

# MARSHAN TOWNSHIP ZONING ORDINANCE

## PREAMBLE

Pursuant to the authority conferred by the State of Minnesota in Section 462.357, Laws of 1965 as amended, and for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare of the inhabitants of the area of Marshan Township; and
2. Protecting and preserving the character, social, and economic stability of agricultural, residential, commercial, industrial, natural resources, and other areas; and
3. Securing the most appropriate use of land; and
4. Preventing the overcrowding of the land and undue congestion of population; and
5. Providing adequate light, air, and reasonable access; and
6. Facilitating adequate and economical provision of transportation, water supply, and sewage disposal; and
7. Planning for various public requirements;

## THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MARSHAN ORDAINS:

Ordinance No. 2010 shall be known and cited as the Marshan Township Zoning Ordinance (herein referred to as this Ordinance), an ordinance setting minimum and maximum standards for the size of lots, the height and size of buildings, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings and land for agriculture, trade, commerce, industry, residence, natural resource protection, and other purposes, creating districts for said purposes and establishing the boundaries of such districts, defining certain terms used herein, providing for the subdivision of land, providing for enforcement and administration, and imposing penalties for the violation of this Ordinance.

ARTICLE I

DEFINITIONS AND PRELIMINARY SECTIONS

SECTION 101 DEFINITIONS AS USED IN THIS ORDINANCE:

The following words and terms serve only the purpose of definitions, and are provided only to supplement the provisions of this Ordinance:

Accessory Use: A use, structure, or portion of a structure subordinate to, serving, and customarily incidental to the principal use on the property, including machinery, structures, or buildings necessary for the conduct of agricultural operations or other permitted uses; and buildings including garages and pole buildings that are typically associated with residential buildings but excluding those that are utilized for commercial or industrial purposes.

Accessory Structure: A structure equal to or greater than 200 square feet which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. Accessory structures may include fabric covered hoop structures. equal to or greater than 200 square feet. For clarification on the permitted locations of accessory structures, see section 501 of this ordinance.

Agricultural Building: The structure on agricultural land used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, or sub-lessee of the building and members of their immediate families, employees, or persons engaged in the pick-up or delivery of agricultural produce or products.

Agricultural Land: All real property of at least 10 contiguous acres within Marshan Township that is used for agricultural operations, zoned for agricultural use, or designated for agricultural purposes by the Township Comprehensive Plan, or considered agricultural land under M.S. 273.13.

Agricultural Operations: Operations including, but not limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber, or apiculture; the raising of livestock, fur bearing animals, fish or poultry; or any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage, to market, or to carriers for transportation to market.

Agricultural Use: A use of land for the production of farm crops, and/or for the raising thereon of farm poultry or domestic and non-domestic

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	farm animals, such as horses, cattle, sheep, swine and fur bearing animals.
Agriculture, Animal:	The use of land for Animal Feedlots or Animal Waste Storage Facility.
Agriculture, Crop:	The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary products, and horticulture.
Animal:	Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry), or other member commonly accepted as a part of the animal kingdom.
Animal, Domestic:	Any animal commonly accepted as a domesticated household pet. Such animals shall include dogs, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous, and non-constricting reptiles or amphibians, and other similar animals.
Animal, Farm:	Any animal commonly associated with farms or with performing work in an agricultural setting. Such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, llamas, ostriches, emus, burros, donkeys, and other animals associated with a farms, ranches, or stables.
Animal, Non-Domestic:	<p>Any animal commonly considered to be naturally wild and not naturally trained or domesticated, or which is commonly considered to be inherently dangerous to the health, safety, and welfare of people. Such animals shall include:</p> <p>(1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars.</p> <p>(2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.</p> <p>(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.</p> <p>(4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.</p>

(5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.

(6) Any other animal that is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including, but not limited to, bears, deer, monkeys and game fish.

**Animal Feedlot:**

A lot, building, or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots, but pastures shall not be considered animal feedlots.

**Animal Unit:**

A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this rule, the following equivalents shall apply:

<u>Dairy</u>	<u>No. Of Animal Units</u>
one calf (less than 500 lbs.)	0.2
one youngstock (500-1000 lbs.)	0.7
one heifer	1.0
one cow	1.4
<u>Beef</u>	
one calf (less than 500 lbs.)	0.2
one cow/calf unit	1.2
one cow, slaughter steer or heifer	1.0
<u>Swine</u>	
one swine (less than 55 lbs.)	0.05
one swine (55 lbs. or more)	0.4
one sow with piglets less than 14 days old	0.4
<u>Turkeys</u>	
one pullet	0.005
one hen or tom	0.018
<u>Chickens</u>	
one pullet	0.002
one layer or broiler	0.01
<u>Horses</u>	
one horse	1.0

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	For animals not listed above, the number of animal units shall be defined as the average weight of the animal, divided by 1,000 pounds.
Animal Waste Storage Facility:	A structure where lot runoff, manure effluent, or other diluted animal waste is stored or treated, including earthen manure storage basins, earthen lagoons, and concrete or glass-lined storage.
Apartment:	A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family or group of individuals living together as a single family unit. This includes any units in buildings with more than one dwelling unit.
At Large:	An animal off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.
Basement:	A portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.
Bed and Breakfast:	A building other than a hotel or motel that is owner-occupied where, for compensation and by pre-arrangement for definite periods, meals or lodging may be provided for three or more persons, but not to exceed ten persons at any given time.
Best Management Practices:	The Minnesota Pollution Control Agency's, the Minnesota Department of Natural Resources', or the Minnesota Board of Water and Soil Resources' best management practices manuals, or practices therein.
Board:	The Board of Supervisors of Marshan Township.
Boardinghouse:	A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more persons, but not to exceed twenty persons at any given time.
Building:	Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.
Building Height:	The vertical distance to be measured from the grade of a building line to the top of the cornice or a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other

arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

**Building Line:** A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

**Campground:** An open-air recreation area where temporary shelters are allowed and intended to provide transient occupancy and associated buildings and accessory structures and offices used in the operation of the facility.

**Commented [FN6]:** Wabasha

**Carport:** An automobile shelter having one or more sides without a door, without a wall, or otherwise open.

**Commented [FN7]:** Add campground definition

**Community Water and Sewer System:** Utilities systems serving a group of buildings, lots, or any area of the community, with the design and construction of such utility systems as approved by the community and the State of Minnesota.

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**Comprehensive Plan:** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development, both public and private, of Marshan Township and its environs, as defined in the Minnesota Municipal Planning Act, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Conveyance System:** Any path, including, but not limited to, ditches, streams, overland flow channels, and storm sewer systems, traveled by water as it passes through the watershed.

**Cul-de-Sac:** \_\_\_\_\_A minor street with only one outlet and ending in a fire code compliant turnaround.

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**Curb Level:** The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, Township engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.

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**Dog:** Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**Dust:** Airborne mineral particulate matter.

**Dwelling, Attached:** A dwelling which is joined to another dwelling.

Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot as the dwelling unit.

~~Dwelling, Seasonal: A dwelling occupied on a part-time basis not to exceed eight (8) months of the calendar year, and not requiring public services such as school bus transportation or snow plowing of roads by a governmental unit~~

Commented [FN9]: Duluth Township

Dwelling Unit: A residential structurebuilding or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses, or tourist homes.

Excavation: The movement or removal of soil and minerals.

Exterior Storage: The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

Extraction Area: Any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area and two feet in depth, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone, or other natural matter, or made by turning, breaking, or undermining the surface of the earth.

Family: An individual, or two or more persons related by blood, marriage, or adoption living together, or a group of not more than five persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

Final Plat: The final map, drawing, or chart on which a subdivision is presented to the Town Board for approval and which, if approved, will be submitted to the County Register of Deeds or Registrar of Titles.

Firearm: A rifle, shotgun, pistol, or device capable of propelling metal pellets by air, spring, CO<sub>2</sub>, or other means.

Floor Area: The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

Garage, private: An accessory building or accessory portion of the principal building which is intended for and used to store personal items

~~and the~~ private passenger vehicles of the family or families resident upon the premises.

Governing Body: Town Board of Marshan.

Home-based Non-farm Business: An occupation or profession unrelated to agriculture in which non-farm business services are conducted by occupant(s) of residential dwellings. Such businesses conduct all activities within the principal and authorized accessory structures. No outside business storage or rentals are permitted on the premises. No retail sales are permitted, except incidental sales or seasonal sales specified and approved in the permit. Home-based non-farm businesses require an Interim Use Permit, subject to the provisions of Section 202.1 and Section 1108 of this Ordinance.

Home Occupation: An occupation or profession engaged in by the occupant(s) of a residential dwelling and conducted within the dwelling, except as provided in Section 202.1 of this Ordinance. Such uses customarily include professional services, repair services, photography or art studios, hairdressing, dressmaking, music lessons, tutoring or teaching limited to three students at any one time, and similar uses. No retail sales or rentals are permitted on the premises.

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Impervious Surface: A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Junked Vehicle: Any vehicle, as defined in this section, which does not have lawfully affixed or attached thereto and unexpired State registration or license plate or plates, or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, or discarded.

Kennel: The keeping of more than four dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed to be a kennel.

Lateral Conveyors: Any system that provides drainage for local areas that do not have natural or artificial water storage or retention areas or natural channels. "Lateral Conveyors" outlet into natural or artificial water storage or retention areas or outlet directly into "Outflow Conveyors."



Lot:	A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.
Lot Area:	The area of a lot in a horizontal plane bounded by the lot lines.
Lot, Butt:	A lot at the end of a block and located between two corner lots.
Lot, Corner:	A lot situated at the junction of, and abutting two or more intersecting streets, or a lot at the point of deflection of alignment of a continuous street, the interior angle of which does not exceed 135 degrees.
Lot Depth:	The <del>maximum</del> horizontal distance <del>measured from</del> <del>between</del> the front lot line <del>to</del> <del>and</del> the rear lot line of a lot.
Lot Line:	The property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Ordinance.
Lot Line, Front:	That boundary of a lot that abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the Town Board.
Lot Line, Rear:	That boundary of a lot that is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line <u>for the purposes of establishing a rear setback.</u>
Lot Line, Side:	Any boundary of a lot that is not a front lot line or a rear lot line.
<u>Lot of Record:</u>	Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the Register of Deeds or Registrar of Titles for Dakota County, Minnesota, prior to January 1, 1981.
Lot, Through:	A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this Ordinance.
<u>Lot Width:</u>	The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of a lot depth.

**Commented [FN11]:** Clarify with Town Board the need for reviewing this definition

**Commented [FN12]:** Revise to reflect measuring at frontage line (public right-of-way) or front setback

Manufactured Home:	A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is at least 320 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
Marginal Access Street:	A minor street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.
Mineral:	Sand, gravel, rock, clay, and similar higher density non-metallic natural minerals.
Mineral Extraction:	The removal of sand, gravel, rock, clay and other minerals from the ground.
Mineral Extraction Accessory Use:	An accessory use of a mineral extraction facility may include the manufacture, storage, and sale of products made from minerals on the premises and storage and sale of minerals and topsoil not extracted on the premises.
Mineral Extraction Facility:	Any area that is being used for removal, stockpiling, storage, and processing of sand, gravel, topsoil, clay, and other minerals.
Mineral Extraction Operator:	Any person or persons, partnerships, corporations, or assignees, including public or governmental agencies, engaging in mineral extraction.
Mineral Extraction Permit:	The permit required for mineral extraction facilities which may operate for several years.
Mineral Extraction Principal Use:	The principal use of a mineral extraction facility is the extraction, crushing, screening, mixing, storage, and sale of minerals from the facility.
Minimum Subdivision Design Standards:	The guide, principles, and specifications for the preparation of subdivision plans that indicate, among other things, the minimum and maximum dimensions of the various elements set forth in the preliminary plat.
Minor Street:	A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.
MPCA:	Minnesota Pollution Control Agency.
Multiple Residence:	Two or more dwelling units in one structure.

**Commented [FN13]:** Clarify with Town Board if the mineral extraction definitions suffice for mining definition

Noxious Weed: Any plant whose presence is deleterious to the agricultural community as determined by the County Agricultural Inspector.

Commented [FN14]: Add Nuisance definition, refer to section 817

Nuisance A public nuisance is a thing, act or use of property which:

A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable numbers of the public; or

B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

C. Any other act or omission declared by law or this ordinance to be a public nuisance.

Commented [CB15]: Definition from Empire Township

See Section 817: Nuisances of this ordinance for more information.

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Nutrient Management Plan: A plan that provides procedures and application rates, and identifies crop nutrient requirements, that are based upon projected crop yields, soil fertility results, and manure nutrient availability. All guidelines are based on University of Minnesota guidelines for best management practices.

Off-Site Sign: Any sign not located on the lot of the use it advertises.

Off-Street Loading Space: A space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one vehicle of the type typically used in the particular business.

On-Site Sign: Any sign located on the lot of the use it advertises.

Open Sales Lot: Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

Ordinary High Water Level: The boundary of water basins, watercourses, public waters, and public waters wetlands, and

1) an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural

vegetation changes from predominantly aquatic to predominantly terrestrial;

2) for watercourses, the elevation of the top of the bank of the channel; for reservoirs and flowages, the operating elevation of the normal summer pool.

**Outflow Conveyors:** Any system including, but not limited to streams and other natural channels, that forms the outlet for a natural or artificial water storage or retention area of any landlocked depression where the accumulated runoff from extreme storm events would pose risk of injury or property damage.

**Owner, Animal:** Any person or persons, firm, association, or corporation owning, keeping, or harboring an animal.

**Parking Space:** A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

**Commented [FN16]:** Research other parking codes/definitions

**Pedestrian Way:** The right-of-way across or within a block, for use by pedestrian traffic, whether designated as a pedestrian way, crosswalk, or however otherwise designated.

**Person:** Any individual, firm, association, syndicate or partnership, corporation, trust, or other legal entity.

**Photovoltaic (PV) Device:** A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

**Photovoltaic (PV) Effect:**— The phenomenon that occurs when photons, the "particles" in a beam of light, knock electrons loose from the atoms they strike. When this property of light is combined with the properties of semiconductors, electrons flow in one direction across a junction, setting up a voltage. With the addition of circuitry, current will flow and electric power will be available.

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**Photovoltaic (PV) Module (PV Panel):**— The essentially planar assembly of solar cells and ancillary parts, such as interconnections, terminals, (and protective devices such as diodes) intended to generate direct current or alternating current in direct and diffuse sunlight.

**Photovoltaic (PV) System:**— A complete set of components for converting sunlight into electricity by the photovoltaic process, including the array and balance of system components.

