing Enacted April 2007 ATM)

(Article XI Special Permit Conditions Section 11.15 WECF Enacted Article 20 April 2010 ATM)

(Amended XI section 11.10 Traffic Impact Study STM 10/27/2014)

(Amended XI section 11.5 PMUD STM 10/27/2014)

ARTICLE XII
SPECIAL REGULATIONS

Section 12.01 **Environmental Performance Standards**

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactivity or other hazard, noise, vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

2. All activities and all storage of flammable and explosive materials at any point, shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

3. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

4. No emission of visible smoke of a shade equal to or darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted for a period or aggregate period of time in excess of six minutes during any one hour provided that at no time during said six minutes shall the shade, density or appearance be equal to or greater than No. 2 of the Chart.

5. No emission which can cause any damage to health or animals or vegetation or which can cause excessive soiling at any point shall be permitted.

6. No emission which contains particle matter shall exceed federal standards of the Environmental Protection Agency.

7. No facility regardless of its size shall discharge more than 40 pounds per hour of dust and fumes to the atmosphere.

8. No discharge, at any point, into a private sewerage system, stream, the ground, or a municipal sewerage disposal system of any material in such a way, or of such a nature or temperature as may contaminate any running stream, water supply, water body, or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

9. No activity shall be permitted which causes or creates a vibration, at any point on any lot line, with a displacement and respective frequency listed below.

Maximum Permitted Steady State Vibration Displacement

Frequency, cycles per second	Displacement, inches
10 and below	.0008
10 - 20	.0005
20 - 30	.0003
30 - 40	.0002
40 - 50	.0001
50 - 60	.0001
60 and over	.0001

Maximum Permitted Impact Vibration Displacement

Frequency, cycles per second	Displacement, inches
10 and below	.0016
10 - 20	.0010
20 - 30	.0006
30 - 40	.0004
40 - 50	.0002
50 - 60	.0002
60 and over	.0002

10. Maximum permissible sound pressure levels for noise radiated continuously from a facility between 10 p.m. and 7 a.m. at any lot line shall be as follows;

Frequency Band, cycles per second	Sound Pressure Level, decibel re 0.0002 dyne/cm2
20 - 75	69
75 - 150	54
150 - 300	47
300 - 600	41
600 - 1,200	37

1,200 - 2,400	34
2,400 - 4,800	31
4,800 - 10,000	28

If this sound is not smooth and continuous, one of the following corrections should be added to each of the actual decibel levels given:

a. Day time operation only +5
b. Noise source operates less than 20 percent of any hour period: +5.

11. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 ounces per thousand cubic feet of hydrogen sulfide or any "Odor Threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington, D.C. shall be permitted.

12. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted when it is determined that it will be hazardous or obnoxious.

13. In the event of a conflict between the above, performance standards and state standards, the standards of a duly organized regional authority, or local standards, the standards which are more stringent shall govern.

Section 12.02 **Site Plan Approval**

Site Plan Review shall be used to evaluate the impacts of a proposed project. Any request for a permit for construction, additions, exterior alteration, relocation, change in use of non-residential use permitted by right or by special permit in any district shall not be granted until a site plan for such use has been submitted to and approved by the Board except that the Board may waive the requirement for Site Plan Approval where the proposed alteration or change in use is found to be minor.

1. All applicants for site plan review shall fully comply with the submission requirements set forth in the Town of Marshfield Zoning Board of Appeals Rules and Regulations except where said Rules and Regulations are waived by the Board. Except as provided in Section 10.09(5) hereof, any person desiring approval of a site plan under this Section shall submit nine copies of said plan, with application for approval thereof, directly to the Board. The Board shall, within ten (10) days after receipt thereof, transmit one copy of such plan to the Planning Board, which said Board may, in its discretion, investigate the case and report in writing its

recommendation to the Board. Applicants are encouraged to meet informally with the Building Inspector prior to making a formal submission of plans to discuss site plan requirements and consider possible waivers. The Board may provide a set of guidelines to assist applicants in meeting site plan, architectural and landscaping objectives.

2. Consultant Review: If in the opinion of the Board, the project requires review by a consultant the applicant will be responsible for consultant review fees as may be required by the Zoning Board of Appeals Rules and Regulations and as governed by M.G.L. Ch. 44 Sec. 53G.

3. A traffic study may be required by the Board as more fully described in Sec. 11.10.

4. The Board shall not take final action on such plan until it has received a report thereon from the Planning Board, or until said Planning Board has allowed thirty-five (35) days to elapse after receipt of such plan without submission of a report thereon.

5. In exercising its jurisdiction under this Section, the Board shall conform to all requirements applicable to the Board when deciding requests for special permits as set forth in General Laws Chapter 40A, Section 9 and Article X of this Bylaw.

6. Review Criteria/Required Performance Standards: In considering a site plan under this Section, the Board shall assure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located:

    a. Protection of adjoining premises against detrimental or offensive uses on the site, including compliance with all dimensional requirements set forth in this Bylaw, and provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscaped buffer along the street frontage.
    b. Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements, including compliance with Section 11.10 where required.
    c. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site.
    d. Adequacy of the proposed drainage system within and adjacent to the site to manage all increased runoff resulting from the development on site, and adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction. Site plan review shall also include review of an Operations and Maintenance Plan for

the approved drainage system to be certified by a registered professional engineer.

e. Compliance with Sections 8.07 and 8.08 of this Bylaw, including adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment.
f. Adequacy of lighting, including compliance with Section 8.09 of this Bylaw, such that all lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties.
g. Building sites shall minimize any material or significant adverse impacts on steep slopes, floodplains, scenic views, grade changes and wetlands.
h. In the B-1 zoning district, the development shall be reasonably consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development. If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.
i. Conformance with all appropriate provisions of the Zoning Bylaw except where variance from such provision is applied for and approved by the Board. All permits issued under this bylaw shall be conditioned upon receipt of all other required permits including Board of Health; Conservation Commission if necessary; all required permits set out in Section 10.10, Article XI, Article XIII and Article XV; and others as required.

7. Design Objectives - The following objectives, in addition to any standards prescribed elsewhere in this Bylaw, shall be utilized by the Board during its site plan review. These objectives are intended to provide specific guidelines for the Board and the applicant.

   a. Architectural details - Architectural details of new buildings and additions, textures of wall and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the character of the surrounding area.
   b. Building Articulation - Giving emphasis to architectural elements (including windows, balconies, porches, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.
   c. Building Form and Features - The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves and with those of the surrounding area.

d. Building Location - Proposed buildings and structures shall be integrated as much as possible within the existing building locations, landscape and terrain. The building's location shall be orientated parallel or perpendicular to the street. Where the minimum setback cannot be maintained by the building, the applicant shall provide adequate spatial definitions through the use of walls, fences and or other elements, which will maintain the street line.
e. Building Design - The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roof line, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
f. Spatial Definition - Define various areas both public and private with walks, plantings, walls, fences and other elements that are in keeping with the overall architectural design.
g. Special Features - Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets.
h. Lighting - Lighting should match the architectural style of the building and comply with the Zoning Bylaws Sec. 8.09.
i. Pedestrian furnishings - Benches, bollards, lighting, street trees, refuse containers, flowers boxes, canopies shall be provided and shall be consistent with the character of the development.
j. Protection of Historic Character - When renovating an historic building, character defining exterior elements of historic building, shall be preserved. Signage should be compatible with the historic character of the building.

8. The Board shall have the power to modify or amend its approval of a site plan on application of the owner, lessee or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this section 12.02 shall, where apt, be applicable to such modification or amendment.

9. The site plan submitted to the Board shall show, among other things as may be required by the Board in the proper administration of this section, all existing and proposed buildings, structures, parking areas, loading areas, driveway openings, driveways, walkways, access and egress points, service areas, recreation areas and other open spaces, including dimensions and all elevations,; easements within the lot; existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems; wetlands, streams, bodies of water, drainage swales; the location and description of all existing and proposed topographic features on the lot and adjoining areas within 50 feet of said lot including two (2) foot contours, walks, fences, walls, planting areas, and greenbelts; and the amount(s) in sq. ft. of proposed building(s), impervious surface area

and open space (natural and landscaped) of the lot. The Board may request additional information or data it judges to be necessary to render its decision.