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Planning Commission:	The Planning Commission of Marshan, <u>as prescribed in Minnesota Statutes Chapter 462.354. It is advisory to the Town Board on matters related to the land use and all official controls that implement land use policies, and all other matters referred to it by the Town Board. See Section 1101 of this ordinance.</u>  <del>except when otherwise designated.</del>
Plat:	A map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all Minnesota State Laws and County requirements.
Processing:	Any activity which may include the crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction-grade sand, gravel, concrete, asphalt, and other similar products.
Public Land:	Land owned or operated by municipal, school district, county, state, or other governmental units.
Quarter-Quarter Section:	An approximately 40-acre parcel of land constituting the northeast, northwest, southeast or southwest quarter of a quarter section in the United States Government System of Land Survey.
Reclamation Land	The improvement of land by deposition of materials to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered reclaimed land.
Recreation, Commercial:	Includes all uses that are compatible with the rural character of the area and are privately owned and operated with the intention of earning a profit by providing entertainment for the public.
Recreation, Public	Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purposes of providing recreation.
Recycling Operation	A site where recyclable materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or otherwise handled. Materials also include, but are not limited to, junked vehicles, scrap iron, and other materials.
Recycling Operator:	A person or entity who owns and/or operates a recycling operation as herein described and referred to. Any operator shall also include the owner of land on which a recycling operation is

	contained.
Registered Animal Feedlot:	An active or inactive animal feedlot with a specified designated maximum number of animal units that is registered with the Town Board and recorded with the County Feedlot Officer.
Rehabilitation:	To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.
Release Permit:	A permit issued by the Sheriff’s Department for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee in accordance with the regular license requirement if the animal is unlicensed and license is required, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by resolution of the Town Board, but not less than \$25.00 the first time an animal is impounded, \$50.00 the second time it is impounded, and \$75.00 for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal’s impoundment count to the beginning of the fee scale.
Seasonal Extraction Facility:	Any area where mineral extraction is permitted on a temporary, seasonal basis, not to exceed two years in operation.
Seasonal Extraction Permit:	The permit required for seasonal extraction facilities which may operate for one or two years.
<u>Setback Line, Building:</u>	A line within any lot which represents the minimum <del>yard area</del> distance required for placement of a building <del>from a property line, right of way, ordinary high water level, roadway or other specified feature-</del>
Soil:	A natural three-dimensional body of the earth’s surface.
Solar Easement:	A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar sky space for the purpose of ensuring adequate exposure of a solar energy system.
<u>Solar Energy:</u>	<u>Electromagnetic energy transmitted from the sun (solar radiation).</u>

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**Solar Electric System:** A set of photovoltaic devices whose primary purpose is to collect solar energy and convert (and possibly store) it into electric power by means of any combination of collecting, transferring, or converting solar-generated energy.

**Solar Electric System, Retail:** A solar electric system established for the primary purpose of meeting all or part of the electric energy needs of the host building, whether residential, commercial, industrial, or institutional.

**Solar Electric System, Wholesale:** A solar electric system established for the primary purpose of generating electricity and selling it directly to a third party (e.g., electric utility company).

**Solar Panel:** See Photovoltaic (PV) module.

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**Spill Response Plan:** A Plan that establishes procedures and actions required to be carried out in the event of a spill or release of hazardous materials, including notification of the Minnesota Duty Officer and Dakota County Feedlot Officer.

**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above.

**Street:** A public right-of-way which affords the principal means of access to abutting property.

**Structural Alteration:** Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

**Structure:** Anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

**Subdivider:** Any person, firm, corporation, partnership, or association who causes land to be divided, platted, or planned into a subdivision for himself/herself or others.

**Subdivision:** The division or redivision of a lot, tract, or parcel of land, regardless of how it is to be used, into two or more lots either by plat or by metes and bounds description; the division or redivision of land involving dedication of a new park, playground, street, or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water, or other public improvements or facilities; provided, however, the division of

	land for agricultural purposes into parcels greater than 20 acres where no new streets, roads, or other right-of-way are involved shall be exempted.
Thoroughfare:	A fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.
Topsoil:	The upper portion of the soils present that is the most favorable material for plant growth.
Town:	The Township of Marshan, Dakota County, Minnesota.
Use, Nonconforming:	A use of land, building, or structures lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any use of land, building, or structure lawfully existing prior to the adoption of an amendment which would not comply with all regulations.
Use, Permitted:	A use that may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations, and performance standards of such district.
Use, Principal:	The purpose or activity for which the land, structure, or building thereon is designed, arranged, or intended or for which it is occupied or maintained.
Yard:	A required open space on a lot which is unoccupied and unobstructed by a structure. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the <del>lot width</del> setback regulations for the zoning district in which such lot is located.
Yard, Front:	A yard extending <del>along the full width of</del> from the front lot line to the principal structure, bounded on either side by a line established at the furthest extent of the principal structure. On properties with multiple structures, the front yard shall be between the structures and front lot line, bounded on either side by lines established at the furthest extents of the principal structures opposite of each other. <del>between side lot lines and extending from the abutting street right of way line to the edge of a structure. depth required in the setback regulations for the zoning district in which such lot is located.</del>
Yard, Rear:	The portion of the yard, on the same lot with the principal building, located between the rear line of the building and the rear lot line and extending for the full width of the lot.
Yard, Side:	The yard extending along the side lot line between the front and



rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

Commented [FN18]: Specify that these are yards required by the setbacks

Zoning Administrator: The Chair of the Town Board or the Chair’s designee.

Zoning Amendment: A change authorized by the Town Board either in the allowed use within a district or in the boundaries of a district.

Zoning District: An area or areas within the limits of Marshan Township for which the regulations and requirements governing use are uniform.

Zoning Ordinance: The Marshan Township Zoning Ordinance.

**SECTION 102 SEPARABILITY**

This Ordinance and its various parts, sentences, paragraphs, sections, and clauses are hereby declared to be separable. If any part, sentence, paragraph, section, or clause is judged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Ordinance.

**SECTION 103 RELATIONSHIP TO OTHER LAWS**

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

**SECTION 104 ADMINISTRATIVE STANDARDS**

Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are in this Ordinance provided, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.

**SECTION 105 APPLICATION OF THIS ORDINANCE**

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within Marshan Township except specifically, or by necessary implication, authorized by this Ordinance. Conditional and interim uses are allowed only by permit granted by the Marshan Town Board upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, except as prohibited specifically or by necessary implication.

## ARTICLE II

### GENERAL REGULATIONS

The following general regulations in this article shall apply equally to all districts except where special provisions provide otherwise.

#### SECTION 201 LOT AREA REQUIREMENTS

No lot area shall be so reduced or diminished that the lot dimensions, yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, ~~nor shall the area of any lot be reduced below the minimum requirements herein established.~~

Commented [FN19]: Fix redundancies

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#### SECTION 202 HOME OCCUPATIONS AND HOME-BASED NON-FARM BUSINESSES

##### 202.1 HOME OCCUPATIONS

Home occupations are either permitted uses or interim uses, as specified in individual zoning district provisions, subject to the following provisions:

1. The home occupation shall not occupy more than 25 percent of the total floor area of the dwelling and shall not occupy an accessory building, except as provided in subsection 12. below.
2. Home occupations shall clearly be incidental to the primary residential use of the property.
3. Home occupations shall be conducted solely by the occupants of the residential dwelling, except for one non-occupant employee as provided in subsection 13. below.
4. No home occupation shall require substantial interior or exterior alterations of the dwelling that in any way alters the residential character of the premises.
5. No home occupation shall create odor, dust, noise, glare caused by electrical light sources, electrical glare or vibrations noticeable outside of the dwelling.
6. The conduct of all home occupations shall be consistent with all local, state, and federal, ordinances, rules, and laws.
7. No sign shall be allowed for a home occupation without approval of the Township. One non-illuminated identification sign shall be permitted per home occupation, not exceeding one foot by one and one-half feet (1' x 1.5') in area, and attached to the principal structure near the building entrance.
8. The home occupation shall not be visible or audible from any property line.
9. No home occupation shall involve the retail sale or rental of products on the premises, except that incidental or seasonal retail sales may be permitted as specified and approved in an Interim Use Permit.
10. Any allowable vehicle, equipment, trailer, or material used exclusively in the home occupation shall be kept in an approved accessory structure.
11. No home occupation shall involve the use or storage of hazardous materials or in any way jeopardize the public health, safety or welfare or create a nuisance to neighboring properties.

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12. A home occupation which is proposed to be conducted in an accessory structure may be considered through the application of an Interim Use Permit, according to the procedures in Section 1108 in this Ordinance. The sign allowed in subsection 7. above may be placed alternatively on the accessory building.
13. A home occupation which is proposed to include no more than one employee not residing in the principal dwelling on the property may be considered through the application of an Interim Use Permit, according to the procedures in Section 1108 in this Ordinance.
14. The maximum term for an Interim Use Permit for a home occupation shall be five years. Upon the expiration of the five-year term, an applicant may re-apply for renewal of an Interim Use Permit for a home-based non-farm business in the same manner as an initial application. Prior granting of an Interim Use Permit does not give an applicant any vested right to renewal.
15. Any Interim Use Permit issued for a home occupation which is not implemented within 12 months of approval shall expire.
16. Any Interim Use Permit issued for a home occupation which has become unused or vacant for a period of 12 months shall expire.
17. Interim Use Permits are not transferrable.

#### SECTION 202.2 HOME-BASED NON-FARM BUSINESSES

Home-based non-farm businesses may be considered as interim uses in the A Agriculture District, according to the procedures in Section 1108 in this Ordinance, and subject to the following provisions:

1. The owner/operator of the home-based non-farm business must reside in the residential dwelling on the premises.
2. A maximum of one employee not residing in the residential dwelling on the premises is allowed on the premises full time for business operations. Other employees may occasionally appear on the premises, but shall not exceed one visit per week.
3. The home-based non-farm business use of the property is intended to be incidental to the residential use of the property and must be compatible with the rural character of the community and adjacent property uses.
4. No home-based non-farm business shall require substantial interior or exterior alterations of the dwelling that in any way alters the residential character of the premises.
5. No home-based non-farm business shall create odor, dust, noise, glare caused by electrical light sources, ~~electrical glare~~ or vibrations noticeable beyond property boundaries.
6. The conduct of all home-based non-farm businesses shall be consistent with all local, state, and federal, ordinances, rules, and laws.
7. No sign shall be allowed for a home-based non-farm business without approval of the Township. One non-illuminated identification sign shall be permitted per home-based non-farm business, not exceeding one foot by one and one-half feet (1' x 1.5') in area, and attached to the principal structure or accessory structure near the building entrance.
8. No home-based non-farm business shall involve the retail sale or rental of products on the premises.

Commented [FN22]: Revise?

9. ~~All vehicles, equipment, trailers, or any other materials used in the home-based non-farm business shall be kept in an approved accessory structure. Accessory structures are limited to the size requirements contained in Section 401.3 of this Ordinance and dimensional standards contained in Article V of this Ordinance. No accessory structure or aggregate total square footage of accessory structures shall exceed 5000 square feet, regardless of the property acreage.~~ ~~vehicles, equipment, trailers, or any other materials used in the home-based non-farm business shall be kept in an approved accessory structure. Accessory structures are limited to the size requirements contained in Section 401.3 of this Ordinance and dimensional standards contained in Article V of this Ordinance.~~
10. No home-based non-farm business shall involve the use or storage of hazardous materials, unless specifically approved in the Interim Use Permit, nor shall in any way jeopardize the public health, safety or welfare or create a nuisance to neighboring properties.
11. All nonconforming home-based non-farm businesses shall obtain an Interim Use Permit within 12 months of the date of this Ordinance.
12. Home-based non-farm businesses in existence on the effective date of this Ordinance shall apply for an Interim Use Permit within 12 months of the effective date of this Ordinance or shall be considered noncompliant with the Marshan Township Zoning Ordinance and shall be subject to the enforcement and penalty provisions of said Ordinance.
13. In considering applications for home-based non-farm businesses in existence on the effective date of this Ordinance, the Town Board may waive or modify some of the permit provisions in this Section.
14. Home-based non-farm businesses created after the date of this Ordinance shall obtain an Interim Use Permit before operating a home-based non-farm business.
15. The maximum term of an Interim Use Permit for a home-based non-farm business shall be five years. Upon the expiration of the five-year term, an applicant may re-apply for renewal of an Interim Use Permit for a home-based non-farm business in the same manner as an initial application. Prior granting of an Interim Use Permit does not give an applicant any vested right to renewal.
16. Any Interim Use Permit issued for a home-based non-farm business which is not implemented within 12 months of approval shall expire.
17. Any Interim Use Permit issued for a home-based non-farm business which has become unused or vacant for a period of 12 months shall expire.
18. Interim Use Permits are not transferrable.

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**SECTION 203 TEMPORARY DWELLINGS**

1. ~~It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in Marshan Township without a zoning permit approved by the Town Board, except that travel and motor home coaches can be used for such purposes for a period of not over four weeks. Residing in basement or foundation structures before the completion of the total structure shall not be permitted.~~
2. ~~Pursuant to the authority granted by Minnesota Statutes, Section 462.3593, Marshan Township opts out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates Temporary Family Health Care Dwellings.~~

Commented [FN25]: Revise per Amendment C Section I

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~~It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in Marshan Township, except that travel and motor home coaches can be used for such purposes for a period of not over four weeks. Residing in basement or foundation structures before the completion of the total structure shall not be permitted.~~

**SECTION 204 SOLAR ACCESS PROVISIONS**

Pursuant to M.S. 500.30, easements to obtain access to solar energy may be obtained as follows:

- 1. ~~Like any conveyance. Any property owner may grant a solar or wind easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded, and indexed in the office of the recorder of the county in which the easement is granted. No duly recorded easement shall be unenforceable on account of lack of privity of estate or privity of contract; such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that an easement may terminate upon the conditions stated therein or pursuant to the provisions of section 500.20.~~
- 2. ~~Required contents. Any deed, will, or other instrument that creates a solar or wind easement shall include, but the contents are not limited to:~~
  - a. ~~a description of the real property subject to the easement and a description of the real property benefiting from the solar or wind easement; and~~
  - b. ~~for solar easements, a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;~~
  - c. ~~a description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind power system in which an obstruction to the winds is prohibited or limited;~~
  - d. ~~any terms or conditions under which the easement is granted or may be terminated;~~
  - e. ~~any provisions for compensation of the owner of the real property benefiting from the easement in the event of interference with the enjoyment of the easement, or compensation of the owner of the real property subject to the easement for maintaining the easement;~~
  - f. ~~any other provisions necessary or desirable to execute the instrument.~~
- 3. ~~Enforcement. A solar or wind easement may be enforced by injunction or proceedings in equity or other civil action.~~
- 4. ~~Depreciation, not appreciation counted for taxes. Any depreciation caused by any solar or wind easement which is imposed upon designated property, but not any appreciation caused by any easement which benefits designated property, shall be included in the net tax capacity of the property for property tax purposes.~~

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- ~~1. Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded, and indexed in the Office of the Recorder of Dakota County. No duly recorded solar easement shall be unenforceable on account of lack of privacy of estate or privacy of contract; such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated therein or pursuant to the provisions of state law.~~
- ~~2. Any deed, will, or other instrument that creates a solar easement shall include, but the contents are not limited to:
  - ~~a. a description of the real property subject to the solar easement and a description of the real property benefiting from the solar easement;~~
  - ~~b. a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;~~
  - ~~c. any terms or conditions under which the solar easement is granted or may be terminated;~~
  - ~~d. any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement;~~
  - ~~e. any other provisions necessary or desirable to execute the instrument.~~~~
- ~~3. A solar easement may be enforced by injunction or proceedings in equity or other civil action.~~
- ~~4. Any depreciation caused by any solar easement which is imposed upon the designated property, but not any appreciation caused by any solar easement which benefits designated property, shall be included in the valuation of the property for property tax purposes.~~

## **SECTION 205 ON-SITE SEWER REQUIREMENTS**

Standards for the installation and repair of individual on-site sewer systems are established by the Minnesota Pollution Control Agency and implemented by Dakota County Ordinance No. 113, which ordinance is hereby adopted by reference.

1. No person shall install, repair or alter an on-site sewer system without first obtaining a permit as provided herein. Applications provided by the Township must be completed in writing prior to issuance of a permit. Permit fees are established by resolution of the Town Board.
2. Installation, repair, pumping, and hauling of private on-site sewer systems requires licensing per Dakota County Ordinance No. 113.
3. Soil percolation tests must be completed and must be favorable for the operation of an on-site sewer system before a permit will be issued.
4. Installations, alterations, repairs, maintenance and inspections shall be performed in accordance with Dakota County Ordinance No. 113.
5. No private on-site sewer system shall be permitted on any site less than 40,000 square feet.

**SECTION 206 PRIVATE WATER SUPPLY**

All private water supply systems constructed in the Township shall meet the standards established by the Minnesota Department of Health and regulations adopted by Dakota County in Ordinance No. 114.

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**SECTION 207 SITE PLAN REVIEW REQUIREMENTS**

A detailed site plan is required for Animal Feedlots and Manure Handling (Section 815), all Conditional Use Permits, and all Interim Use Permits. The Planning Commission shall review and make recommendations on site plans and the Town Board shall approve all site plans prior to the issuance of any permits. Site plans shall include the following minimum information, unless waived by the Compliance Officer:

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1. Legal description and ownership of the property.
2. A narrative description of the proposed property uses.
3. Scaled drawings of the property including property dimensions, the locations of all existing easements, the locations and setbacks of all existing buildings, and the locations and setbacks of all other structures and uses, such as driveways, parking areas, private sewage systems, and private wells.
4. Scaled drawings of the proposed uses, easements, and buildings including all dimensions and property setbacks.
5. Legal descriptions of proposed easements.
6. Scaled drawings of building elevations and descriptions of exterior building materials.
7. Scaled locations and descriptions of any proposed fencing, screening, landscaping, or site lighting.
8. A site grading plan, erosion and sedimentation control plan, and stormwater management plan.
9. Scaled delineations of any wetlands or floodplain areas.
10. Identification of any wetland or floodplain encroachments and detailed mitigation plans.
11. The Township may request additional information necessary to process the permit application. The Township may also waive information not deemed necessary to process the permit application.
12. The applicant shall furnish the Township with ten (10) sets of plans for review and referral.

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**ARTICLE III**  
**ESTABLISHMENT OF ZONING DISTRICTS**

**SECTION 301 ESTABLISHMENT OF ZONING DISTRICTS**

The following zoning districts are provided in order to promote and encourage the efficient economic development of land, buildings, and all usable structures. The Township of Marshan is hereby divided into the following districts that shall be known by the following respective symbols and names:

1. District A - Agriculture
2. District CO - Conservation
3. District F - Floodplain Overlay
4. District S - Shoreland Overlay

**SECTION 302 ZONING MAP**

The areas comprising these zoning districts and the boundaries of said districts as shown upon the map attached hereto and made a part of this Ordinance, being designated as the Zoning Map of the Township of Marshan, with all proper notations, references, and other information shown thereon.

**SECTION 303 INTERPRETATION OF THE ZONING MAP**

Where, due to the scale, lack of detail, or illegibility of the Zoning Map attached hereto, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Marshan Town Board. The Marshan Town Board, in interpreting the Zoning Map or deciding any appeal, shall apply to the following standards:

1. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of streets, rights-of-way, or watercourses, unless such boundary lines are fixed by dimensions shown on the Zoning Map.
2. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be constructed to be such boundary lines.
3. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
4. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of the property and the history of zoning ordinances and amendments in Marshan Township, as well as all other relevant facts.

**Commented [FN29]:** Who makes the final call? Can it be appealed?



ARTICLE IV
ZONING DISTRICTS

SECTION 401 DISTRICT A - AGRICULTURE

401.1 PURPOSE

Agricultural districts are established in rural areas for the purpose of protecting viable agricultural lands from non-farm influence, retaining valuable areas for conservation purposes, preventing scattered non-farm growth, preserving a secure economy in governmental expenditures, and preserving other natural resources of the community.

401.2 PERMITTED USES

- 1. Agricultural land uses, including livestock.
2. Single family residential dwellings and customary accessory uses.
3. Forestry and nurseries.
4. Seasonal produce stands.
5. Telephone and electrical distribution lines, pipelines, and necessary appurtenant structures.
6. Public recreation.
7. A state-licensed residential facility serving six or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7, and Section 401.7 of this Ordinance.
8. A state-licensed day care facility serving 12 or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7, and Section 401.7 of this Ordinance.
9. Home occupations not requiring an Interim Use Permit.
10. Retail solar electric systems accessory to permitted uses.
11. Golf Courses in existence on October 19, 2010.

- Commented [FN30]: Add Amendment D Section I
Commented [FN31R30]: Done
Commented [FN32]: Revise per Amendment A Section II
Commented [FN33R32]: Done
Commented [FN34]: Add Amendment C Section II
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401.3 ACCESSORY USES

Detached gGarages and storage buildings, which are accessory to residential uses, may be constructed with a maximum sidewall height of sixteen (16) feet and a maximum square footage according to the following schedule:

Table with 2 columns: Lot Size, Maximum Aggregate Sq. Ft. Of Outbuildings Allowed. Rows include lot sizes from 40,000 sq. ft. or less to 5.01 - 10.0 acres.

10.01 ~~acres or larger—15.0 acres~~

5,000 sq. ft.

Non-agricultural accessory structures shall not exceed 5000 square feet on any parcel.

401.4 **CONDITIONAL USES**

1. Public utility buildings and structures.
2. Agricultural-related commercial or industrial uses that demonstrate a direct relationship to agricultural production and services and which are compatible with the rural character of the area and adjacent land uses.
3. Churches, schools and cemeteries.
4. Police stations.
5. Fire stations.

**Commented [FN39]:** Ask Town Board for clarification on exempt properties from list of priorities

401.5 **INTERIM USES**

1. Home occupations with a maximum of one employee not residing on the premises or home occupations requiring use of an accessory structure, subject to the requirements of Section 202.1 and Section 1108 of this Ordinance.
2. Bed and breakfast facilities.
3. Mining and extraction.
4. Communication towers and antennae.
5. Dwellings for farm employees, consistent with the provisions of Section 814.
6. Recycling operations, consistent with the provisions of Section 818.
7. Kennels
8. Expansion of legal nonconforming excavating/road contracting businesses, operating with valid Conditional Use Permits at the time of the adoption this Ordinance, to allow accessory office use, provided such expansion is limited to 25 % of the total floor area of the existing principal structure.
9. On-site and Off-site advertising signs, subject to the provisions of Article X SIGN REGULATIONS.
10. Commercial horse boarding.
11. Home-based non-farm businesses, subject to the requirements of Section 202.2 and Section 1108 of this Ordinance.

**Commented [FN40]:** Add Amendment B Section III, Revised in Amendment C Section III

**Commented [FN41R40]:** Done

~~11.12. Wholesale solar electric systems.~~

401.6 **GENERAL REGULATIONS**

Additional requirements for parking signs, sewage systems, areas and height, and subdivision regulations are set forth in Articles V through XI.

401.7 **DENSITY**

The maximum density in this district is **one residential dwelling per quarter-quarter section.** If a property owner owns the entire quarter-quarter section, one additional house may be constructed if the original dwelling was constructed before January 1, 1981, or if the parcel was a lot of record before

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**Table 3:** Overall density expectation development, and redevelopment (fr

Metropolitan Urban Service Minimum Average Net Den	
Urban Center	20 un
Urban	10 un
Suburban	5 unit
Suburban Edge	3-5 ur
Emerging Suburban Edge	3-5 ur
Rural Service Area: Maximum Density, except Rural Cent	
Rural Center	3-5 ur
Rural Residential	1- to : existi 1 unit possil
Diversified Rural	4 unit
Agricultural	1 unit

**Commented [FN42]:** <https://metro council.org/METC/files/54/54ec40bb-d6ce-45bb-a571-ee00326ccd20.pdf>

**Commented [FN43]:** Development rights, mapping project? Research MET council density restrictions

**Commented [FN44R43]:** Should we allow density bonuses? Like higher density for affordable housing or part being paid to the township?

**Commented [FN45]:** Same as Empire Township

**Commented [FN46R45]:** Kalmar: R-2 district-development shall not exceed 4 dwelling units per acre

January 1, 1981.

401.8 LOT SIZE

The minimum lot size shall be 40,000 square feet in size.

401.9 LOT COVERAGE

The maximum impervious surface coverage of lots shall be 25% of the lot area.

SECTION 402 DISTRICT CO – CONSERVATION

402.1 PURPOSE

The CO - Conservation District is intended to be applied to areas where the natural features are unique, endangered, or could be extensively damaged by development. Areas included are steep slopes, major drainageways, large wet soil areas, unique wooded areas, and bedrock outcrops.

402.2 PERMITTED USES

- 1. Agricultural land uses, including livestock.
- 2. Single family residential dwellings and customary accessory uses.
- 3. Public recreational and interpretive uses.
- 4. Telephone and electrical distribution lines, pipelines, and other related uses.
- ~~5. Home occupations not requiring an Interim Use Permit.~~
- 6. Retail solar electric systems accessory to permitted uses.

402.3 ACCESSORY USES

Detached Garages and storage buildings, which are accessory to residential uses, may be constructed with a maximum sidewall height of sixteen (16) feet and a maximum square footage according to the following schedule:

Lot Size	Maximum Aggregate Sq. Ft. Of Outbuildings Allowed
40,000 sq. ft. or less	1,600 sq. ft.
40,000 sq. ft. - 2.5 acres	2,400 sq. ft.
2.51 - 5.0 acres	3,200 sq. ft.
5.01 – 10.0 acres	4,000 sq. ft.
10.01 <del>acres or larger</del> <u>15.0 acres</u>	5,000 sq. ft.

Non-agricultural accessory structures shall not exceed 5000 square feet on any parcel.

402.4 CONDITIONAL USES

Commented [FN47]: Make wording consistent with definitions of agricultural use and agricultural land

Commented [FN48]: Revise per Amendment A Section IV

Commented [FN49R48]: Done

Commented [FN50]: Add per Amendment C Section IV

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Commented [FN52]: Revise per Amendment A Section V

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7. ~~4. Public recreation facilities.~~

~~8. Historic sites. [Section reserved for future use].~~

402.5 INTERIM USES

- 1. Kennels.
- 2. Home occupations with a maximum of one employee not residing on the premises or home occupations requiring use of an accessory structure, subject to the requirements of Section 202.1 and Section 1108 of this Ordinance.

~~3. Commercial horse boarding.~~

~~3-4. Wholesale solar electric systems.~~

402.6 GENERAL REGULATIONS

Construction of any use listed above shall conform to all standards in this Ordinance or applicable subdivision regulations on steep slopes, drainage, erosion and sedimentation, wet soils, tree removal, and floodplains.

The height, yard area, and lot width and depth regulations of the Agricultural (A) District shall apply for all uses other than utility facilities permitted in this district.

Additional requirements for parking signs, sewage systems, areas and height, and subdivision regulations are set forth in Articles V through XI.

402.7 DENSITY

The maximum density in this district is one residential dwelling per quarter-quarter section. If a property owner owns the entire quarter-quarter section, one additional house may be constructed if the original dwelling was constructed before January 1, 1981, or if the parcel was a lot of record before January 1, 1981.

402.8 LOT SIZE

The minimum lot size shall be 40,000 square feet in size.

402.9 LOT COVERAGE

The maximum impervious surface coverage of lots shall be 25% of the lot area.

**SECTION 403 DISTRICT F - FLOODPLAIN OVERLAY**

403.1 PURPOSE

The Overlay District is intended to be applied to properties which lie within a primary floodway, which for the purposes of this Ordinance shall be construed to be a stream channel and the portions of the adjacent floodplain as are required to efficiently carry the flood flow of the stream, and on which properties special regulations are necessary for the minimum protection of the public health and safety, and minimum protection of property and improvements from hazards and damage resulting from flood

**Commented [FN55]:** Empire Township conditional uses in the Agricultural Preservation District

**Commented [FN56]:** Add per amendment B Section IV, revise per Amendment C Section V

**Commented [FN57R56]:** Done

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**Commented [FN58]:** See previous comments about density

waters.

403.2 TOWNSHIP REGULATIONS

Land Use regulations of the Agricultural (A) District shall apply to all lands in the Floodplain Overlay (F) District except that all structures designed for human habitation shall be conditional uses.

The height, yard area, and lot width and depth regulations of the Agricultural (A) District shall apply for all uses permitted in this district.

403.3 COUNTY REGULATIONS

The Dakota County Floodplain Ordinance prescribes additional land use regulations for the Floodplain Overlay District. If any specific regulations in the Dakota County Floodplain Ordinance differ from any said regulation contained herein, the most restrictive specific regulation shall apply.

403.4 GENERAL REGULATIONS

Requirements for signs, sewage treatment, area and height, and subdivision regulations are set forth in Articles V through XI.

403.5 DISCLAIMER OF LIABILITY

The F District herein established is intended to provide a reasonable approach to flood control based on present information. As additional information becomes available, the extent of the various boundaries shall be so altered to maintain this reasonableness. This ordinance does not imply that areas beyond the District limits will be free from flooding; nor shall this Ordinance, or districts established therein, create a liability on the part of, or cause action against Marshan Township or any office, official, or employee thereof, for any flood damage that may result from reliance upon this ordinance or flood district so established.

403.6 DENSITY

The maximum density in this district is one residential dwelling per quarter-quarter section. If a property owner owns the entire quarter-quarter section, one additional house may be constructed if the original dwelling was constructed before January 1, 1981, or if the parcel was a lot of record before January 1, 1981.

403.7 LOT SIZE

The minimum lot size shall be 40,000 square feet in size.

403.8 LOT COVERAGE

The maximum impervious surface coverage of lots shall be 25% of the lot area.