10. Compliance and Enforcement:

    a. The final approved site plan will be valid for two years and not contingent on continued ownership. Failure to actively begin construction within that time will require a new submittal. Construction, once commenced, shall be prosecuted conditionally to conclusion.
    b. No building permit shall be issued by the Building Inspector for any development subject to this section and no construction or site preparation shall be started, until a decision of the Board approving a site plan has been filed with the Town Clerk and all other required permits have been received and filed with the Town Clerk.
    c. The Board may require submittal of an as-built, certified by a registered professional land surveyor and engineer to the Board and Building Inspector before the issuance of a permanent occupancy permit. The as-built plan shall attest to a development's conformity to its approved site plan by indicating landscaping, buildings, drainage flow, number of parking stalls, and limits of parking areas and drives. No activity subject to site plan approval shall be conducted on the site unless, in the opinion of the Building Inspector, the development or approved phase thereof has been substantially completed according to the approved site plan, and unless the proposed activity was reviewed by the Board pursuant to the Site Plan Approval procedure.
    d. The owner(s) and/or developer(s) of any lot, and all successors in interest, shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.
    e. A permanent landscaping irrigation system, sufficient in the Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or re-used water, or wells, shall be used as the water source for the irrigation system.
    f. Maintenance bond: The Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two (2) growing seasons following completion of planting.
    g. Any changes in the approved site plan, or in the activity to be conducted on the site shall be submitted to the Board for review and approval.

Section 12.03 **Large Scale Ground Mounted Solar Photovoltaic Installations**

1. Purpose - The purpose of this bylaw is to promote the creation of new large scale ground mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large scale ground mounted solar photovoltaic installations.

2. Applicability -_This section applies to large scale ground mounted solar photovoltaic installations proposed to be constructed after the effective date of this bylaw. These regulations also pertain to physical modifications that materially alter the type, configuration, or size of installations or related equipment.

3. General Requirements for all Large Scale Ground Mounted Solar Photovoltaic Installations - The following requirements apply to all large scale ground mounted solar photovoltaic installations to be sited in the I-1 Zoning District.

   3.1 Compliance with All Other Laws and Regulations - The construction and operation of all large scale ground mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements. All buildings and fixtures forming part of a large scale ground mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.

   3.2 Building Permit and Building Inspection - No large scale ground mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

   3.3 Site Plan Review - Large scale ground mounted solar photovoltaic installation with 250 KW or larger rated nameplate capacity shall undergo a site plan review in accordance with the requirements of Section 12.02 Site Plan Approval, prior to construction, installation or modification as provided in this section. In addition to compliance with the requirements of Section 12.02 Site Plan Approval, the following additional information shall be provided at the time of submission of the application.

      a. Drawings of the large scale ground mounted solar photovoltaic installation shall be stamped by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

b. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

c. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

d. Name, address, and contact information for proposed system installer;

e. An Operation and Maintenance plan;

f. Proof of liability insurance.

The Board may waive documentary requirements as it deems appropriate.

The By-Right Site Plan Approval process administered by Zoning Board of Appeals for large scale ground mounted solar photovoltaic installation shall be completed within one year of the date of submission of a complete application package. All other locally required permits for large scale ground mounted solar photovoltaic installation shall also be issued within one year of the date of submission of a complete application package.

3.4 Independent Consultants - Upon submission of the site plan application, the Board will be authorized to hire outside consultants, as needed, to advise them on technical issues related to the large scale ground mounted solar photovoltaic installation application, pursuant to Chapter 44 Section 53G of Massachusetts General Laws. The applicant will be required to pay the consultant's fees.

3.5 Site Control - The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed large scale ground mounted solar photovoltaic installation.

3.6 Operation & Maintenance Plan - The applicant shall submit a plan for the operation and maintenance of the large scale ground mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water management, as well as general procedures for operational maintenance of the installation.

3.7 Utility Notification - No large scale ground mounted solar photovoltaic installation shall be constructed until evidence has been given to the Board that the utility company that operates the electrical grid where the installation is to be

located has been informed of the large scale ground mounted solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3.8 Set backs - The set backs for large scale ground mounted solar photovoltaic installations shall comply with the setbacks required in section 6.10 for the I-1 Zoning District.

3.9 Appurtenant Structures - All appurtenant structures to large scale ground mounted solar photovoltaic installation shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures should be screened from view by an evergreen buffer of vegetation and/or a 6' high solid fence to avoid adverse visual impacts.

3.10 Lighting - Lighting of large scale ground mounted solar photovoltaic shall comply with Section 8.09. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the large scale ground mounted solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3.11 Signage - Signs on large scale ground mounted solar photovoltaic installation shall comply with Section 7.05. A sign shall be provided that identifies the owner and provides a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the large scale ground mounted solar photovoltaic installation.

3.12 Utility Connections - All utility connections from the large scale ground mounted solar photovoltaic installation shall be located underground. In the event that site constraints make it cost prohibitive due to soil conditions and/or topography of the site, or any requirements of the utility provider, the Board may wave this requirement. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. Safety and Environmental Standards

4.1 Emergency Services - The facilities owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the Fire Chief. The facility's owner or operator shall cooperate with public safety officials in developing an emergency response plan. All means of shutting down the large scale ground mounted solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

4.2 Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to only what is necessary for the construction, operation and maintenance of the facility.

5. Monitoring and Maintenance

5.1 Maintenance - The facility's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for the cost of maintaining the large scale ground mounted solar photovoltaic installation and any access road(s), unless accepted as a public way.

5.2 Modifications - All material modifications to a large scale ground mounted solar photovoltaic installation made after issuance of the building permit shall require approval of the Board.

6. Abandonment or Decommissioning

6.1 Removal Requirements - Any large scale ground mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned, as described in section 6.2, shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all large scale ground mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

6.2 Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large scale ground mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Board. If the owner or operator of the large scale ground mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

6.3 Financial Surety - Applicants shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removing the entire large scale ground mounted solar photovoltaic installation in the event the town has to intervene by removing the large scale ground mounted solar photovoltaic installation and remediating the landscape. The applicant shall submit a surety bond in an amount and form determined to be reasonable by the Board, but in no event to exceed more than 125 percent of the cost of removal. Such surety will not be required for municipally or state owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Section 12.04 **Special Requirements for Medical Marijuana Treatment Centers**

1. Purpose

The purpose of this bylaw is to provide for the establishment of Medical Marijuana Treatment Centers in locations appropriate for the use and to regulate the use under strict conditions in accordance with the passage of the Citizens Initiative Petition #11-11 (Question #3 on the November, 2012 state ballot) and 105 CMR 725.100. To minimize the adverse impacts of Medical Marijuana Treatment Centers on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities. To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Treatment Centers.

2. Applicability

No Medical Marijuana Treatment Center shall be established except in compliance with the provisions of Section 12.04. Nothing in this Bylaw shall be construed to supersede any state or federal laws or regulations governing the sale and distribution of narcotic drugs. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Treatment Center under Section 12.04 of this bylaw.

3. General Requirements and Conditions for all Medical Marijuana Facilities

3.1 All non-exempt Medical Marijuana Treatment Centers shall be contained within a building or structure.

3.2 No Medical Marijuana Treatment Centers shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.

3.3 Medical Marijuana Treatment Centers shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

3.4 The hours of operation of Medical Marijuana Treatment Centers shall be set by the Special Permit Granting Authority, the Zoning Board of Appeals (ZBA), but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.

3.5 No Medical Marijuana Treatment Center shall be located on the same lot or a lot which abuts the Marshfield Boys & Girls Club property, any public or private school building, day care facility or any public playground, recreation facility, athletic field or other park where children congregate, or any residential zoning district and the PMUD Overlay District.

3.6 No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Treatment Center.

3.7 Medical Marijuana Treatment Centers shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a trailer, recreational vehicle, movable or stationary mobile vehicle.

3.8 Notwithstanding any provisions of Article VII of this Bylaw, Signage for all Medical Marijuana Treatment Centers shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height. The sign shall be located in a visible location near the main entrance to the facility. Exterior

signs shall identify the name of the establishment but shall not contain any other advertising information.

3.9 Medical Marijuana Treatment Centers shall provide the Marshfield Police Department, Building Commissioner and the ZBA with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is any change in management staff or keyholders.

4. Special Permit Requirements

4.1 Medical Marijuana Treatment Centers shall only be allowed by Special Permit issued by the Marshfield Zoning Board of Appeals in accordance with G.L. c. 40A, §9 and Section 10.10 of this Bylaw, subject to the following statements, regulations, requirements, conditions and limitations.

4.2 A Special Permit for a Medical Marijuana Treatment Center shall be limited to one or more of the following uses that shall be determined by the ZBA:

a. Cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter 40A Section 3 shall not require a Special Permit;
b. Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
c. Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients.

4.3 In addition to the application requirements established by the Zoning Board of Appeals by rule and elsewhere in this Bylaw, a Special Permit application for a Medical Marijuana Treatment Center shall include the following:

a. The name and address of each owner of the establishment and property owner;
b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
c. Evidence of the Applicant's right to use the site for the establishment, such as a deed, or lease;
d. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the names and addresses of all individuals

associated with that entity;

e. A certified abutters list of all parties in interest entitled to notice of the hearing for the Special Permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

f. Proposed security measures for the Medical Marijuana Treatment Center, including lighting, fencing, surveillance cameras, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. The security measures shall be reviewed and approved by the Police Department.

g. The facility shall provide service to qualified patients by appointment only.

h. The facility shall provide free delivery to all qualified patients.

i. No products shall be displayed in the facilities windows or be visible from any street or parking lot.

j. All employees shall be 18 years of age or older.