SECTION 404 DISTRICT S - SHORELAND OVERLAY

404.1 PURPOSE

- Commented [FN59]: See previous density comments
- Commented [FN60R59]: Same as Empire Township
- Commented [FN61R59]: Farmington MN: single family homes = 10,000 sqft min lot size in Low density residential district

- Commented [FN62]: Research other townships impervious floodplain coverage
- Commented [FN63R62]: Similar to other townships

The S - Shoreland District is intended to apply to properties in the Agriculture (A) District which lie within 300 feet of the shoreline protected waters, which for the purposes of this Ordinance shall be construed to be tributaries of the Vermillion River. Such properties require special regulations for the minimum protection of public health, safety, and aesthetics.

#### 404.2 TOWNSHIP REGULATIONS

Land use regulations of the Agriculture (A) District shall apply for all lands in the Shoreland Overlay (S) District. The height, yard area, lot width and depth regulations of the Agriculture District shall apply for all uses permitted in this District.

#### 404.3 COUNTY REGULATIONS

The Dakota County Shoreland Ordinance prescribes additional land use and placement regulations for the Shoreland Overlay District. If any specific regulations in the Dakota County Shoreland Ordinance differ from any said regulation contained herein, the most restrictive specific regulation shall apply.

#### 404.4 GENERAL REGULATIONS

Requirements for signs, sewage treatment, area and height, and subdivision regulations are set forth in Articles V through XI.

#### 404.5 DENSITY

The maximum density in this district is one residential dwelling per quarter-quarter section. If a property owner owns the entire quarter-quarter section, one additional house may be constructed if the original dwelling was constructed before January 1, 1981, or if the parcel was a lot of record before January 1, 1981.

#### 404.6 LOT SIZE

The minimum lot size shall be 40,000 square feet in size.

#### 404.7 LOT COVERAGE

The maximum impervious surface coverage of lots shall be 25% of the lot area.

Commented [FN64]: Make consistent with other sections

Commented [FN65]: See previous density comment



**ARTICLE V  
DIMENSIONAL REQUIREMENTS**

**SECTION 501 HEIGHT AND PLACEMENT REGULATIONS**

Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below, and no structure shall be erected or maintained which exceeds the height limit specified below. Where there is no rear lot line as otherwise defined herein, the required rear setback distance shall be measured from a line through the point on the lot line most distant from any front lot line of the same lot, which line shall be perpendicular to a line from said point to the closest point on any front lot line. If there is more than one such line, the rear setback shall be maintained from any one of them at the option of the owner. Where a lot fronts on two streets within 30 degrees of being parallel but not at their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line that is neither a front, rear, nor a side lot line. The required side yard on the street side of a corner lot shall be the same as the required front yard on such street.

**Commented [FN66]:** Revise for clarity as needed

**Non-Agricultural Principal Structures Buildings**

**Commented [FN70]:** Consider breaking principle and accessory structures into separate charts and agriculture and non-agriculture into separate charts in setback requirements

District	Front Setback <sup>(a)</sup> from Road Centerline	Side Setback	Rear Setback	Height Limit
Agricultural	120 feet	20 feet	40 feet	35 feet
Conservation	120 feet	20 feet	40 feet	35 feet
Floodplain	120 feet	20 feet	40 feet	35 feet
Shoreland	120 feet	20 feet	40 feet	35 feet

**Non-Agricultural Accessory Structures**

District	Front Setback <sup>(a)</sup> from Road Centerline	Side Setback	Rear Setback	Height Limit
Agricultural	120 feet	20 feet	40 feet	35 feet
Conservation	120 feet	20 feet	40 feet	35 feet
Floodplain	120 feet	20 feet	40 feet	35 feet
Shoreland	120 feet	20 feet	40 feet	35 feet

**Non-Feedlot Agricultural Buildings (All Districts)<sup>(a)</sup>**

Front Setback from Road Centerline	Side Setback	Rear Setback	Height Limit
120 feet	20 feet <sup>(a)</sup>	20 feet <sup>(a)</sup>	200 feet

**Commented [FN67]:** Figure out where to put this

**Commented [FN68R67]:**

**Commented [FN69R67]:** Maybe delete this section

<sup>(a)</sup> The setbacks of agricultural buildings that house livestock shall be a minimum of 100 feet, except as modified under Section 815 of this Ordinance pertaining to feedlots.

**SECTION 502** **LOT WIDTH REGULATIONS**

Except as otherwise specifically provided in this Ordinance, all development, uses or structures shall meet the requirements set specifically below. Minimum lot width shall be measured at the front lot line.

Commented [FN71]: Make consistent with lot width definition

Commented [FN72R71]: Done

District	Minimum Lot Width at Frontage Line	Minimum Lot Width at Front Setback Line
Agricultural	200 feet	150 feet
Conservation	200 feet	150 feet
Floodplain	200 feet	150 feet
Shoreland	200 feet	150 feet

**SECTION 503 ROAD FRONTAGE REQUIREMENTS**

All uses located in the Agricultural (A), Conservation (CO), Floodplain Overlay (F), or Shoreland Overlay (S) Districts shall be located on lots that abut a public road. Each lot shall have public road frontage of no less than 200 feet. Corner lots shall have at least one side of the lot abutting a public road frontage of no less than 200 feet.

Commented [FN73]: Possibly redundant with Section 502

## ARTICLE VI

### NONCONFORMING USES AND STRUCTURES

Commented [FN74]: Research other communities about non conforming uses

#### SECTION 601 NONCONFORMING USES, BUILDINGS

The lawful use of a building or structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the district provisions herein.

#### SECTION 602 NONCONFORMING USES, EXTENSION

A nonconforming use existing at the time of the adoption of this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement that does not include expansion, but not including expansion, unless (1) the nonconforming use is discontinued for a period of more than one year; or (2) unless the nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged.

The Township may consider the temporary expansion of a nonconforming use through the Interim Use Permit process, provided reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety are included within the permit and a date to eliminate the use or eliminate all nonconformities is included in the permit.

#### SECTION 603 NONCONFORMING USE, DAMAGED

Any nonconforming building or structure destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, may be replaced provided a building permit has been applied for within 180 days of when the property is damaged. In the event of replacement after such destruction, the Township may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body, including regulations for stormwater management, regulations necessary to maintain eligibility in the National Flood Insurance Program, and regulations restricting flood damage potential or the degree of obstruction to flood flows in the floodway.

#### SECTION 604 NONCONFORMING USE, LAND

The nonconforming lawful use of land where a structure thereon is so employed or existing at the time that this Ordinance becomes effective, may be continued provided:

1. The nonconforming use of land shall not in any way be expanded or extended either on the same or adjoining property.
2. That if the nonconforming use of land, existing at the time this Ordinance became effective, is thereafter discontinued or changed, then the future use of land shall be in conformity with the provisions of this Ordinance.

#### SECTION 605 NONCONFORMING USE CHANGE

A nonconforming use may not be changed to a different nonconforming use in the same zoning

classification without special circumstances consistent with this Ordinance and approval of a conditional or interim use permit if allowed for said change by the Town Board.

**SECTION 606 NONCONFORMING USE, DISCONTINUANCE**

In the event that a nonconforming use of any building or building and land is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

**SECTION 607 NONCONFORMING USE, ZONE CHANGE**

The foregoing provisions relative to nonconforming uses shall apply to buildings, land, and uses which hereafter become nonconforming due to classification or reclassification of districts under this Ordinance.

**SECTION 608 MOVING OF STRUCTURE**

Should a non-conforming structure be moved for any horizontal distance, it shall be done in such a manner as to conform to the regulations for that district in which it is located after it is moved.

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**SECTION 609 REPAIR AND MAINTENANCE ALLOWED**

Normal repairs and maintenance necessary to keep nonconforming structures in sound condition, not including exterior structural alterations, shall be permitted.

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**ARTICLE VII**

**ACCESSORY USES AND STRUCTURES**

**SECTION 701 ACCESSORY USES AND STRUCTURES**

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

1. An accessory building including carports and breezeways attached to the principal building on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
2. All detached accessory buildings shall be located in the side or rear yards when on the same lot as the principal structure. Setback regulations for detached accessory buildings are included in Section 501 of this Ordinance. When a permit is requested for a detached accessory building, the rear and side setbacks may be reduced to six feet under the following conditions:
  - a. A public hearing must be held if there is any occupied dwelling within 500 feet of the proposed structure;
  - b. If there is no occupied dwelling within 500 feet of the proposed structure, written permission of the property owner adjacent to the proposed structure must be obtained in place of a public hearing.

**Commented [FN75]:** Clarify with Town Board concerns over accessory structure location

**Commented [FN76]:** Does this answer location question?

## ARTICLE VIII

### PERFORMANCE STANDARDS

#### SECTION 801 INTENT

These performance standards are designed to prevent and eliminate those conditions that are hazardous and endanger people, private and public property and the natural environment. These performance standards established in this section shall apply to all future structures and land uses in all zoning districts. The standards shall also apply to existing development where so stated. The Town Board, Planning Commission, and Building Official shall be responsible for enforcing these standards.

Before any building permit is approved, the Town Board shall determine whether the proposed use will conform to the performance standards. The petitioner, developer, or landowner shall supply data necessary to demonstrate conformance with these standards at the request of the Planning Commission or Town Board. Such data may include general site plan data; environmental information on soils, topography, geology, watercourses, wet lands, tree cover, etc.; locations of road rights-of-way; boundary lines; equipment and construction process to be used; hours of operation; and provisions of disposal of all wastes produced by the use. It may occasionally be necessary for a developer to employ specialized consultants to demonstrate that a given use will not exceed the performance standards.

#### SECTION 802 DETERMINATION OF CONFORMITY

Before any building permit is approved, the Town Board will determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will not exceed the performance standards.

#### SECTION 803 EXTERIOR STORAGE

~~In~~ On residential ~~districts~~ properties, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction and landscaping materials, and equipment currently (within a period of 36 hours) being used on the premises, ~~agricultural equipment and materials, if these are used or intended for use on the premises,~~ off-street parking of passenger automobiles, ~~and~~ pick-up trucks and agricultural equipment and materials, if these are used or intended for use on the premises.

In all districts the Town Board may require a conditional or interim use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, welfare, convenience, morals, has a depreciating effect upon nearby property values, impairs scenic views, or constitutes a threat to living amenities.

#### SECTION 804 REFUSE AND WEEDS

In all districts, all waste materials, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and noxious weeds; existing uses shall comply with this provision within six months following enactment of this Ordinance.

Passenger vehicles and trucks in an inoperative state shall not be parked for a period exceeding seven days; inoperative shall mean incapable of movement under their own power and in need of repairs or junk yard.

All exterior storage not included as a permitted use, as a permitted accessory use, as part of a conditional or interim use permit, or as otherwise permitted by provisions of this Ordinance shall be considered as refuse.

#### **SECTION 805 SCREENING**

Screening shall be required ~~in-on~~ residential ~~areas-properties~~ where:

1. Any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential area, and
2. Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential area.

Where any business or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential area, but not on that side of a business or industry considered to be the front (as determined by the Town Board).

All exterior storage shall be screened. The exceptions are:

1. Merchandise being displayed for sale;
2. Materials and equipment presently being used for construction on the premises.

The screening required in this section shall consist of a fence or wall not less than five feet high but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or, in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and the pavement. A fence shall block direct vision from the right-of-way to the item or use requiring the screening. Planting of a type approved by the Planning Commission may also be required in addition to or in lieu of fencing.

All required screening shall be installed by the owner of property that creates the need for said screening.

#### **SECTION 806 MAINTENANCE**

All structures shall be properly maintained in a clean and acceptable manner so as not to constitute a menace to the public health, safety, convenience, general welfare, property values, and aesthetics.

All landscaping shall be properly maintained so as to preserve planting in a live state and free of noxious weeds.

#### **SECTION 807 TRAFFIC CONTROL**

The traffic generated by any use shall be channelized and controlled in a manner that will avoid:



1. Congestion on the public streets,
2. Traffic hazards, and
3. Excessive traffic through residential areas, particularly truck traffic.

Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing into streets.

#### **SECTION 808 DRAINAGE**

No land shall be developed and no use shall be permitted that results in additional water runoff, causing flooding or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facility.

#### **SECTION 809 DRIVEWAYS**

Driveways, when they are constructed from the public street over a portion of the lot, shall be located in residential areas to conform to the side yard requirement of Section 501. All dwellings shall be so located as to permit an eight-foot-wide driveway to be placed from either a public street or a public alleyway to the rear house line.

#### **SECTION 810 VISIBILITY AT INTERSECTIONS**

On any corner lot in any district, no fence, wall, or other structure shall be erected, nor are trees or shrubbery permitted to grow to a height of more than thirty inches above the elevation of the established centerline grade at the intersection of the streets on that part of any yard which is bounded by the right-of-way lines of the intersecting streets and a line connecting two points on said right-of-way lines 30 feet from their point of intersection.

#### **SECTION 811 HOUSING PERFORMANCE STANDARDS**

All residential dwellings built or brought into Marshan Township after February 1, 1983 must comply with the housing performance standards of this section, except those residential structures exempted under certain provisions of Section 813.

Housing Performance Standards are established for the purpose of promoting residential energy conservation, preserving and protecting desired architectural and aesthetic characteristics of housing in the community, and protecting the health, safety, and welfare of residents of the community.

1. All residential dwellings in the Township shall be firmly anchored to a wood or concrete block foundation below frost line, and attached with anchor bolts, in accordance with the State of Minnesota [State Building Code 326B](#) in effect at the time the building permit is granted, and as required by the manufacturer's installation instructions.
2. All residential dwellings shall possess a minimum of 1,000 square feet of livable floor space.
3. All residential dwellings shall possess a minimum width of 20 feet, and a minimum length of 30 feet.
4. All residential dwellings shall possess sewage treatment systems in accordance with Article II. Exceptions to this provision are Dwellings for Farm Employees, according to requirements of Section 814.

Commented [FN78]: Necessary?

**SECTION 812 ~~PARKING~~**

In all zoning districts, off-street parking facilities for employees and patrons of the buildings or structures erected shall be provided and maintained as herein prescribed.

1. Surfacing and Drainage: On-site parking areas shall be improved with a durable surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area without damage to adjoining property. These requirements shall also apply to open sales lots for cars, trucks, and other equipment.
2. Determination of Size: A parking space shall be not less than 300 square feet of standing and maneuvering area. When application of these regulations results in a requirement of a fractional space, the fraction up to and including one-half shall be disregarded. Fractions over one-half shall count as one additional space.
- ~~2.3~~ Access: There shall be adequate provisions for ingress and egress to all parking and loading spaces. Said access drive shall not be less than eight (8) feet in width in the case of a dwelling, and not less than eighteen (18) feet in width in all other cases; provided, however, that one-way aisles for either ingress or egress for uses other than dwellings may be reduced to not less than ten (10) feet in width.

~~3.4~~ Required on-site parking spaces or areas so devoted shall be set forth as follows:

**On-Site Parking Requirements**

Use	Required Space or Area
Residential	one/dwelling unit
Churches/auditoriums	one/each six seats
Pre-school/Day care centers	one/each two employees
Elementary schools	one/each two employees
Secondary schools	one/each two employees
Public halls/community centers	Equal in number to 30% of capacity of people
Nursing home	one/each two beds and one/each staff doctor
Commercial	One square foot of parking area for each square foot of building space open to the public, but no less than 900 sq. ft., plus one/each three employees
Industrial	two/each three employees and one/each managerial personnel
Recycling Facility	ten spaces

**SECTION 813 EARTH-SHELTERED HOMES AND OTHER DWELLING UNITS**

813.1 ~~EARTH-SHELTERED CONSTRUCTION HOMES~~

Commented [FN79]: What do other townships have? Room for improvement?

Commented [FN80]: Similar requirements to other townships

Commented [FN81]: Research if there are better definitions

Commented [FN82R81]: Earth Sheltered Construction

Earth-sheltered homes for use as a primary single-family residential structure shall be allowed a building permit if such structures possess the following characteristics:

1. The roof of the structure is covered with earth or earthen material to the depth of at least two feet.
2. The structure is waterproofed to sufficiently provide a low-humidity interior environment.
3. The structure is not designed to provide for the future installation of an upper floor.
4. The structure meets or exceeds all building code standards for fire safety, window area, and other requirements.

#### 813.2 DWELLING UNITS PROHIBITED

No basement, garage, tent, trailer, or accessory building shall at anytime be used as a dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

#### 813.3 RELOCATING STRUCTURES

A permit shall be required for all permanent relocation of structures. Relocation of construction sheds and other temporary structures to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure to be moved and photographs of the lot on which the structure is to be located. The Planning Commission may also require photographs of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots. The Planning Commission shall report its conclusions to the Town Board. If the Town Board decides that relocation of the structure would depreciate the value of structures or lots surrounding the lot upon which it is to be moved, then the permit shall be denied.

### **SECTION 814 DWELLINGS FOR FARM EMPLOYEES**

Single family dwellings in excess of the density permitted in the Agricultural District are allowed for farm employees, provided the following conditions are met:

1. An interim use permit is issued for the dwelling unit;
2. At least 90 percent of the farm employee's income is derived from farm employment on the premises;
3. The minimum livable area of the dwelling is at least 500 square feet;
4. The dwelling is constructed, inspected, certified and located according to minimum applicable code requirements;
5. The dwelling is served by a permitted water well and sewage treatment system;
6. The dwelling is located near enough to the primary residence and outbuildings to appear as an integral part of the farmstead;
7. The use will cease and the dwelling will be removed upon termination of employment or failure to meet Ordinance requirements.

**SECTION 815 ANIMAL FEEDLOTS AND MANURE HANDLING****815.1 INTENT AND PURPOSE**

The production of farm animals and other agricultural products is an important part of the environment and economy of Dakota County and Marshan Township. Livestock, poultry, dairy products, and other agricultural commodities are produced in Marshan Township. The continued viability of the agricultural community and production of these products is essential to the economic well being of Marshan Township and its residents.

It is the intent of this section to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community while ensuring that animal feedlots and animal wastes are properly managed to protect the health of the public and maintain compatibility of land uses in Marshan Township.

The purpose of this section is to establish an application process for permitting animal feedlots, regulating location, development, operation, and expansion of animal feedlots, promoting best farm management practices, and ensuring land use compatibility.

**815.2 ADMINISTRATION**

1. Permit Required: Any person owning or operating a proposed or existing animal feedlot having ten (10) or more animal units shall make application to the Township in conformance with the requirements in this section, if any of the following conditions exist:
  - a. A new animal feedlot is proposed;
  - b. A change in operation of an existing feedlot is proposed. A change in operation includes:
    - (1.) An increase beyond the permitted maximum number of animal units.
    - (2.) An increase in the number of animal units that are confined at an un-permitted lot;
    - (3.) A change in the construction or operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure; such as if
      - (a.) Ownership of an existing animal feedlot is changed;
      - (b.) A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules or regulations;
      - (c.) An inspection by authorized MPCA or County staff determines that the animal feedlot creates or maintains a potential pollution hazard.
2. Permit Application: A permit application shall include the following:
  - a. Owner's and operator's name and address;
  - b. Proposed location, including quarter section, township and range;
  - c. Animal types and maximum number of animals of each type which will be confined at the feedlot;
  - d. A sketch identifying dimensions of the feedlot, all setbacks required in Section 816.3.2, below, and homes, buildings, existing manure storage areas and/or structures, lakes, ponds, water courses, wetlands, dry-runs, tile inlets, sink holes, roads, and wells located within the required setback areas;
  - e. Plans for buildings or structures as required by this Ordinance.

3. Township Action: Action by Marshan Township on an Animal Feedlot application is conditional upon the following additional requirements being met by the applicant:
  - a. Receipt of a Feedlot Permit from the Dakota County Feedlot Officer;
  - b. Approval of a Spill Response Plan by the County Feedlot Officer;
  - c. Approval of a Nutrient Management Plan by the County Feedlot Officer, in consultation with the Dakota County Soil and Water Conservation District.
4. Certification: Any operator of an animal feedlot that has received a permit from the Township or any individual or business that stores, spreads, or processes animal manure in the Township will be certified by the Dakota County Feedlot Officer for an initial period of five (5) years.

Animal feedlot owners and individuals or businesses that store, spread, or process animal manure in the Township shall be re-certified every five years. Re-certification shall be received upon completion of appropriate training under the supervision and provided by the University of Minnesota Extension Services, Dakota County.

815.3 ACREAGE AND SETBACK REQUIREMENTS

1. Minimum Area: Minimum land requirements for an animal feedlot will be based upon the minimum amount of land required to meet the setback requirements in Section 815.3.2, below, and the requirements for spreading of manure as identified in the Nutrient Management Plan.
2. Minimum Setbacks: The following setbacks shall apply to all new Animal Feedlots and Manure Storage Facilities:
  - a. Setbacks from a residence not owned by feedlot owner, family or employee:

<b>Animal Units</b>	<b>Minimum Distance</b>
1-50	250 feet
51-150	500 Feet
151-750	1,000 feet
751 or more	¼ mile

- b. Setback from public parks      ¼ mile

3. Measurements: The separation distances established in this section shall be measured from the perimeter of the animal feedlot or animal waste storage facility to the nearest referenced boundary or the exterior wall of the principal structure containing the referenced use, whichever applies. In the event a use is not contained within a structure, an imaginary perimeter boundary shall be drawn by the Zoning Administrator around the referenced use, and measurements shall be taken from that perimeter boundary.

**Commented [FN83]:** Who draws imaginary boundary?

815.4 LAND APPLICATION OF MANURE

1. Application Rates: Manure application rates for new or expanded feedlots will be based upon requirements identified in the Nutrient Management Plan.
2. Injection and Incorporation: Manure from an Animal Waste Storage Facility must be injected or incorporated into the soil within twenty-four (24) hours of spreading.

### 815.5 MANURE STORAGE AND TRANSPORTATION

1. Compliance with State and Local Standards: All animal manure shall be stored and transported in conformance with State of Minnesota statutes and rules, and local ordinances.
2. Potential Pollution Hazard Prohibited: No manure storage facility shall be constructed, located or operated so as to create or maintain a potential pollution hazard. A certificate of compliance or a permit must be issued by the County Feedlot Officer.
3. Vehicles, spreaders: All vehicles used to transport animal manure on county, state, interstate, Township, or city roads shall be leak-proof. Manure spreaders with endgates shall be in compliance with this provision provided the endgate works effectively to restrict leakage and the manure spreader is leak-proof.
4. Storage Capacity for New Animal Waste Storage Facility: Storage capacity for animal manure from new Animal Waste Storage Facilities shall not be less than seven (7) months, subject to the review and approval by the County Feedlot Officer.
5. Engineer Approval of Plans: All plans for an animal manure storage facility must be prepared and approved by an engineer licensed by the State of Minnesota. A report from an engineer licensed by the State of Minnesota must be submitted to and approved by the Dakota County Feedlot Officer or his designee prior to use of the structure for manure storage.
6. Monitoring of Storage Pit: The owner of a storage pit shall conduct a test annually of the water within the perimeter tile of the storage facility, with analysis completed by a certified testing laboratory, and maintain a log of the results to be provided at the time of certification as identified in Section 816.2.4
7. Abandoned Manure Storage Facilities: All animal waste must be removed from an animal waste storage facility that has not been operational for one year.
8. Emergency Notification: In the event of a leak, spill, or other emergency related to the handling of animal manure that presents a potential opportunity for pollution of a natural resource or inconvenience to the public, the owner of the animal feedlot or individual or business responsible for transport or spreading of animal manure shall notify the Minnesota Duty Officer and the Dakota County Feedlot Officer or his agent to review alternative solutions and to receive authorization to take appropriate actions to remedy the situation. The operator or owner of a feedlot, or the individual or business responsible for transport or spreading of animal manure is responsible for costs associated with clean-up and other remedies related to the emergency.

### 815.6 OTHER REGULATIONS

Compliance with all other applicable local, state, and federal standards shall be required, including State feedlot regulations (MN. Regulations Chapter 7020) and Shoreland Development (MN Statutes 103F.201).

## **SECTION 816 RIGHT TO FARM**

It is the purpose of this section to prevent agricultural operations from being harassed by insubstantial nuisance complaints.

### 816.1 RIGHT TO FARM.

Individuals owning or renting property that abuts or is located near an agricultural operation may be subject to inconveniences or discomforts arising from such operation. Such discomfort or inconveniences may include but are not limited to noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. One or more of the inconveniences described above may occur as a result of any agricultural operation that is in conformance with existing laws and regulations and with accepted agricultural customs and standards.

The Township has determined that the use of real property for agricultural purposes is a high priority, is favored, and that those inconveniences arising from such agricultural operations should not be considered to be a nuisance provided that the operation is conducted or maintained on agricultural land and is operating in accordance with all applicable state statutes or rules or any issued permit. Such operations shall not be considered as, nor shall become a nuisance, public or private, if the operation was not a nuisance when it began. This provision does not apply to operations or activities considered a nuisance as defined under Minnesota Statutes, Chapter 561.19, Subdivision 2.

816.2 DISCLOSURE IN BUILDING PERMITS.

Prior to the issuance of any building permit for ~~an agricultural use on agricultural land~~ ~~use on agricultural land~~, the owner of the property shall be required to sign a Right-to-Farm Disclosure Statement. The disclosure shall be on a form provided by the Township and made available to the public. The Township shall file building permit disclosure forms with the Township Clerk.

Commented [FN84]:

816.3 OTHER REGULATIONS

Compliance with all other applicable local, state, and federal standards shall be required, including State feedlot regulations (MN. Regulations Chapter 7020) and Shoreland Development (MN Statutes 103F.201), including state and local environmental regulations.

**SECTION 817 NUISANCES**

Commented [FN85]: More clarification from Town Board. Use this section in definition?

Other than ~~inconveniences outlined in Section 816~~ ~~the accepted farm nuisances~~, no noise, odors, vibrations, smoke, air pollution, liquid or solid wastes, heat glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect on adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety, nor that will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

817.1 NUISANCES TO PUBLIC HEALTH

The following are declared to be nuisances affecting public health:

1. The untreated effluent from any cesspool, septic tank, drainfield, or human sewage disposal system discharging upon the surface of the ground or dumping the contents thereof at any place except as authorized.
2. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.

3. Carcasses or animals not buried, destroyed, or otherwise disposed of within 24 hours after death.

#### 817.2 NUISANCES TO PUBLIC SAFETY

The following are declared to be nuisances affecting public peace and safety:

1. The placing or throwing on any street, alley, road, highway, sidewalk, or other public property of any glass, tacks, nails, bottles, or other nuisance which may injure any person or animal or damage any pneumatic tire when passing over the same.
2. The ownership, possession, or control of any unused refrigerator or other container, with doors that fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges, or latches or providing locks to prevent access to the public.

#### 817.3 AGRICULTURAL NUISANCES

Agricultural lands or operations managed in accordance with the Right to Farm provisions of this Ordinance (Section 816) shall not be considered a nuisance.

#### 817.4 MISCELLANEOUS NUISANCES

1. It shall be unlawful for any person to store or keep any vehicle, dismantled or not, of a type requiring a license to operate on the public highway, ~~but~~, without a current license attached thereto, ~~whether such vehicle be dismantled or not~~, outside of an enclosed building in residential or agricultural districts.
2. It shall be unlawful to create or maintain a junkyard or vehicle dismantling yard except as provided herein.
3. It shall be unlawful to create a nuisance affecting the health, peace, or safety of any person.

Commented [FN86]: Revise for clarity

### SECTION 818 RECYCLING OPERATIONS

#### 818.1 PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to establish or expand, in any way, a recycling operation without first obtaining an interim use permit from the Township of Marshan, which interim use permit shall be issued for a term established by the Town Board. Such permit may only be issued in an Agriculture District.

All existing recycling operations not permitted at the time of adoption of this Ordinance shall apply for an interim use permit within 60 days of adoption of this Ordinance, or cease operations.



### 818.2 PERMIT APPLICATION REQUIREMENTS.

Application for a permit shall be made in writing on the form specified by the Township of Marshan and shall contain the following information:

1. The correct legal description of the land to be used for the recycling operation.
2. The name and address of the applicant and the owner of the land if different from the applicant.
3. Maps, photographs, and surveys illustrating the relationship of the site to the community and surrounding properties and existing site conditions including vegetation, surface waters, and topography.
4. A description of the operation as regards the sales of parts and the use of cutting, compressing, and packaging equipment.
5. A site plan, showing the location and intended use of all structures, storage areas, driveways, parking, and equipment.

### 818.3 DEVELOPMENT AND OPERATING STANDARDS

1. The site shall be a minimum of five acres and not larger than ten acres in size.
2. The outside storage site shall be within an area enclosed on all sides by opaque fencing or walls not less than eight feet in height and a maximum not to exceed twelve feet in height, shall be landscaped on all street frontages, and no storage shall be visible above the height of the fencing or wall.
3. The site shall be located a minimum of 200 feet from any residential or public purpose improvement.
4. The fenced area shall be set back at least 200 feet from any street, not less than ten feet from any side and/or rear property line. The area of side and rear yards shall be planted with trees, grass, and shrubs and kept in a trimmed and debris-free condition.
5. The site shall be maintained free of litter and any other undesirable materials, will be cleaned of loose debris on a daily basis, and will be secured from unauthorized entry and removal of materials when attendant is not present.
6. Facilities located within 500 feet of property planned or used for residential or public purposes shall only be in operation between the hours of 7:00 P.M. and 5:00 P.M., Monday through Saturday. The facility will be administered by on-site personnel during the hours the facility is open.
7. The operator of the facility shall cooperate with compliance inspections by officials of the Township of Marshan, Dakota County, and/or the State of Minnesota during business hours.
8. The operator shall abide by all solid waste disposal laws, as established by the County of Dakota and State of Minnesota.
9. The operator shall provide parking space for ten customer vehicles.
10. Storage of reusable parts shall be allowed in a fully enclosed building on said premises, said usable parts being kept for the sole purpose of re-sale to the general public.
11. The operator shall be allowed to maintain a vehicle crusher on said premises. Crushing operations shall be allowed during normal business hours.