4.4 Mandatory Findings: In addition to the findings required under Section 10.10, the Zoning Board of Appeals shall not issue a Special Permit for a Medical Marijuana Facility unless it finds that:

a. The establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;

b. The applicant clearly demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable State laws and regulations; and

c. The applicant has satisfied all of the conditions and requirements of this Sections 12.04;

4.5 Annual Reporting: All Medical Marijuana Treatment Centers permitted under this Bylaw shall as a condition of its Special Permit file an annual report with the ZBA, Police Chief and the Town Clerk no later than January 31st of each year. The Annual Report shall include a copy of all current applicable state licenses for the establishment and/or its owners and demonstrate continued compliance with the conditions of the Special Permit. In the event that the Annual Report is not received by January 31st or if the report is incomplete, the owners of the Medical Marijuana Treatment Center will be required to appear before the ZBA to provide the required information.

4.6 A Special Permit granted under this Section shall have a term limited to the duration of the applicant's ownership or lease of the premises as a Medical Marijuana Treatment Center. A Special Permit may be transferred only with the approval of the ZBA in the form of an amendment to the Special Permit with all information required in this Section 12.04.

5. Abandonment or Discontinuance of Use

5.1 The Zoning Board of Appeals shall require the applicant to post a bond prior to the issuance of a building permit to cover costs for the removal of the Medical Marijuana Treatment Center in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all the items noted in Section 5.0 and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Zoning Board of Appeals with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the Town to remove the improvement in compliance with law at prevailing wages.

5.2 A Special Permit shall lapse if not exercised within one year of issuance.

5.3 A Medical Marijuana Treatment Center shall be required to remove all materials, plants equipment and other paraphernalia:

a. Prior to surrendering its state issued licenses or permits; or
b. Within six months of ceasing operations; whichever comes first.

6. Severability

If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

(Article XII Section 12.02 5. amended at 2009 ATM, the word "procedural" was inserted)

(Article XII Section 12.03 inserted at April 2011 ATM, new section ground mounted solar was inserted)

(Article XII Section 12.02 6.(i) inserted at April 2011 ATM)

(Article XII Section 12.04 inserted new medical marijuana section April 2014 ATM)

ARTICLE XIII

SUPERIMPOSED DISTRICTS

Section 13.01 Inland Wetlands District

1. Purpose of District - The purpose of this district is:

   a. To preserve and protect the streams and other water courses and their adjoining lands in the Town of Marshfield.

   b. To protect the health and safety of persons and property against the hazards of flooding and contamination.

   c. To preserve and maintain the groundwater table for water supply purposes.

   d. To protect the community against the detrimental use and development of lands adjoining such water courses.

   e. To conserve the watershed areas of the Town of Marshfield for the health, safety, and welfare of the public.

2. Definition of District - The Inland Wetlands District is superimposed over any other district established by this Bylaw. Except as noted below, all lands in Marshfield which have been identified by the Soil Conservation Service of the U.S. Department of Agriculture as being characterized by poorly drained and very poorly drained mineral soils and very poorly drained soils formed by inorganic deposits and having a water table at or near the surface seven to nine months of the year are included in the district. Where these soils fall within the Coastal Wetlands District, the area shall be considered as in the Coastal Wetlands District.

   A parcel of land with respect to which a building or use permit is sought shall not be subject to the provisions of this Article XIII if:

   a. It is partially outside the Inland Wetlands or Coastal Wetlands Districts, and;

   b. The contiguous portion outside the boundaries of such Districts is equal to at least 80% of the minimum area requirements of Article VI, and;

   c. The proposed building or use will take place on the portion of such parcel which is outside such Inland or Coastal Wetlands Districts.

3. Permitted Use - Municipal use, such as waterworks, pumping stations, essential services and parks, is permitted under this section. Land in the Inland Wetlands District may be used for any purpose otherwise permitted in the underlying district except that:

   a. No structure intended for human occupancy or use on a permanent basis having water and sewage facilities and no other building, wall, dam or structure (except flagpoles, signs and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the Board is issued. However, without a Special Permit, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty and a dwelling or buildings accessory to a dwelling existing at the time this Bylaw becomes effective may be altered or enlarged provided no other provisions of these Bylaws are violated.

   b. Dumping, filling, excavating or transferring of any earth material within the District is prohibited unless a Special Permit from the Board is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw becomes effective.

   c. No ponds or pools shall be created or other changes in water courses, for swimming, fishing or other recreational uses, agricultural uses, scenic features or drainage improvements or any other uses unless a Special Permit from the Board is issued.

4. Permit and Procedure - Any person(s) desiring such a permit shall submit an application to the Board of Appeals which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection, and the Massachusetts Highway Department under Chapter 131 of the General Laws, acts relating to the protection of inland wetlands of the Commonwealth.)

   The application procedure shall be the same as for Special Permit. Copies of the application for Special Permit to the Board with accompanying plans shall also be sent to the Building Inspector, Board of Health, Conservation Commission and the Planning Board for their recommendations to the Board, as to their approval, disapproval or appropriate recommendations.

5. Required Submittals

a. Submission of a location plan at a scale of 1"=1000' showing the lot(s) to be developed, lot(s) lines within which the development is proposed, and tie-in to the nearest road intersection.

b. A site plan at a minimum scale of 1"=40' shall be prepared by a registered land surveyor or registered professional civil engineer. The site plan shall be submitted to the Board and shall show at least the following:

(i) The location, boundaries, and dimension of each lot in question.

(ii) Two-foot contours of the existing and proposed land surface.

(iii) The locations of existing and proposed structures watercourses, and drainage easements, means of access, drainage, and sewage disposal facilities.

(iv) The elevation of the basement and first floor.

(v) The area and location of leaching fields.

6. Development Conditions - For the development of land within the Inland Wetlands District, the following conditions shall apply:

a. The lot(s) shall be served by a public water system.

b. If the lot(s) is to be served by public sewerage system, the following conditions shall apply:

(i) A minimum of six test borings to a minimum depth of eight feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than ten feet. A report by a soil scientist or qualified engineer shall accompany the test data.

(ii) The floor level of areas to be occupied by human beings as living or working space shall be four feet above the seasonal high water table and not subject to periodic flooding.

(iii) If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.

(iv) Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high run-off.

c. If the lot(s) is to be served by an on-lot septic system, the following conditions including those listed previously shall apply:

(i) The leaching area designed for use, as well as a reserved area for future expansion or total future use shall be plotted with dimensions on the site plan.

(ii) A minimum of two percolation tests per leaching area shall be performed. The maximum groundwater table shall be determined during the last two weeks of March or the first three weeks of April. At least two deep observation pits shall be dug to determine soil profiles. The observation pits may be dug during other times of the year, and shall be accompanied by a detailed report compiled by a soil scientist or qualified engineer.

(iii) The leaching areas shall not be constructed in areas where the maximum groundwater elevation is less than four feet below the bottom of the leaching area.

d. The developer shall show that the proposed development will not endanger health, safety, including safety of gas, electricity, fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting or electrocuting; obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; or increase storm water run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.

7. <u>Board of Appeals Procedure</u>

a. The Board of Appeals shall not take final action on an application for a Special Permit hereunder until it has received a report thereon from the Building Inspector, the Board of Health, the Conservation Commission, and the Planning Board, or until 30 days have elapsed after receipt of such plan without the submission of a report. The Board of Appeals shall give due consideration to all reports and, where its decision differs from the recommendations received, shall state the reasons therefore in writing.

b. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past

flooding of said premises, and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

8. Occupancy Permit - No occupancy permit shall be issued until the Board, the Building Inspector, the Board of Health, the Conservation Commission, and the Planning Board have received a certified plan showing the foundation and floor elevations, grading of the premises, elevations of the various elements that make up the sewage disposal system, and that all requirements of all permits are satisfied.

9. Areas and Yard Regulations - A lot, a portion of which is in the Inland Wetlands District meets minimum area regulations under Article VI of this Bylaw provided that not more than 20 percent of the lot area which is required to meet the minimum requirements of the zoning district is within the Inland Wetlands District.

Section 13.02 Coastal Wetlands District

1. Purpose of District - The purpose of this district is to promote:

   a. The health and safety of the occupants of lands subject to seasonal or periodic tidal flooding.

   b. The preservation of the salt marshes and tidal flats and their attendant public benefit.

   c. The safety and purity of water; control and containment of sewage; safety of gas, electric, fuel and other utilities from breaking, leaking, short circuiting, grounding, igniting, electrocuting or any other dangers due to flooding.

2. Definition of District - The Coastal Wetlands District is superimposed over any other districts established by the Bylaw. All lands in Marshfield covered by water of the average lunar monthly high tides and all other lands which have been identified in the report, "Soil Survey, Plymouth County, Massachusetts" issued July 1969 by the Soil Conservation Service of the U.S. Department of Agriculture as being Tidal Marsh and thereby subject to tidal flooding are included in this district.