12. An annual inspection fee shall be established at each January Town Board meeting and shall be paid by the operator no later than February 15 of each year, which fee shall cover the current calendar year. Failure to pay said annual fee by the date set forth shall result in withdrawal of the interim use permit. Fees shall be used to pay costs associated with the inspection of said business activities, in conformance with the requirements of the interim use permit.
13. At a time when an interim use permit is being applied for, additional conditions may be added by the Town Board to accommodate conditions pertaining to the area which would be in the best interest of the health and welfare of the community at large.

## **SECTION 819 COMMUNICATION TOWERS AND ANTENNAE**

### **819.1 PERMIT REQUIRED**

It shall be unlawful for any person, firm, or corporation to erect, construct, replace, re-erect or repair a communications tower without first making application for securing an interim use permit and building permit as provided in this Ordinance. This also includes antennae on existing towers.

The applicant shall provide at the time of application for a building permit sufficient information to indicate that construction, installation, and maintenance of the antenna and/or tower will be in compliance with applicable Uniform Building Code requirements.

In addition to the information required ~~in Section 1104 elsewhere in this Ordinance~~, applications for a building permit for a tower or antenna shall include a report from a qualified and licensed professional engineer, containing the following information:

1. A description of the tower height and design, including a cross-section and elevation;
2. Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennae;
3. A description of the tower's capacity, including the number and type of antennae that it can accommodate; and
4. A demonstration of the tower's compliance with all applicable structural and electrical standards, and including a qualified and licensed engineer's stamp and registration number.

### **819.2 CO-LOCATION REQUIREMENTS**

All communication towers erected, constructed, or located within the Township shall comply with the following requirements:

1. A proposal for a new communications tower shall not be approved unless the Town Board finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius (one-half mile search radius for towers under 120 feet in height; towers under 80 feet are exempt from this requirement) of the proposed tower due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building, and the existing or approved tower cannot be reinforced,

modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building and interference cannot be prevented at a reasonable cost.
- c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function in a reasonable manner.
- d. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a one-mile radius was made.
- e. New towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

<b>Height of Structure</b>	<b>Number of Co-locations Required</b>
Less than 120'	No co-location required
Between 120' and 160'	1 additional user accommodated
Greater than 160'	2 additional users accommodated

- f. In the event a tower must be constructed in excess of one hundred sixty (160) feet in height, the owner of the tower shall reserve the right of co-location for one (1) of the two (2) additional users to the Township for the use by the Township for government communication services including, but not limited to, uses such as fire, police, or rescue.

**819.3 TOWER AND ANTENNA DESIGN**

Towers and antennae shall be located and designed to blend into the surrounding environment to the maximum extent possible. Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances. All towers shall be painted in a color best determined by the Township to blend into the particular environment.

**819.4 TOWER SETBACKS**

- 1. All towers shall be set back from structures, rights-of-way, and property lines at a distance equal to the height of the towers and antennae, but not closer than 120 feet to a road right-of-way.
- 2. For all dwellings surrounding the principal lot on which a tower is erected, the setback shall be 500 feet from the base of the tower to the dwelling.

**819.5 LIGHTING**

Towers shall not be illuminated unless required by a state or federal agency.

#### 819.6 SECURITY

The site area for new or modified commercial wireless telecommunications services towers shall be totally fenced in to discourage access by unauthorized persons. The Township shall review and approve or modify all plans for fencing and security measures.

#### 819.7 ACCESSORY STRUCTURES

The applicant shall submit site plans, elevations, and construction details for all towers, antennae, and accessory structures to be located on a site. All equipment must be enclosed within a building. The Township may require that any accessory structures be designed compatible with surrounding structures or natural environment and may require that landscaping materials be provided to screen accessory structures or equipment. Co-location users must construct buildings compatible with existing buildings on the premises.

#### 819.8 SIGNS

Signs, other than warning signs, equipment labels, emergency information, or owner identification, are prohibited on any towers, antennae, or accessory structures or equipment. No permitted signs shall exceed three (3) square feet in area.

#### 819.9 INTERFERENCE

No wireless telecommunications service shall be permitted that causes any interference with commercial or private use and enjoyment of any other legally operating telecommunications devices, including but not limited to radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems, and other electronic equipment and devices. An applicant must furnish Minnesota-registered engineer's certification that no such interference will occur or identify what interference may occur and how the applicant will mitigate any potential inference that may occur.

#### 819.10 CONSTRUCTION REQUIREMENTS

All wireless telecommunication towers, antennae, and accessory uses shall be designed and constructed in accordance with all provisions of this Ordinance and all applicable state and federal codes. All plans must be certified by an engineer registered in the State of Minnesota.

#### 819.11 ABANDONMENT

All towers and antennae not used for a period of 12 consecutive months shall be considered abandoned and shall be required to be removed. In the event any towers and antennae have not been removed within 90 days written notice by the Township after abandonment, the Township shall have the right to remove the towers and antennae and assess the property. The applicant must furnish a copy of the relevant portions of an executed lease, which identifies the applicant's obligation to remove abandoned or unused towers and antennae, prior to issuance of an interim use permit to erect a tower.

**819.12 OTHER REQUIREMENTS.**

1. The Township may require additional information from the applicant and impose additional standards and regulations in approving plans for wireless telecommunications services within the limitations of state and federal statute to ensure and protect the public health, safety, and welfare of Marshan Township.
2. The Township shall not unreasonably discriminate among providers of functionally equivalent services, nor enact regulations that prohibit the provision of personal wireless services, nor regulate service providers on the basis of environmental effects of radio frequency emissions, to the extent that personal wireless service facilities are in compliance with FCC emission standards.

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**SECTION 820 WATER RESOURCE MANAGEMENT**

The Marshan Township Water Resources Management Ordinance governs the permit requirements and standards for all land disturbances and construction, affecting drainage patterns, surfaces waters and wetlands.

**SECTION 821 DISCHARGE OF FIREARMS**

It shall be unlawful for any person:

1. To have any firearm in possession out of doors upon land owned by another person unless written permission from the owner or tenant of the land to discharge such firearm is upon his/her person.
2. Under no circumstances shall any person engage in hunting activity as described in paragraph 1 within 500 feet of any building.

**SECTION 822 IRRIGATION SYSTEM USE**

**822.1 PURPOSE**

The Town Board has found that irrigation systems are being installed on lands within the corporate limits of the Township of Marshan, Dakota County, Minnesota, in a manner that allows a direct water spray over and upon public roads within the Township that is or may be hazardous to the health and safety of the traveling public as well as physically damaging to public roads.

**822.2 RESTRICTIONS**

To eliminate direct water spray over public roads, it shall be unlawful for any person, persons, or entity to erect, allow to be erected, and/or maintain an irrigation system that sprays water and/or mist directly on or over public roads within Marshan Township.

**SECTION 823 DOMESTIC AND NON-DOMESTIC ANIMALS**

**823.1 DAMAGE TO PROPERTY.**

It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subsection may be impounded as provided in this section or a complaint may be issued by anyone aggrieved by an animal under this section against the owner of the animal for prosecution under this section.

#### 823.2 CLEANING UP LITTER.

The owner of any animal, or the person having the custody or control of any animal, shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others, or on public property. Any person who is found guilty of violations of this subsection shall be punished by a fine of at least \$25.00 but not more than \$100.00.

#### 823.3 OTHER.

Any animals kept contrary to this section are subject to impoundment as provided in subsection 823.6 (Impounding) of this Ordinance.

#### 823.4 DOGS

1. Running at Large Prohibited. It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog, or the parents or the guardians of any such person under 18 years of age, to run at large. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the Town Board has posted an area with signs reading "Dogs Prohibited," or other applicable signs.
2. Vaccination.
  - a. All dogs kept harbored, maintained, or transported within the Township shall be vaccinated at least once every three years by a licensed veterinarian for:
    - (1.) Rabies with a live modified vaccine; and
    - (2.) Distemper
  - b. A certificate of vaccination must be kept on the premises of the owner, on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description, and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the Township Clerk or a law enforcement officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Township Clerk or sheriff. Failure to do so shall be deemed a violation of this subsection.
3. Habitual Barking. It shall be unlawful for any person to keep or harbor a dog, which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner or caretaker's premises.

#### 823.5 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic, non-farm animal within the Township limits. Any owner of such an animal at the time of adoption of this Code shall have thirty days in which to remove the animal from the Township after which time the Township may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the Township as part of an operating zoo, veterinarian clinic, scientific research laboratory, or licensed show or exhibition.

#### 823.6 IMPOUNDING.

1. Running at Large. Any animal running at large may be declared a public nuisance. Any law enforcement officer may impound any dog or other animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the Town Hall that if the dog or other animal is not claimed within the time specified in paragraph 3, below, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs running at large.
2. Biting Animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Township Pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of Dakota County, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.
3. Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is sooner reclaimed by their owners or keepers as provided by this subsection or if the animal is a dangerous animal as defined under subsection 823.8 (Animals Presenting a Danger to Health and Safety of the Township), unless the animal is a dangerous animal as defined under subsection 823.8 (Animals Presenting a Danger to Health and Safety of the Township), and except if the animal is a cruelly-treated animal, it shall not be released to the owners or keepers and in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this subsection. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the Town Board:
  - a. Payment of a \$25.00 release fee and receipt of a release permit from the sheriff;
  - b. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and
  - c. If a dog is unlicensed, payment of a regular license fee if required and valid certificate of vaccination for rabies and distemper shots is required.

Commented [FN89]: Revise for clarity

The \$25.00 release fee in a., above, is in addition to the release permit fee specified by the release permit, specified in Article I, Section 101 (Definitions) of this Ordinance.

4. Unclaimed Animals. At the expiration of the times established in paragraph 3, above, if the animal has not been reclaimed in accordance with the provisions of this subsection, the officer appointed to enforce this subsection may let any person claim the animal by complying with all provisions in this subsection, or may cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this subsection shall be payable to the Sheriff.

#### 823.7 SEIZURE OF ANIMALS.

Any law enforcement officer or animal control officer may enter upon private property and seize any animal provided that one or more of the following conditions exist:

1. There is an identified complainant [other than the law];
2. There is an enforcement officer or animal control officer making a contemporaneous complaint about the animal;
3. The officer reasonably believes that the animal meets either the barking dog criteria set out in subsection 823.4 (Dogs), paragraph 3; or the criteria for an “at large” animal set out in Article I, Section 101 (Definitions);
4. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
5. The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
6. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
7. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

Commented [FN90]: Clarify

#### 823.8 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF THE TOWNSHIP.

If, in the reasonable belief of any person or law enforcement officer, an animal presents an immediate danger to the health and safety of any person, the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the person or officer may apprehend the animal and deliver it to the pound for confinement under subsection 823.6 (Impounding). If the animal is destroyed, all costs of disposal including veterinarian costs are to be paid by the owner of the animal. If the animal is found not to be a danger to the health and safety of the Township, it may be released to the owner or keeper in accordance with subsection 823.6 (Impounding).

#### 823.9 DISEASED ANIMALS.

1. Running at Large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the Township, any animal which is



diseased so as to be a danger to the health and safety of the Township, even though the animal is properly licensed under this section.

2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by any person or law enforcement officer. The law enforcement officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the Township, the officer shall cause such animal to be painlessly ~~destroyed~~~~killed~~ and shall properly dispose of the remains. The owner or keeper of the animal ~~destroyed~~~~killed~~ under this subsection shall be liable for at least \$75.00 to cover the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
3. Release. If the animal, upon examination, is not found to be diseased within the meaning of this subsection, the animal shall be released to the owner or keeper free of charge.

#### 823.9 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this section.

### **SECTION 824 MINING AND EXTRACTION**

#### 824.1 PURPOSE:

The purpose of this section is to protect the public health, safety, and welfare through the following:

1. Identify areas in the community where mineral extraction is most appropriate and minimizes conflicts with commercial agricultural, residential, and other land uses.
2. Establish permitting requirements, environmental review procedures, and performance standards to regulate mineral extraction.
3. Establish standards which distinguish between longer-term and shorter-term mineral extraction activities.
4. Establish standards which prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties, and the community as a whole.
5. Establish standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses which are compatible with the Marshan Township Comprehensive Plan.
6. Establish standards which minimize impacts on long term agricultural preservation policies of the Township and restore mined lands to productive agricultural uses.
7. Establish standards to upgrade and maintain haul routes necessary for safe and adequate usage by mining vehicles, farm vehicles and equipment, school buses, passenger vehicles, pedestrians, and all other roadway users.

**Commented [FN91]:** Research and compare with other ordinances

8. To impose upon nonconforming mining and extraction reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.

824.2 PERMIT REQUIRED

1. It is unlawful for any person, firm, or corporation to extract or process minerals in the Township without obtaining an interim use permit, except for lawful nonconforming uses, as required in Sections 401 and 1108 of this Ordinance, and a mineral extraction permit as required by this section.
2. With the exception of lawful non-conforming uses, mineral extraction shall only be permitted in Section 19-20, 25-27, and 33-36, Township 114, Range 17, within the Township.
3. Exceptions: A mineral extraction permit shall not be required for any of the following activities:
  - a. Excavation for a foundation, cellar, or basement of a building if a building permit has been issued.
  - b. Excavation by state, county, city, or Township authorities in connection with construction or maintenance of roads, highways, or utilities, conducted solely within permanent easement areas or rights-of-way.
  - c. Curb cuts, utility hook-ups, or street openings for which another permit has been issued by the Township.
  - d. Excavation less than 1000 square feet in area or one foot in depth.
  - e. Excavation or grading for agricultural purposes.
  - f. Mineral Extraction in which a seasonal extraction permit has been issued.
  - g. Other activities in which a permit has been issued, site grading is allowed and mineral extraction is clearly an incidental activity.
4. Mining and extraction operations that predate the adoption of this Ordinance shall cease operations or obtain a mineral extraction permit or seasonal extraction permit within six months after the adoption of this Ordinance.
5. ~~Renewal applications must be filed by January 1<sup>st</sup> of each renewal year.~~ Mineral and extraction permits must be renewed by March 1<sup>st</sup> of each year or the permit shall lapse. An initial permit must be renewed by March 1<sup>st</sup> following twelve (12) months after its approval. At the time the permit is renewed, new or amended conditions may be attached to the permit in response to changing site characteristics and any problems that have arisen. The renewal permit fee is \$300.00 which must be paid at the time a renewal application is filed. ~~Renewal applications must be filed by January 1<sup>st</sup> of each renewal year.~~

**Commented [FN92]:** Kalmar and Farmington township require a conditional use permit, but I think an interim use permit is more fitting.