3. Permitted Uses - Municipal uses such as wastewater treatment facilities, water works, pumping stations, essential services, and parks are permitted in this district. Land in the Coastal Wetlands District may be used for any purpose otherwise permitted in the underlying district except that:

   a. No structure intended for human occupancy or use on a permanent basis having water or sewerage facilities, and no other building, wall,

dam, or structure (except flagpoles, signs and the like) intended for permanent use shall be erected, constructed, altered, enlarged or otherwise created or moved for any purpose except for piers, boathouses, walkways, and similar facilities as which may be granted by a Special Permit from the Board.

However, without a Special Permit, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty and a dwelling or building accessory to a dwelling existing at the time this Bylaw becomes effective may be altered or enlarged provided no other provisions of these Bylaws are violated.

b. Dumping, filling, excavating, or transferring of any earth material within the District is prohibited. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw becomes effective.

c. No ponds or pools shall be created or other changes in water courses, for swimming, fishing, or other recreational uses, marine agricultural uses, scenic features or drainage improvements or any other uses unless a Special Permit from the Board is issued.

d. No use shall be permitted to develop in such a manner as will adversely affect the natural character of the area.

4. <u>Permit and Procedure</u> - Any person(s) desiring such a permit shall submit an application to the Board which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Board of Selectmen, the Massachusetts Department of Environmental Protection and the Massachusetts Highway Department under Chapter 130 of the General Laws, Acts Relating to the Protection of Coastal Wetlands of the Commonwealth.) The application procedure shall be the same as for Special Permits. Copies of the application for Special Permit to the Board of Appeals with accompanying plans shall also be sent to the Building Inspector, Board of Health, the Conservation Commission, and the Planning Board for their recommendations to the Board as to their approval, disapproval or appropriate recommendations.

5. <u>Required Submittals</u>

a. Submission of a location plan at a scale of 1"=1,000' showing the lot(s) to be developed, lot lines within which the development is proposed and tie-in to the nearest road intersection.

b. A site plan at a minimum scale of 1"=40' shall be prepared by a registered land surveyor or a registered professional engineer. The site plan shall be submitted to the Board and shall show at least the following:

(i) The location, boundaries, and dimension of each lot in question.

(ii) Two-foot contours of the existing and proposed land surface.

(iii) The location of existing and proposed structures, watercourses and drainage easements, means of access and drainage.

6. Board of Appeals Procedure

a. The Board shall not take final action on an application for a Special Permit hereunder until it has received a report thereon from the Building Inspector, the Board of Health, the Conservation Commission, and the Planning Board or until 30 days have elapsed after receipt of such plan without submission of a report. The Board shall give due consideration to all reports and, where its decision differs from the recommendations received, shall state the reasons therefore in writing.

b. The Board may, as a condition of approval, require that effective notice be given to prospective purchasers, by signs or otherwise, of past flooding of said premises and the steps undertaken by the petitioner or his successor in title to alleviate the effects of the same.

7. Occupancy Permit - No occupancy permit shall be issued until the Board, the Building Inspector, the Board of Health, the Conservation Commission, and the Planning Board have received a certified plan showing the foundation and floor elevations, elevations of the completed construction, and that all requirements of all permits are satisfied.

8. Areas and Yard Regulations - A lot, a portion of which is in the Coastal Wetlands District meets minimum area regulations under Article VI of this Bylaw provided that not more than 20 percent of the lot area which is required to meet the minimum requirements of the zoning district is within the Coastal Wetlands District.

Section 13.03 Water Resource Protection District

1. Purpose of District - The purpose of this overlay district is to prevent contamination of and preserve the quantity and quality of ground and surface water which provides existing or potential water supply for the Town's residents, institutions, and businesses.

2. Scope of Authority - This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Uses prohibited in the underlying zoning districts shall be prohibited in the WRPD.

3. Establishment and Delineation of the WRPD

   3.1 The WRPD includes the Zone II protection areas as shown on the "Zoning Map of the Town of Marshfield, Massachusetts," as defined in Section 3.03 of the Zoning Bylaw (Zoning Map). The WRPD is superimposed over any other District established by this Bylaw. In cases of conflicting use regulations, the more restrictive zoning requirements shall apply.

   3.2 The boundaries of this district may be modified upon acceptance of approved Zone II conformance with Well Head Protection requirements of the Massachusetts Drinking Water Regulations 310 CMR 22.21 and through a Zoning Map amendment approved through Town Meeting.

4. Split Lots and Determination of Applicability

   4.1 Where the boundary line of the WRPD divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the WRPD. The boundary shall be shown on a site plan as required by this bylaw or through Site Plan Review and shall be acceptable to the reviewing authority in accordance with all applicable provisions from the Zoning Bylaw and associated Planning Board Rules and Regulations.

   4.2 The applicant shall demonstrate, through the use of site plans, that development activity outside of the boundary shall not be connected to land within the boundary through post-development grading, stormwater infrastructure, wastewater infrastructure or other potential connections that could lead to the contamination of groundwater within the WPRD. Where development practices create a hydrologic connection across the WRPD boundary, the applicant shall demonstrate that any water moving into or away from the WPRD is accounted for in any of the required pollutant loading calculations and meets all of the standards associated with the WPRD. Where a Special Permit may be required, the Planning Board may impose such conditions as are reasonably required to ensure that these standards are met.

   4.3 If an applicant questions the accuracy of Town's Zoning Map as referenced in Section 3.1 above, the applicant may challenge the extent to which his/her property is subject to the WRPD provisions in advance of submitting an application for development to the Building Inspector, Zoning Board of Appeals, or the Planning Board. Said challenge shall be made through a request for a Determination of Applicability to the Building Inspector. A

request for a Determination of Applicability shall be made in writing to the Building Inspector and shall include the following information at a minimum:

a. Site Plan clearly depicting the parcel boundary and boundaries of adjacent parcels and rights of way;
b. Survey benchmarks;
c. Stamp from a Massachusetts Registered Surveyor;
d. Name and address of property owner(s);
e. Property address and Map and Lot number from the most recent Assessor's records;
f. Locations of surface water and wetland flags;
g. Location of WRPD boundary;
h. North arrow;
i. Scale (minimum of 1 inch = 40 feet).

4.4 Upon receipt of a request for a Determination of Applicability, the Building Inspector may make this determination in consultation with the Town Engineer and any other applicable agent of the Town of Marshfield.

4.5 The burden of proof shall be upon the applicant to determine the extent to which the property is subject to the jurisdiction of this Bylaw. At the request of the applicant the Town may engage a professional engineer or State of Massachusetts registered Land Surveyor to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the applicant for all or part of the cost of the investigation.

4.6 The Building Inspector shall file his/her written determination with the Planning Board and the Zoning Board of Appeals. Any application for a Determination of Applicability and associated materials shall not substitute for materials required as part of Site Plan Review, a Building Permit Application, or any application for a Special Permit. Any determination made by the Building Inspector as part of a Determination of Applicability shall be considered by other reviewing agencies in their deliberations of separate applications, but shall not constitute approval or denial of said applications.

5. <u>Use Regulations</u>

5.1 <u>Exempt Uses</u> – The following specific uses of land shall be exempt from provisions associated with the WRPD. Where municipal services are exempted herein (subsections e, f, and g), the Department of Public Works or Town Engineer shall provide notice to the Planning Board of these activities within fourteen (14) days of beginning work along with any available engineered plans.

a. Storage of liquid petroleum products of any kind incidental to (1) normal household quantities as defined in Article Two "Definitions" of the Zoning

Bylaw and outdoor maintenance or the heating of a structure, (2) waste oil retention facilities approved by the Board of Health OR required by M.G.L. c. 21, s.52AA, or (3) emergency generators required by statute, rule or regulation;

b. Non-sanitary wastewater treatment facilities approved by the DEP exclusively designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);

c. The replacement or repair of an existing non-sanitary wastewater treatment facility that will not result in a design capacity greater than the design capacity of the existing non-sanitary wastewater treatment facility;

d. The installation of new wells, the laying of water lines, repair and replacement of pipe and appurtenances;

e. Drainage repair, replacement, and expansion of existing drainage structures and pipe. All drainage repair, replacement, and expansion shall follow DEP stormwater management Best Management Practices as applicable;

f. Minor road repair and overlay including total reconstruction or expansion;

g. Street improvements pursuant to the Planning Board's street improvement policy; and

h. The laying of sewer line, repair, replacement or expansion of existing structures and pipe.

5.2 Prohibited Uses - In addition to any prohibitions found in Section 5.04 Table of Use Regulations, the following specific uses of land shall be prohibited within the WRPD:

a. Petroleum, fuel oil, and heating oil bulk stations and terminals, not including liquefied petroleum gas.

b. Facilities that generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c.21C and 310 CMR 30.00, except for the following:
   i. Very small quantity generators as defined under 310 CMR 30.000;
   ii. Household hazardous waste centers and events under 310 CMR 30.390;
   iii. Waste oil retention facilities required by M.G.L. c.21, s.52A;
   iv. Non-sanitary wastewater treatment facilities approved by DEP for the treatment of contaminated waters.

c. Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads.

d. Stockpiling and disposal of snow or ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads which has been removed from highways and streets located outside of the WRPD.

e. Landfills and/or open dumps as defined in 310 CMR 19.006.

f. Automobile graveyards and junkyards, as defined in M.G.L. c.140B, s.1.

g. Landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to M.G.L. c. 21 s.26 through s.53; M.G.L. c. 111 s.17; M.G.L. c. 83 s.6 and s.7, and regulations promulgated thereunder.

h. Animal feedlots exceeding ten animals per acre, except as may be protected under M.G.L. c.40A, s.3.

i. Any new development or expansion of existing development that will result in more than 30% of a site becoming impervious within a residential district or more than 60% of a site within a commercial or industrial district becoming impervious unless specifically exempted under Section 13.03 5.1 Exempt Uses.

j. Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater, unless specifically exempt in Section 13.03 5.1 Exempt Uses.

5.3 By-Right Uses – The following uses are allowed by-right within the WRPD provided all necessary permits, orders, or approvals required by local, state or federal laws are obtained and subject to Section 13.03 5.2 Prohibited Uses and Section 13.03 5.4 Special Permit Uses of this bylaw.

a. Conservation of soil, water, plants, and wildlife;

b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;

c. Foot, bicycle and/or horse paths, and bridges;

d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;

e. Maintenance, repair, and enlargement of any existing structure;

f. Single family residential development;;

g. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;

h. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, treatment plants, aqueducts, and tunnels; and

i. Any use allowed by-right in Section 5.04 Table and Use Regulations that is not otherwise prohibited or requires a Special Permit in the WRPD.

5.4 Special Permit Uses – In addition to Section 5.04 Table of Use Regulations, the following uses shall require a Special Permit from the Planning Board, as the Special Permit Granting Authority (SPGA).

a. Enlargement or alteration of existing uses that do not conform to the WRPD;

b. Activities that involve toxic or hazardous materials in quantities greater than those associated with normal household quantities except as may be prohibited under Section 13.03.5.2 Prohibited Uses;

c. Any increase in size or new onsite septic system or sanitary wastewater treatment plant with an individual or combined flow of 2,000 gallons per day or greater.

d. Any streets, including new subdivision streets and bridges, which will be built to serve five lots or more unless specifically exempted under Section 13.03 5.1 Exempt Uses.

e. Underground storage tanks not including those that may be used to temporarily store wastewater effluent in a system approved by the Board of Health or those used to temporarily store stormwater as part of a management system compliant with Section 6.8 of this Bylaw.

5.5 Reoccupation and Special Permits. Existing residential, commercial, industrial, and/or community facilities where a change in use is proposed may not require a Special Permit provided that a WRPD Reoccupation Certificate signed by the Building Commissioner indicates that a Special Permit is not required pursuant to the Planning Board Rules and Regulations associated with this Bylaw. Eligibility for a WRPD Reoccupation Certificate is contingent upon following conditions:

a. Any proposed use that is allowed by right pursuant to Section 13.03.5.3 shall be eligible.

b. Where the previous use required a Special Permit and the proposed use also requires a Special Permit, the triggers for Special Permits must be the same pursuant to Section 13.03.5.4 in order to be eligible.

6. Performance and Design Standards for All Activities. Where applicable, the following performance and design standards shall apply to any activity that may be allowed by-right or through a Special Permit in the WRDP.

6.1 Construction Activities – Erosion and sediment control measures shall be taken to ensure that exposed earth and debris are not displaced by stormwater runoff or other conditions in accordance with the requirements for Site Plan Review or the Rules and Regulations associated with a WRPD Special Permit.

6.2 Safeguards - Provision shall be made to adequately protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism. Such measures may include provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials. Any proposed indoor or outdoor storage of liquid petroleum products shall be in covered and secure container(s) in an area that has a containment system. Said containment system shall be designed and operated to hold the larger of the following two volumes:

a. 10% of the cumulative storage capacity of all containers; or

b. 110% of the single largest container's storage capacity.

6.3 Pesticides, Fertilizer and Manure – Storage of pesticides, as defined in M.G.L. c.132B, of commercial fertilizers and soil conditioners, as defined in M.G.L. c.128, s.64, and animal manure shall only be permitted within a structure with an impermeable cover and liner designed to prevent the generation of contaminated runoff or leachate.

6.4 Disposal - No disposal of hazardous wastes within WRPD shall occur. All provisions of M.G.L. Chapter 21C (the Massachusetts Hazardous Waste Management Act) shall be adequately satisfied.

6.5 Fill - Fill material used in the WRPD shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to ensure proper condition of the fill. Where a Special Permit is required, the SPGA may require soils testing by a certified laboratory at the applicant's expense as part of the application process or during construction.

6.6 Separation from Groundwater - Permanent removal, or regrading of the existing soil cover shall be prohibited where these activities shall result in a

finished grade elevation less than five (5) feet above the historical high groundwater level.

a. Excavations for: 1) building foundations; 2) roads or utility work; or 3) the installation of Stormwater BMPs shall be exempt from this requirement.

b. The high groundwater elevation may be determined by:

   i. Soil color using the Munsell system, the abundance, size and contrast of redoximorphic features, if present;
   ii. Observation of actual water table during times of annual high water table; or
   iii. Use of USGS wells for correlating comparisons in water tables during times when the water table is not at the annual high range.

c. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

d. Where these requirements would severely limit the development potential of a particular parcel, an applicant may propose permanent removal or regrading of the existing soil cover to a finished grade which is less than five (5) feet above the historical high groundwater elevation through a full WRPD Special Permit application.

6.7 Wastewater – Wastewater flow in the WRPD shall not exceed 440 gallons per 40,000 square feet for the use of conventional on-site wastewater disposal. This flow may increase to 550 gallons per 40,000 square feet through the use of a DEP approved innovative and alternative septic system provided the Board of Health also approves the use of the system.

6.8 Stormwater Management - Stormwater runoff from impervious surfaces shall be recharged on-site in accordance with the standards and guidelines included in the latest version of the Massachusetts Stormwater Management Standards unless in conducting application review it is determined that either recharge is unfeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge.

7. Performance and Design Standards for Special Permit Applications. In addition to those performance and design standards in listed in Section 13.03.6, the following performance and design standards shall apply to any activity that may be allowed through a Special Permit in the WRDP as applicable.

7.1 Nitrogen loading - All applicants required to obtain a Special Permit in accordance with Section 5.04 Table of Use Regulations and Section 13.03.5.4 Special Permit Uses, and all applicants for any permit for any use or structure to be located on land which is within the WRPD and which is shown on a definitive

subdivision plan, filed on or after April 22, 1996, shall demonstrate by written report to the satisfaction of the Planning Board, that the concentration of nitrate - nitrogen resulting from wastewater disposal, animal waste, runoff and fertilizer application, when diluted by rainwater recharge on the lot or subject property as a whole, shall not exceed five (5) milligrams per liter (mg/L). Nitrogen loading, for the purpose of this requirement, shall be calculated in accordance with the Planning Board Rules and Regulations adopted pursuant to Section 13.03 8 Administrative Procedures.

7.2 Emergency Response Plan - For industrial and commercial uses, an emergency response plan to prevent contamination of soil or water in the event of accidental spills or the release of toxic or hazardous materials shall be submitted to the SPGA, if deemed necessary, for approval prior to granting of a Special Permit. Recommendations from the Fire Department on said plan shall be sought. At a minimum, the ERP shall include:

a. A clear outline of communication protocol among facility personnel and emergency response agencies;
b. 24-hour contact information for a designated emergency response coordinator (typically the owner or facility manager), who can respond to the site within one hour of notification, multiple emergency response coordinators are recommended;
c. 24-hour emergency contact information for local police department, fire department and Board of Health;
d. 24-hour emergency contact information for notification of the Massachusetts Department of Environmental Protection;
e. 24-hour emergency contact information for facilities designated hazardous waste transporter, if the facility is a licensed hazardous waste or regulated waste generator;
f. A list of the hazardous products or hazardous wastes present at the facility, including volume and location of any aboveground or underground storage containers;
g. Inventory of all clean-up supplies; and
h. A facility map showing hazardous waste accumulation areas, aboveground or underground storage containers, sinks and drains, emergency exits, fire extinguisher locations, and locations of spill clean-up supplies. The facility map shall be posted in the building and shall include emergency contact numbers.

7.3 Monitoring - Periodic monitoring shall be required when the site location and land use activities in the area indicate a significant risk of contamination to the water supply as determined by the SPGA based upon recommendations of the Department of Public Works, Board of Health, and Conservation Commission. Such monitoring may include analysis of water for chemical constituents determined by the SPGA to be appropriate and the installation of groundwater monitoring wells constructed and located by a registered professional engineer

with expertise in hydrology, or by directly testing effluent. All testing and engineering costs will be borne by the applicant for Special Permit or owner of the property.