**Commented [FN93R92]:** They might not even need the interim use permit since their mineral extraction permit is so extensive and has to be renewed every year

**Commented [FN94R92]:** Consider an interim use permit in specific districts

**Commented [FN95]:** Too general, I suggest removing

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824.3 MINERAL EXTRACTION PERMIT APPLICATION REQUIREMENTS

1. Application Form: An application for a mineral extraction permit shall be submitted to the Township Clerk on a form supplied by the Township. Information shall include but not be limited to the following:
  - a. Name, address, phone number, and contact person for the operator.

- b. Name, address, and phone number of the landowner.
  - c. Acreage and complete legal description of the property on which the facility will be located, including for all contiguous property owned by the landowners.
  - d. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
  - e. Estimated type and quantity of material to be extracted.
  - f. Estimated timeframe to operate the facility.
  - g. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
  - h. A description of the estimated average daily and peak daily number of vehicles accessing the facility, including a breakdown of operator-owned and non-operator-owned vehicles.
  - i. A description of the haul routes within the Township to be used in the operation of the facility.
2. Supporting Documentation: Every application for a mineral extraction permit shall include submission of supporting documentation which shall include, but may not be limited to the following:
- a. A description of existing land uses on the subject property and all properties within one-half mile of the property boundary.
  - b. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half mile of the property boundary.
  - c. A description of the soil, vegetation, mineral content, and topography of the subject property. A minimum of three soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
  - d. A general description of surface waters, existing drainage patterns, and groundwater conditions within one-half mile of the subject property.
  - e. A general description of any wells or private sewer systems of record, pipelines, power lines, and other utilities or appurtenances on the subject property and adjacent properties.
  - f. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
  - g. Existing topography of the subject property, illustrated by contours not exceeding ten-foot intervals.
  - h. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
  - i. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses, and access routes.
  - j. Copies of MPCA application documents and operating permits.
  - k. A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be controlled

on the subject property and plans to control erosion, sedimentation, and water quality of the runoff.

- l. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic, and aesthetics.
  - m. A description of the plan to mitigate potential impacts resulting from mineral extraction.
  - n. A description of site screening, landscaping, and security fencing.
  - o. A description of site rehabilitation in each phase of operation and upon completion of mineral extraction on the subject property.
  - p. A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method with which complaints are to be resolved.
3. Standards: The following standards shall apply to all mineral extraction facilities in the Township:
- a. Hours of Operation. Mineral extraction facilities shall operate only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and between 9:00 a.m. and 3:00 p.m. on Saturday. A mineral extraction facility may be opened one-half hour before and one hour after hours of operation to allow for the staging and loading of vehicles hauling extracted materials.
    - (1.) Operators are allowed a maximum of five one-day extensions to the hours of operation for evening work in a calendar year. Operators must notify the Township Clerk or a Supervisor in advance of the proposed exception.
    - (2.) Other exceptions to the hours of operation, such as government agency contracts and other evening work, must be approved by the Town Board.
  - b. Fencing. The Board may require fencing, signs, and barriers around artificial ponding areas and steeply sloped excavation areas.
  - c. Access. All mineral extraction facilities shall have direct access to a 9-ton or greater paved road. Facilities proposed without such access shall only be permitted upon improvement of all access roads to 9-ton or greater paved sections, according to Township specifications.
  - d. Haul Routes. All trucks traveling to or from the mineral extraction facility shall utilize 9-ton or greater paved roads within the Township. Operators may be granted a special permit to utilize roadways temporarily posted under 9-tons, provided adequate surety is guaranteed to cover the costs of repairing any damage to roadways.
  - e. Roadway Dust Control. Operators will be responsible for providing water trucks to control dust on all gravel roads utilized by trucks hauling to or from a legal nonconforming mineral extraction facility or from any mineral extraction facility making local product deliveries. Unless waived by the Town Board in lieu of other remedies, watering roadways will be required when conditions warrant it and the number of one-way truck trips from a particular mineral extraction facility exceeds three per hour.
  - f. Mineral Extraction Facility Dust Control. The Township may require watering in a facility when it is determined that airborne dust from extraction areas, processing activities,

stockpiles, or internal roadways creates a public nuisance. Other remedies to control dust may include berming, landscaping, and enclosures for processing equipment. Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency.

- g. Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment.
- h. Air Quality/Water Quality. All activities on the subject property will be conducted in a manner consistent with the MPCA's operating permits.
- i. Groundwater and Extraction Depth. No mineral extraction shall occur within 10 feet of the normal groundwater level. No mineral extraction activities shall lower the average depth of the pre-existing site elevations by more than 40 feet, unless specifically approved by the Town Board and authorized in the interim use permit. Site acceptability for agricultural reuse and site drainage shall be among the factors in determining acceptable final site elevations after rehabilitation.
- j. Accessory Uses. Accessory uses, such as concrete or asphalt production or stockpiling and sale of materials not extracted on the subject property may be considered for approval by the Township. No vehicles, equipment, or materials not associated with the mineral extraction facility or not in operable condition may be kept or stored at the facility.
- k. Setbacks. No extraction activity may occur within 100 feet of any residence and 50 feet of any adjacent property, road right-of-way, or public utility. Screeners, crushers, other processing equipment, and manufacturing equipment may not be located closer than 500 feet without berming or 250 feet with berming from any residence. Grading plans affecting pipelines or power line corridors will be evaluated on a case-by-case basis.
- l. Phasing. Phasing plans must be prepared for all mineral extraction facilities. No more than ten acres of land may be exposed to extraction at any one time. A maximum of 25 acres may be utilized at any one time for extraction, processing, staging and stockpiling. Areas where extraction has been completed shall be rehabilitated according to the provisions of this Ordinance, except for that area included in the maximum twenty-five-acre operational area, and as excepted below:
  - (1.) The Town Board may allow exceptions to the phasing requirements for topsoil and clay extraction.
  - (2.) The Town Board may allow exceptions to the phasing requirements for limestone quarrying.
  - (3.) The Town Board may allow exceptions for phases of operation in existence at the time of this Ordinance adoption.
- m. Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- n. Explosives. The use of explosives by the operator must be authorized as part of the interim use permit to provide adequate public notice and input.
- o. General Compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.

- p. Additional Regulations. The Township may impose additional regulations and requirements to the mineral extraction permit to protect the public health, safety, and welfare.
- q. Inactivity. In the event less than 5000 cubic yards of material has been removed from the facility in any calendar year, the Township may terminate the mineral extraction permit.
- r. Rehabilitation Plan. A rehabilitation plan must include the grading plans, topsoil replacement, seeding, mulching, erosion control, and sedimentation control specifications for each phase and the final site restoration. The following minimum standards and conditions apply:
  - (1.) Final grades for topsoil, clay, sand and gravel extractions may not exceed a 10:1 ratio (10% slope), except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty feet from property lines. A minimum of six inches of topsoil shall be placed on all graded surfaces.
  - (2.) Final grades for limestone quarries may include vertical walls after excavation, provided safety benches are provide in the upper-most 20 feet of any excavation, and provided permanent road access is provide from the top of the excavation to the bottom at a gradient not exceeding ten percent (10%). The reclamation plan shall also include details for fencing, landscaping and berming around the perimeter of the excavated areas. All final grades not exceeding a 2:1 ratio (50%) shall be covered with a minimum of six (6) inches of topsoil.
  - (3.) Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
  - (4.) Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans have been reached. Exceptions to seeding and mulching include the processing, storage, and staging areas within each phase.
  - (5.) Soil erosion and sedimentation control measures shall be consistent with MPCA's "Protecting Water Quality in Urban Areas."
  - (6.) Unless otherwise amended or approved by the Town Board, all final grades and site restoration efforts shall be consistent with the Rehabilitation Plan.
  - (7.) Within 12 months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.
  - (8.) Within 12 months after completion of mineral extraction or after termination of the permit, site rehabilitation must be completed.
- 4. Termination: The Town Board shall have the authority to terminate the mineral extraction permit on the happening of any of the following events:
  - a. If applicable, the date of termination specified in the interim use permit.
  - b. Upon a violation of a condition under which the permit was issued, but only after the Township has first provided written notice to the operator (and land owner, if different from the operator) describing the specific violation and steps necessary to cure the

violation, and after having been given a reasonable opportunity to cure the violation, but in no case longer than 60 days.

#### 5. Seasonal Extraction Permit

- a. Purpose. The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter term basis than allowed in a mineral extraction permit.
- b. Eligibility. A seasonal extraction permit may be issued in areas of the Township zoned A Agriculture.
  - (1.) Seasonal extraction permits are intended to allow the opportunity for mineral extraction on land which is in close proximity to projects of short duration, such as road construction, in or near the Township.
  - (2.) Seasonal extraction permits are also intended to allow the opportunity for site grading, which will enhance the use of property, including land where mineral extraction has occurred in the past and rehabilitation has not been completed.
- c. Process. A seasonal extraction permit will be processed as an interim use permit, according to the provisions and procedures of Sections 401 and 1108 of this Ordinance.
- d. Area Limitation. The maximum site area that may be included in a seasonal extraction permit is ten acres. The Board may expand this limitation if the subject property includes a larger area where mineral extraction has previously occurred.
- e. Duration. Seasonal extraction permits are valid for a period not exceeding one calendar year. Mineral extraction operations may only occur between May 1 and December 1 of the permit year. Site rehabilitation must be completed by June 1 of the following year. The Board may extend the permit for a maximum of one additional year.
- f. Application. An application for a seasonal extraction permit shall be submitted to the Township Clerk on a form provided by the Township. Information requirements shall be the same as identified in subpart 1 of this section.
- g. Supporting Documentation. An application for a seasonal extraction permit shall include supporting documentation identified in subpart 2 of this section.
- h. Standards. The standards identified in subpart 3 of this section shall apply to seasonal extraction permits, with the following exceptions:
  - (1.) Hours of Operation. The same hours of operation apply to seasonal extraction facilities, except the days of operation are limited to Monday through Friday and no evening activities are permitted.
  - (2.) Setbacks. The Board may modify setback requirements where appropriate.
  - (3.) Access and Haul Routes. The Town Board may waive the requirement for access and use of paved roadways when consistent with the intent of this Ordinance and when adequate surety is guaranteed to cover the costs of repairing any damage to roadways.
- i. General. All other terms and conditions of this section not in conflict with this subpart shall apply.

#### 6. Enforcement

- a. The operator grants the Township’s officers and representatives access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this section.
- b. The operator shall be responsible for the repair and maintenance of public and private property which is damaged by him or her, or his or her agents or employees in conducting business or any other activity associated with the mineral extraction facility.
- c. A development agreement will be required for all mineral extraction permits, including seasonal extraction permits.
- d. The operator shall hold the Township harmless against all claims by third parties for damage or costs incurred in the development of the subject property. The operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorney’s fees.

7. Fees

- a. The applicant shall pay for the application fee and any estimated expenses to be incurred by the Township before an application will be processed.
- b. The applicant shall reimburse the Township for all out of pocket expenses incurred by the Township in the review of the application, public hearings, preparation of documents, inspections, and enforcement of this section.
- c. The Board shall establish, by resolution, fees for the issuance of mineral extraction permits and seasonal extraction permits. Fees must be paid at the time of issuance and thereafter on or before January 1st of each year for the renewal of permits that have not been terminated. Failure to pay renewal fees shall be a violation of this section and the conditions of the interim use permit.

~~e-d.~~ **Bond May Be Required:** The Marshan Township Planning Commission may require either the applicant or the owner or user of the property on which the open pit or excavation is located to post a bond. The bond will be in such form and sum as the Commission shall determine. The bond will have sufficient surety designated to the Township to pay the Township for any extraordinary cost and expense of repair to any Township roads or other public ways where such repair work is made necessary by the hauling and travel in removing materials from any pit, excavation or impounded waters. The amount of such cost and expense shall be determined by the Township or County Engineer. The applicant(s) may further be required to comply with all requirements of this Ordinance and the particular permit, and to pay any expense the Township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

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8. Financial Guarantee

The Township shall require a cash escrow or letter of credit, in a form acceptable to the Township, to guarantee compliance with this section and the terms and conditions of the development agreement. The Township shall have the right to use the financial guarantee to remove stockpiles and complete site rehabilitation and to correct other deficiencies or problems caused by the operator, in the event the operator is in default of the permit obligations. The amount of financial guarantee shall be equal to \$5000.00 for every acre authorized in the current phasing plan of the permit. The financial guarantee shall remain in full force and effect for a minimum period of one and one-half years beyond the expiration date of the permit.



### 9. Liability Insurance

The operator shall at all times procure and maintain at the operator's expense general public liability insurance and automobile liability insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the operator's performance of its duties under this Ordinance. Such insurance shall afford protection to a limit of not less than \$500,000 in respect to injuries or death to a single person, to a limit of not less than \$1,000,000 in respect to any one accident or occurrence, and to a limit of not less than \$200,000 in respect to property damage. The Township shall be named an additional insured on all such policies of insurance. The operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit. The certificate shall provide that the Township must be given 30 days written notice of the cancellation of insurance.

#### 824.3 PROCESSING MINERAL EXTRACTION PERMITS

The application, public hearing, notice, and procedural requirements for an initial mineral extraction permit shall be the same as for an interim use permit. Annual renewal of the permit shall be reviewed and acted upon by the Board of Supervisors.

**SECTION 825 HORSE KEEPING**

**825.1 PERSONAL HORSE KEEPING**

Horses are allowed in all zoning districts subject to provisions of the underlying zoning districts and the requirements of this section. The minimum lot area for the keeping of horses shall be 2.0 acres. Two horses may be kept on any parcel meeting the minimum two-acre standard. More than two horses kept on any parcel shall require a minimum of two acres per horse. For example, two horses may be permitted on a two-acre parcel; whereas, three horses may only be permitted on a six-acre parcel, four horses may only be permitted on an eight-acre parcel, and so forth.

**825.2 COMMERCIAL HORSE BOARDING**

In any instance where more than one horse kept on any parcel is boarded for persons other than the occupants of the farm or residence, an interim use permit shall be required. Horse breeders are exempt from this requirement provided horses on the premises are kept only for breeding, personal use, and for sale.

Issuance of an interim use permit for commercial horse boarding shall meet the requirements of Section 825.1, 825.3, and Section 1108 of this Ordinance and shall be considered only when it is determined by the Town Board that such issuance and use does not cause negative impacts on adjacent properties or result in inhumane conditions for the horses boarded.

**825.3 ANIMAL FEEDLOT REQUIREMENTS**

In any instance where ten or more horses (equaling ten or more animal units, as defined in this Ordinance) are kept on a parcel, the Animal Feedlot and Manure Handling requirements of Section 815 of this Ordinance shall be met.