7.4 Wastewater Flows that Exceed 2,000 gpd – For those uses that require a Special Permit pursuant to 5.4.d, applicants shall meet one of the following standards using the procedures outlined in the Planning Board's Regulations:

a. Where a previously developed site is being redeveloped, applicants shall demonstrate that there is no net increase in the concentration of nitrogen when nitrogen loading analyses are performed for both the previous and proposed use; or

b. For new development that cannot meet the 5 mg/L on-site standard for average nitrogen concentration or where the standard under Section 13.03 7.4.a cannot be achieved for redevelopment, a aggregation of flows analysis shall be provided pursuant to the WRPD Rules and Regulations demonstrating the use of credit land will result in compliance with the 5 mg/L standard.

8. Administrative Procedures - The Planning Board, as the SPGA, shall adopt Rules and Regulations relative to their role in governing activities within the WRPD, which may be amended from time to time and filed with the Town Clerk. Where a Special Permit application is being considered, the Board shall follow the procedural requirements for Special Permits as set forth in M.G.L. Chapter 40A, Section 9.

9. Review Criteria - Decisions by the SPGA to approve, deny or approve with conditions any application for a Special Permit in the WRPD shall use the following criteria:

9.1 The proposal shall be in harmony with the purpose and intent of this bylaw and will promote the purposes of the WRPD.

9.2 The proposal shall meet the Performance and Design Standards of Section 13.03 6 Performance and Design Standards for All Activities and Section 13.03 7 Performance and Design Standards for Special Permit Applications as applicable.

Section 13.04 Storm Water Management Overlay District

1. Purpose - The purpose of the Storm Water Management Overlay District is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development storm water runoff

and non-point source pollution associated with new development and redevelopment. These objectives will be met by regulating new construction, construction of impervious surfaces, the removal of natural vegetation, especially large trees, and the excavation and alteration of land, in order to minimize erosion, sedimentation, flooding, water pollution, and other adverse impacts of development within the Overlay District or any adjacent low lying areas.

2. Scope of Authority - The Storm Water Management Overlay District is established as an overlay district and shall be superimposed on other zoning districts established by this Bylaw. All regulations of the Marshfield Zoning Bylaw applicable to the underlying districts shall remain in effect, except that where the Storm Water Management Overlay District imposes additional regulations, such regulations shall prevail.

3. District Boundaries – The boundaries of the Storm Water Management Overlay District are delineated on the Official Zoning Map.

4. Applicability – The following types of development within the Storm Water Management Overlay District are subject to review by the Building Inspector. Notwithstanding other provisions of this Bylaw, no land development within the Storm Water Management Overlay District shall be permitted and no building permit or shall be issued until the provisions of the Storm Water Management Overlay District regulations have been met. Development activities subject to the Storm Water Management overlay district design standards include the following:

4.1 The construction of a new dwelling or principle structure;

4.2. Any substantial alteration or addition to any dwelling or other structure, if such action enlarges the footprint of the structure by more than 200 square feet;

4.3 The removal, filling, excavation or alteration of earthen materials if such alteration changes pre-existing topography and drainage characteristics of the property in a manner that may adversely impact abutting property owners.

4.4 The removal or destruction of more than 5 mature trees having a diameter of six inches or greater, measured four feet from the ground surface. This limitation on cutting of mature trees does not apply to trees that are to be removed for construction of a street, dwelling, driveway, walkway, septic disposal system, or a retaining wall. Other trees may be removed if in the opinion of the Tree Warden the trees are dead, dying or are diseased trees that represent a safety hazard to public health or property.

4.5 Any activity that increases the impervious coverage on any lot that causes additional volumes of runoff to discharge on abutting properties that may cause flooding and adversely impact abutting property owners.

5. Development Performance Standards – All new construction, substantial alterations, excavation, filling, grading or tree cutting described above in Section 4, shall comply with the following development standards.

5.1 For lots ranging in size from 5,000 to 7,499 square feet, the following development limitations shall apply.
a. Building area shall not exceed 16% of the land area of any lot.
b. Impervious surfaces shall not exceed 25% of the land area of any lot.
c. A minimum of 15% of the lot shall remain undisturbed with existing natural vegetation.

5.2 For lots ranging in size from 7,500 to 9,999 square feet, the following development limitations shall apply.
a. Building area shall not exceed 15% of the land area of any lot.
b. Impervious surfaces shall not exceed 22% of the land area of any lot.
c. A minimum of 25% of the lot shall remain undisturbed with existing natural vegetation.

5.3 For lots ranging in size from 10,000 square feet to 19,999 square feet in area the following development limitations shall apply.
a. Building area shall not exceed 15 % of any lot area.
b. Impervious surfaces shall not exceed 20 % of the lot area.
c. A minimum of 35 % of the lot area shall remain undisturbed with existing natural vegetation.

5.4 In the Storm Water Management Overlay District, the removal of native vegetation, especially large trees having a diameter of six inches or greater, measured four feet from the ground surface, shall be minimized. Trees may only be removed for construction of streets, structures, driveways, retaining walls, walkways, utilities and septic systems. Selective clearing of not more than 5 trees for lawns shall be designated on the site plan.

5.5 To the maximum extent feasible, post development runoff shall not exceed pre-development runoff. All roof runoff shall be retained and recharged on site in drywells or infiltration basins covered by natural vegetation which shall be designed to accommodate a 1” rainfall within a 24 hour period

1.6 Sediment and erosion control measures as required by the Building Inspector or designee shall be employed to minimize the impacts during and after construction.

6. Permit Procedures & Requirements – Any activity listed above in Section 4 requires copies of plans to be submitted to the Planning Board, Conservation Commission, Department of Public Works, and Board of Health for review and recommendations. Said Boards shall have 21 days to provide comments to the Building Inspector. If no comments are received within the 21 days, the Building Inspector may proceed with the issuance of the building permit.

Superimposed Districts

13.05 Brant Rock Village Overlay District

13.05.1. Purpose – The purpose of the Brant Rock Village Overlay (BRVO) District is to protect and enhance the public health, safety, environment and general welfare by establishing minimum requirements for new development and redevelopment of existing properties and uses located in the BRVO district. New development and redevelopment within the BRVO district are intended to reduce the impacts from actual and projected coastal flooding. In addition, these regulations are intended to promote certain types of Mixed-Use buildings, as defined in Article II. Definitions to provide for commercial uses on the first floor and residential uses second floor. The Village of Brant Rock has a historical development pattern that contains both commercial and residential uses within a single building and other geographical areas which are substantially residential. Many of the existing buildings have these pre-existing non-conforming uses. The BRVO will authorize certain Mixed-Uses within a single building provided such buildings can be designed and constructed in a manner that preserves and respects the historic New England architecture of the Brant Rock Village and reduces damage caused by chronic flooding that is prevalent in the BRVO district.

13.05.2. Scope of Authority – The Brant Rock Village Overlay District (BRVO) is hereby established as an Overlay District and shall be superimposed over the existing Business Waterfront (B-4) Zoning District. All regulations of the Marshfield Zoning Bylaw applicable to the underlying districts shall remain in effect, except that where the Brant Rock Village Overlay District allows for mixed use buildings, these regulations shall prevail.

13.05.3. District Boundaries – The boundaries of the Brant Rock Village Overlay District are delineated on the Official Zoning Map. The overlay district boundaries shall follow the boundaries of the existing Business Waterfront (B-4) Zoning District in the Brant Rock Village area.

13.05.4. Applicability – BRVO provides a development alternative for property owners within the Overlay District if they are flood proofing a structure at or above the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map

(FIRM) 100 hundred year storm event established Base Flood Elevation (BFE).

Any new building construction, reconstruction or additions to structures within the BRVO that include flood- proofing at or above the BFE have the option to build a Mixed-Use building with commercial uses allowed on the first floor and residential uses allowed on the second floor. Mixed Use buildings shall be subject to the following BRVO regulations.

13.05.5. Allowed Uses

5.1 All uses permitted in the B-4 District.

5.2 Residential use of two and half stories by Special Permit issued by the Zoning Board of Appeals subject to the building height requirements in Section 7 below.

13.05.6. Design Requirements

6.1 Flood Proofing - All of the building shall be elevated above the FEMA FIRM Base Flood Elevation (BFE). Providing a BFE higher than the minimum required by FEMA, to plan for projected sea level rise is encouraged. Moisture and rot resistant breakaway panels shall be provided to screen the building's pilings or peers in the area between the natural ground elevation and the first floor. These breakaway elements should be consistent with the rest of the building's design elements.

6.2 Outside Boardwalk - All buildings shall provide an outdoor boardwalk, farmer's porch or similar structure, elevated above the BFE, set back from the street or sidewalk. The boardwalk or porch on the first floor shall be a minimum of 10' wide measured from the inside edge of the top of the stairs to the outermost wall of the commercial first floor building.

13.05.7. Intensity and Dimensional Regulations

All new buildings, redeveloped buildings, or additions for proposed mixed use shall comply with the following intensity and dimensional regulations.

Setbacks:

Front – A 10' setback is required. No setback from the front property line is required for stairs or ramps leading above the BFE or any boardwalk or porch located above the BFE.

Side - No sideline setbacks are required for buildings providing the ability to have a continuous boardwalk to abutting buildings. Adjoining property owners are encouraged to connect boardwalks and porches to create a continuous elevated pedestrian walkway within the BRVO. For buildings that do not provide the ability to connect to abutting buildings a 5' setback is required. Driveways are allowed within the setback.

Rear – A 15' building setback is required. Parking spaces and maneuvering lanes are allowed within the setback.

Density - Residential dwelling units on the second story are allowed by Special Permit at a density of up to 3 dwelling units per 10,000 square feet of underlying land area.

Lot Size – The minimum lot size for a Mixed-Use building is 10,000 square feet.

Building Height – The maximum building height is 2.5 stories or 35' measured above the FEMA FIRM Base Flood Elevation.

13.05.8. Architecture - New buildings additions and reconstruction where mixed uses are proposed shall be designed to incorporate the design elements in the following design sketch:

13.05.9 Mixed-Use - Buildings shall be designed to reflect the traditional New England coastal village architecture found within the region. The mass, proportion, and scale of the building, roof shape, roof pitch, proportions and relationships between doors and windows should be harmonious among themselves.

Architectural details of new construction and proposed reconstruction as well as any additions to existing buildings should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Marshfield.

Wherever possible, the building's location shall be oriented parallel to Ocean St. and Dyke Rd., unless there is a compelling reason to do otherwise that will enhance the proposed project. Building façades in excess of thirty (30) feet wide shall incorporate recesses and projections, of a minimum of two (2) feet in depth, to break up the building's mass. The building roof line should include variations in pitch and height and include dormers, turrets and decks. All building materials shall be moisture and rot resistant in consideration of the coastal weather conditions.

13.05.10. Landscaping
Landscape plantings shall be comprised of native plant species that have adapted to coastal site conditions such as wind, salt spray, flooding and burial. Plantings that provide a variation of seasonal colors are encouraged in elevated planters at both the boardwalk and sidewalk levels.

13.05.11. Parking
Parking shall be provided as required in Article VII. Off-Street Parking & Loading Requirements. In the BRVO one parking space for each bedroom in all residential units is required. Existing public parking spaces located within

300' of the street frontage for the property may be counted toward meeting the minimum parking requirements for commercial uses, by Special Permit pursuant to Section 8.05 of the Bylaw.

13.05.12. Signs
All commercial signs shall comply with Article VII. Signs.

13.05.13. Accessibility
All commercial units and boardwalks shall comply with the requirements of the American Disability Act (ADA) and the State Architectural Access Board.

13.05.14. Affordable Housing
Mixed-use buildings shall provide affordable housing for low or moderate income individuals as defined in Article II. Definitions, of all residential housing shall include affordable housing in compliance with Section 11.14 Inclusionary Zoning For Affordable Housing. The number of affordable units required shall be in accordance with the requirements of Section 11.14.4 Provisions of Affordable Units – Bonuses and Incentives. If the residential units are for rent, the provisions of Section 11.14.4.2(b) Fees-in Lieu of Construction is not applicable.

(Section 13.04 Storm Water Management Overlay District Enacted April 2006 ATM)
(Section 13.03 Water Resource Protection Overlay District bylaw replaced April 2011 ATM)
(Section 13.05 Brant Rock Village Overlay District enacted April 2014 ATM)
(Section 13.04 Strom Water Management Overlay District amended April 2015 ATM)

ARTICLE XIV

AMENDMENT, VALIDITY, AND EFFECTIVE DATE

Section 14.01 Amendment - This Bylaw may be amended from time to time in accordance with Section 6 of the Zoning Enabling Act. During the amendment procedure, subdivision plans in process of review by the Planning Board under the Subdivision Control Law shall be subject to the provisions of the Zoning Enabling Act.

Section 14.02 Validity - The invalidity, unconstitutionality, or illegality of any provision of this Bylaw or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality, or legality or any other provision or boundary.

Section 14.03 Effective Date - This Bylaw shall take effect upon the date resulting from the procedure provided for in Section 32 of Chapter 40 of the General Laws of the Commonwealth of Massachusetts.

ARTICLE XV
FLOODPLAIN ZONING

Section 15.01 Purpose - The purposes of this Bylaw are to: protect human life and health and minimize danger to emergency response officials in the event of flooding; minimize expenditure of public money for flood control projects and emergency response and clean up; reduce damage to public and private property and utilities resulting from flooding waters and debris; and ensure that the Town of Marshfield qualifies for participation in the National Flood Insurance Program.

Section 15.02 Applicability - This Bylaw applies as an overlay district to all Areas of Special Flood Hazard located within the jurisdiction of the Town of Marshfield and designated as Zone A, AE, AH, AO, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Marshfield are panel numbers 25023C0116J, 25023C0117J, 25023C0118J, 25023C0119J, 25023C0136J, 25023C0137J, 25023C0138J, 25023C0139J, 25023C0143J, 25023C0207J, 25023C0226J, 25023C0227J, 25023C0228J, 25023C0229J, 25023C0231J, 25023C0232J, 25023C0233J, 25023C0234J, 25023C0237J, and 25023C0241J, dated July 17, 2012. This area shall be known as the Floodplain District. The exact boundaries of the District may be defined by the base flood elevations shown on the FIRM and further defined by the FEMA Plymouth County Flood Insurance Study (FIS) booklet dated July 17, 2012. The FIRM and FIS booklet are incorporated herein by reference. In the event any provisions of this bylaw are in conflict with requirements for any other districts, the more restrictive regulation shall take precedence.

Section 15.03 Floodplain Permits - Permits for development and uses of land within the Floodplain District shall be required for the following. Such applications shall be obtained prior to or in conjunction with building permits if necessary:

1. new construction of residential and non-residential structures;
2. substantial improvement (as defined) of any existing structure;
3. expansion of the footprint of any existing structure;
4. alteration of topography (as defined).

Section 15.04 Contents of Applications - Applications for floodplain permits shall be made to the Building Inspector except where indicated below. Applications shall contain:

1. elevation in relation to mean sea level of the lowest floor (including basements or cellars) of all existing and proposed structures;

2. elevation in relation to mean sea level of existing and proposed floodproofing;

3. signed statement by a registered professional engineer or architect that the requirements of this Bylaw have been met; (NOTE: The above-referenced requirements may be met through submission of a FEMA Elevation Certificate.)

4. plans for any breakaway walls to be used to enclose space below the base flood elevation (in V zones);

5. description of topographic alterations including existing and proposed grades and a delineation of the Special Flood Hazard Area boundary line;

6. site plan certified by a registered land surveyor showing all existing and proposed natural and constructed features on the property. The site plan shall include a notation of the Special Flood Hazard Area designation for all existing and proposed structures.

7. base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within Zone A, where such data is not provided on the FIRM.

Section 15.05 <u>Standards - Areas of Special Flood Hazard</u> - All permits granted under Section 3 above shall be subject to the following provisions:

1. All development and redevelopment, whether permitted by right or by special permit, shall be in accordance with the standards of the Massachusetts State Building Code, the Wetlands Protection Act (Chapter 131, Section 40) and regulations (310 CMR 10.00, 310 CMR 13.00, and 310 CMR 12.00), septic system regulations (310 CMR 15, Title 5), and all other applicable federal, state and local requirements. Any variance from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

2. No alteration of topography shall be permitted where it may result in increased runoff or drainage to the detriment of other property owners or the Town.

3. Certification by a registered professional engineer or architect for all floodproofing measures shall be required.

4. Storage of fuel oil, toxic or hazardous materials below the base flood

elevation shall be floodproofed.

5. Within Zones AH and AO, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 15.06 Additional Requirements in Velocity (V) Zones - If proposed construction or alteration of topography is located within a V Zone on the FIRM maps, all floodplain permits granted under Section 3 above shall be subject to the following additional requirements:

1. All new construction within V Zones shall be located landward of the reach of mean high tide.

2.. Man-made alteration of coastal dunes within V Zones is prohibited where such alteration could result in increased flood damage.

Section 15.07 Floodways - All encroachments, including fill, new construction, substantial improvements to existing structures, and other development is prohibited in the floodway as designated on the Marshfield FIRM maps. Along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to determine the extent of the floodway.

Section 15.08 Administration - The Building Inspector shall administer this Bylaw as follows:

1. Review proposed construction and alteration of topography within the Floodplain District to assure that all necessary permits have been received from those federal, state and local governmental agencies from which approval is required and ensure that the requirements of this Bylaw have been met.

2. Maintain records of the elevation of the lowest floor (in relation to NGVD), including basement, of all new or substantially improved structures. In addition, maintain records as to whether or not such structures contain a basement.

3. If a structure has been floodproofed, maintain records of the elevation of the lowest floor and the elevation to which the structure was floodproofed, including the required engineering certification.

4. Maintain for public inspection all records pertaining to the provisions of this bylaw.

5. Provide notice to the following of any alterations or relocation of a watercourse and ensure that such activity does not diminish the flood carrying capacity of such watercourse:

   - Adjacent Communities

   - NFIP State Coordinator
     Massachusetts Department of Conservation and Recreation
     251 Causeway Street, Suite 600-700
     Boston, MA 02114-2104

   - NFIP Program Specialist
     Federal Emergency Management Agency, Region I
     99 High Street, 6th Floor
     Boston, MA 02110

Section 15.09 <u>Special Permits</u>

1. The Zoning Board of Appeals may grant a Special Permit modifying the performance standards in 15.05 and 15.06 for the following:

   a. Non-residential structures such as boathouses, boatyards, structures designed for education and research, the nature of which require their location within the Floodplain District; and

   b. Restoration and reconstruction of structures listed in the National or State Register of Historic Places.

2. Special Permits shall only be issued upon a determination by the Zoning Board of Appeals that:

   a. failure to grant the Special Permit would result in exceptional hardship to the applicant;

   b. the granting of a Special Permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or conflict with existing bylaws; and

   c. the relief granted is the minimum necessary considering the flood hazard.

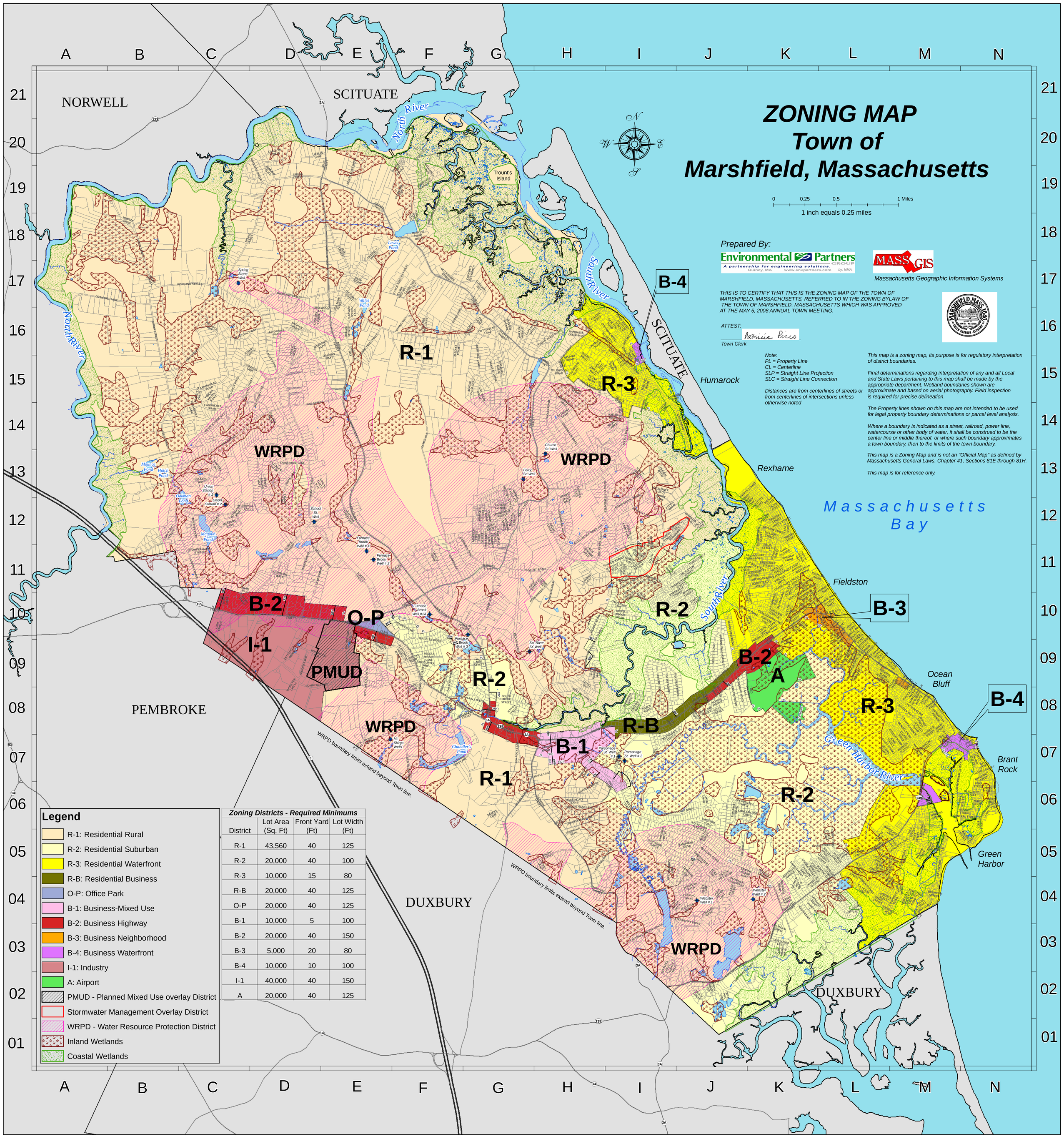
   d. all subdivision proposals are designed to assure that such proposals minimize flood damage; all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided to reduce exposure to flood hazards.

3. Any applicant to whom a Special Permit is granted shall be given written notice that the proposed development may result in increased risk to life and property and increased flood insurance premium rates.

4. The Zoning Board of Appeals, as the Special Permit Granting Authority (SPGA), may adopt rules and regulations relative to the issuance of such Special Permits and file a copy with the Town Clerk. The Board shall follow the procedural requirements for Special Permits as set forth in Chapter 40A, Section 9.

(Section XV Floodplain Zoning Amended April 2006 ATM)
(Section XV Floodplain Zoning Amended April 2012 ATM)
(Section XV Floodplain Zoning Amended April 2015 ATM)

ZONING MAP
Town of
Marshfield, Massachusetts



Prepared By:

Environmental Partners GROUP — A partnership for engineering solutions. Quincy, MA www.envpartners.com by: NMA

MASS GIS — Massachusetts Geographic Information Systems

THIS IS TO CERTIFY THAT THIS IS THE ZONING MAP OF THE TOWN OF MARSHFIELD, MASSACHUSETTS, REFERRED TO IN THE ZONING BYLAW OF THE TOWN OF MARSHFIELD, MASSACHUSETTS WHICH WAS APPROVED AT THE MAY 5, 2008 ANNUAL TOWN MEETING.

ATTEST: Patricia Piros
Town Clerk

Note:
PL = Property Line
CL = Centerline
SLP = Straight Line Projection
SLC = Straight Line Connection

Distances are from centerlines of streets or from centerlines of intersections unless otherwise noted

This map is a zoning map, its purpose is for regulatory interpretation of district boundaries.

Final determinations regarding interpretation of any and all Local and State Laws pertaining to this map shall be made by the appropriate department. Wetland boundaries shown are approximate and based on aerial photography. Field inspection is required for precise delineation.

The Property lines shown on this map are not intended to be used for legal property boundary determinations or parcel level analysis.

Where a boundary is indicated as a street, railroad, power line, watercourse or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.

This map is a Zoning Map and is not an "Official Map" as defined by Massachusetts General Laws, Chapter 41, Sections 81E through 81H.

This map is for reference only.

Legend

- R-1: Residential Rural
- R-2: Residential Suburban
- R-3: Residential Waterfront
- R-B: Residential Business
- O-P: Office Park
- B-1: Business-Mixed Use
- B-2: Business Highway
- B-3: Business Neighborhood
- B-4: Business Waterfront
- I-1: Industry
- A: Airport
- PMUD - Planned Mixed Use overlay District
- Stormwater Management Overlay District
- WRPD - Water Resource Protection District
- Inland Wetlands
- Coastal Wetlands

Zoning Districts - Required Minimums

District	Lot Area (Sq. Ft)	Front Yard (Ft)	Lot Width (Ft)
R-1	43,560	40	125
R-2	20,000	40	100
R-3	10,000	15	80
R-B	20,000	40	125
O-P	20,000	40	125
B-1	10,000	5	100
B-2	20,000	40	150
B-3	5,000	20	80
B-4	10,000	10	100
I-1	40,000	40	150
A	20,000	40	125

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AGAWAM AVENUE M8
ALABAMA STREET M4
ALBERTA ROAD F16
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BOURNE PARK AVENUE J9, J10
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BOXBORO ROAD C12
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BRADLEY STREET M7, M8
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BRYANT STREET M7, M8
BRYANTS LANE M7, M8, N7
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CAMBRIDGE STREET I10, I11
CAMPBELL'S PATH J4
CANAL STREET L4, L5, M4
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CANOE TREE WAY EAST F17
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COAKSET AVENUE I11
COLBY HEWITT LANE J2, K2, K3
COLONIAL ROAD M8
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