**SECTION 826 SOLAR ELECTRIC SYSTEMS**

Retail and wholesale solar electric systems are allowed in all zoning districts, subject to the following standards and requirements:

1. Solar electric systems require an interim use permit in all zoning districts.
2. Roof-top retail solar electric systems shall be allowed on residential dwellings. Roof top solar electric systems shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, shall not be located any closer than three feet from any side, top or bottom edge of the roof, and shall not occupy more than 75 per cent of the area of the roof plane it is affixed to.
3. Retail solar electric systems located on agricultural, commercial or industrial structures may include roof top systems. Roof top systems shall not project more than four feet above the plane of the roof nor be located closer than six feet from the outer edge of the roof top.
4. Ground mounted retail solar electric systems shall be permitted on parcels of land not less than five acres in area. Ground mounted retail solar electric systems shall not exceed fifteen feet in height, shall not be located in any required yard area, and shall not be located closer than 100 feet to an existing adjacent residence. Ground mounted retail solar electric systems shall not

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- exceed 10,000 square feet. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
5. Wholesale solar electric systems shall be set back a minimum of 120 feet from the centerlines of roadways, a minimum of 50 feet from all property lines, and a minimum of 100 feet from any adjacent property residential dwelling. The maximum height of wholesale solar electric system equipment, structures and accessory appurtenances shall not exceed 15 feet. Wholesale solar electric systems shall be enclosed by a minimum six feet high security fence.
  6. Wholesale solar electric systems shall not be lighted, except for shrouded, downcast security lights on major equipment or storage buildings. Signage shall be limited to equipment labeling, security warnings and messages, entrance identification and directional signs, and a single site identification sign. No individual sign shall exceed thirty-six square feet in area or extend more than 15 feet in height.
  7. No solar energy equipment or solar electric systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a public safety hazard as determined by the Board of Supervisors or the appropriate roadway authority.
  8. No solar energy equipment or solar electric system shall create interference with television, cable, radio, telephone, internet, computers or other electronic devices and services on neighboring properties, or otherwise constitute a public nuisance.
  9. Electric power lines within all ground mounted solar electric systems shall be buried underground.
  10. All solar energy systems shall be consistent with applicable State Building Codes, State Electrical Codes, and State Plumbing Codes.
  11. All applicable solar energy equipment shall be certified by either the Underwriters Laboratories (UL) or Canadian Electrical Code (CSA 22.1), or the Solar Rating and Certification Corporation (SRCC) for thermal systems.
  12. All solar electric systems unused, abandoned or inoperable for more than twelve months shall be removed by the system owner or the property owner.
  13. In addition to the Site Plan Review requirements of Section 204, ground mounted solar electric system applications shall include the following details:
    - a. Grading plan.
    - b. Stormwater management plan.
    - c. Location of access roads.
    - d. Locations of overhead and underground electric lines.
    - e. Dimensions, location and spacing of PV panels.
    - f. Description of the racking method, including fixed or tracking technology.
    - g. Description and location of buildings, inverters, transformers, disconnects & combiners, and other structures and equipment.
    - h. Typical elevations or photos of sample solar arrays.
    - i. Site lighting and signage.
    - j. Decommissioning plan and site restoration plan, including financial assurances.

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14. Fencing, landscaping, and other screening may be required for any ground mounted solar electric system. Deviations from dimensional standards (including setbacks) may be considered through public hearing procedures for permitting, based upon mitigation of off-site impacts through fencing, landscaping, screening, or other mitigation measures.
15. All ground mounted solar electric systems shall prepare a stormwater management plan consistent with the Vermillion River Watershed "Water Resources Management Ordinance." Any site grading shall be accompanied by an erosion and sedimentation control plan consistent with Best Management Practices for control components.
16. All permit applications for ground mounted solar electric systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.

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**ARTICLE IX**  
**SUBDIVISION REGULATIONS**

**SECTION 901 SCOPE**

The provisions in this section shall apply to the separation of an area, parcel, or tract of land under single ownership, into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial or other use or any combination thereof, except those separations:

1. Where all of the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses, and five acres or larger in size for commercial and industrial uses;
2. Creating cemetery lots; or
3. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

All divisions of property within the Township, not so excepted, must result in the creation of parcels which meet dimensional and development criteria established in this Ordinance. All such parcels must abut existing maintained public roadways in a dimension equal to the minimum required lot width.

The Township will not approve any divisions of property which require construction of new public roads for access, nor require construction of private roads which are intended to provide access to more than one parcel.

**SECTION 902 EXCEPTIONS**

Divisions of property resulting in no more than two parcels, which individually meet all dimensional criteria of this Ordinance and individually or by development agreement meet density limitations for residential dwellings, are exempt from the platting requirements in this section. Such divisions must be submitted to the Town Board for review and approval. The parcels must include perpetual access easements to a maintained public road with a 33-foot width. Each request must be accompanied by a letter of request, ten copies of a certificate of survey illustrating the dimension of the parcels involved, parcel descriptions and easements encumbering the parcels, any areas located within a floodplain or shoreland overlay district, public rights-of-way, protected wetlands or waterbodies, and ten copies of legal descriptions of pre-existing and resulting parcels.

**SECTION 903 PLATTING PROCEDURES**

1. Sketch Plan

Applicants are encouraged to prepare a sketch plan of the proposed subdivision and meet with the Planning Commission to become informed of any issues that may affect the submission of the subdivision and the procedural requirements of the platting process.

2. Preliminary Plat

- a. Application and Fee: An applicant shall file ten copies of the preliminary plat and supporting information to the Township Clerk, along with the filing fees established by

the resolution of the Town Board. The Town Board may also require a cash deposit from the applicant to offset any other out-of-pocket expenses encountered in the review of the preliminary plat.

- b. Planning Commission Review: Upon receipt of the application, the Township Clerk may refer copies of the application to other agencies for review. Within 15 days of receipt of the completed application, the Township Clerk shall refer the application to the Planning Commission for review.
  - c. Public Hearings: Within 45 days of receipt of the preliminary plat, the Planning Commission shall hold a public hearing and submit a recommendation on the preliminary plat to the Town Board, unless action is deferred in accordance with the provisions in Section 1103 of this Ordinance.
  - d. The Township shall make a good faith effort to notify by mail all property owners within 500 feet of the property in question at least 10 days prior to the date of the public hearing. Failure of any property owner or occupant to receive notice shall not invalidate the proceedings.
  - e. The public hearing shall be published in the official Township newspaper at least ten days prior to the public hearing. An affidavit of posting, an affidavit of mailing to appropriate persons, and an affidavit of publication shall be forwarded to the Township Clerk.
  - f. Town Board Action: Within 120 days of the submission of a complete application and following the public hearing and Planning Commission recommendation, the Town Board shall act to modify, approve, or deny the preliminary plat, unless action is deferred in accordance with the provisions in Section 1103 of this Ordinance.
3. Final Plat
- a. Application and Fee: An applicant shall file ten copies of the final plat, incorporating all required changes to the preliminary plat, to the Township Clerk, along with the filing fees established by resolution of the Town Board. All filing fees and out-of-pocket expenses incurred by the Township in the review of the final plat must be paid prior to any action taken by the Town Board.
  - b. Town Board Action: Within 60 days of the referral, the Town Board shall act upon the final plat.

#### **SECTION 904 SUBMISSION REQUIREMENTS**

1. Preliminary Plat
  - a. Title of subdivision, names of owner, subdivider, surveyor or engineer.
  - b. Boundary line survey with dimensions and acreage of all lot easements and rights-of-way.
  - c. Legal description.
  - d. Names of abutting property owners.
  - e. Identification of all wetlands, lakes, waterways, ditches, shoreland zones, and floodplain zones.
  - f. Topography (two-foot contours).
  - g. Structure setback requirements.

- h. Proposed driveway locations.
2. Supplementary Information Required
    - a. A description of existing and proposed ground cover on the subdivision.
    - b. A generalized description of the soils, geology, and hydrology of the subdivision.
    - c. Soil percolation tests on each lot in the proposed subdivision in accordance with this Ordinance, which verify adequacy of the soils to support primary and secondary waste treatment systems.
    - d. Grading plan, soil erosion and sediment control plan, drainage plan, and water quality plan.
    - e. Other requirements or information requested by the Township.
  3. Final Plat
    - a. Final plat information and format shall conform with requirements of the Dakota County Surveyor and the Dakota County Recorder.
    - b. The Township shall be furnished with one reproducible copy of the final plat within ten days of the plat filing.
  4. Dedication Requirements
    - a. All subdivisions must include reasonable dedication of land for street rights-of-way, utility easements, ponding/drainage easements, wetland protection and buffer easements, floodplain easements, scenic easements and other easements necessary to conform with this Ordinance and the public interest.
    - b. All subdivisions must include reasonable dedication of land for parks, playgrounds, trails, or public open space. A cash contribution in lieu of land dedication may be required by the Township. The contribution shall be based upon the fair market value of the acreage required for dedication. A land dedication for public use shall be calculated on the basis of one percent of the total land area in the subdivision.

## **SECTION 905 SUBDIVISION DESIGN STANDARDS**

### **1. Utility Improvements**

All utility improvements shall meet or exceed the design standards published by the Great Lakes Upper Mississippi River Management Board, commonly referred to as the "Ten State Standards." Additional standards may be required by the Township Engineer.

### **2. Street Improvements**

All street improvements shall meet or exceed the design standards of the Minnesota Department of Transportation, known as "Standard Specifications for Construction," 1988 edition or current for local streets. Additional standards may be required by the Township Engineer.

### **3. Other Standards**

- a. All lots shall abut existing maintained public roads in a dimension no less than the minimum lot width prescribed.
- b. No lot depth shall exceed four times the lot width.

- c. All lots must contain a contiguous minimum area of one acre that is unencumbered by easements or soils unsuitable for structures or private waste treatment systems.
- d. The maximum length of a permitted dead-end street is 1,320 feet.
- e. Street signs and street lighting shall be required and installed according to Township specifications.
- f. Additional standards may be required by the Town Board.

#### **SECTION 906 PERFORMANCE GUARANTEE**

##### **1. Development Agreement**

The Township may require a subdivider of any property to enter into a development agreement to enforce the conditions and requirements of this Ordinance.

##### **2. Financial Assurance**

The Township may require cash, cash escrow, or letter of credit from a subdivider to guarantee performance of any improvements related to the subdivision. The form and amount of security shall be determined by the Township.



**ARTICLE X**  
**SIGN REGULATIONS**

**SECTION 1001 SIGN REGULATION**

The regulations established in this article are designed to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, prevent and reduce potential traffic hazards caused by distracting and obstructing signs, and to remove safety hazards to pedestrians that may be caused by signs projecting over public right-of-way.

**SECTION 1002 PUBLIC RIGHT-OF-WAY**

Only official identification, directional, or traffic control signs shall be allowed within the public right-of-way.

**SECTION 1003 ON-SITE ADVERTISING SIGNS**

Signs larger than 32 square feet require an Interim Use Permit. No sign shall exceed 32 square feet in area or 10 feet in height.

**SECTION 1004 OFF-SITE ADVERTISING SIGNS**

Off-site advertising signs require ~~an Interim Use Permit~~ [approval by the Town Board](#). No sign shall exceed 32 square feet in area or 10 feet in height.

**SECTION 1005 CHANGE IN ADVERTISING MESSAGE**

The change in advertising message maintenance and repair, or the use of extensions, cutouts or embellishments upon an existing advertising structure shall not be considered an enlargement, extension structure, or structural alteration provided that thereby the advertising structure is not caused to exceed any size limitation by this Ordinance.

**SECTION 1006 POORLY MAINTAINED SIGNS**

Unpainted signs, broken signs, and signs on vacated buildings shall be removed from the premises on order of the Town Board.

**SECTION 1007 SYMBOLIC SIGNS**

Symbolic signs such as a barber pole which is traditional in nature and size shall be permitted. Small identifying signs under canopies or on retractable awnings shall also be permitted.

**SECTION 1008 ANNOUNCEMENT SIGNS**

Signs for the following purposes not exceeding ten square feet in area and placed back 20 feet from the front lot line shall be permitted in all districts:

1. A sign advertising only the sale, rental, or lease of the building or premises on which it is maintained.

2. An announcement sign or bulletin board for the use of a public, charitable, or religious institution occupying the premises.
3. An advertising sign in connection with a lawfully maintained nonconforming use.
4. Political signs.

#### **SECTION 1009 LIGHTING**

Signs may be illuminated by flashing, intermittent rotating, or moving light or lights as a conditional use.

In all districts, any lighting used to illuminate a lot or structure (including signs) thereon shall be arranged so as to deflect light away from adjacent lots and streets. The source of light shall be hooded or shielded so as to prevent beams or rays of light from being directed at any portion of adjoining properties or streets.

#### **SECTION 1010 NONCONFORMING SIGNS**

Signs erected prior to the date of enactment of this Ordinance, which do not conform to the sign regulations contained herein, shall not be expanded, modified, or changed in any way except in conformity with these sign regulations. Nonconforming signs must be removed or modified to conform to this Ordinance within five years of adoption of this Ordinance.

#### **SECTION 1011 SETBACK STANDARDS**

Signs allowed in Sections 1003 and 1004 shall be set back from any property line, public road easement, or public road right-of-way a minimum of 10 feet; and, all signs allowed in Article X must be set back at least 50 feet from the point of intersection of the easement or right-of-way lines of two intersecting public roads.

**ARTICLE XI****ADMINISTRATION AND ENFORCEMENT****SECTION 1101 PLANNING COMMISSION**

There is hereby established a Planning Commission for the Township of Marshan.

**1101.1 COMPOSITION**

The Planning Commission shall consist of seven members appointed by the Board of Supervisors, none of whom shall hold any other public office in the Township. Each member shall be a resident of and owner of property within Marshan Township.

The members of the Planning Commission shall be appointed by the Board for terms of three years. Vacancies during the term shall be filled by the Board of Supervisors for the unexpired portion of the term. Every appointed member shall take an oath that s/he will faithfully discharge the duties of the office before attending his/her first Planning Commission meeting.

**1101.2 ORGANIZATION, MEETINGS, ETC.**

The Commission shall elect a chairperson from among its members for a term of one year and the Commission may create and fill such other offices as it may determine. The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings; which record shall be a public record. Expenditures of the Commission shall be within amounts appropriated for the purpose by the Town Board at the annual Township Meeting. The Planning Commission may employ the services of an attorney, engineer, and/or professional planner, and is authorized to purchase office supplies in connection with its work upon authorization of the Town Board by resolution. All services and supplies shall be paid for by the Town Board in accordance with the terms of the resolution approving Planning Commission expenditures.

**1101.3 RESPONSIBILITIES**

The Commission is charged with the following duties and responsibilities:

1. Oversight or preparation and upkeep of the Comprehensive Plan.
2. Oversight or preparation and upkeep of official controls, including, but not limited to, zoning and subdivision regulations.
3. Site plan and building permit review and recommendation.
4. Conditional and interim use permit review and recommendation.
5. Review and informal comment on appeals.
6. Subdivision review and recommendation.
7. Other duties as requested by the Town Board.

#### 1101.4 PREPARATION OF COMPREHENSIVE PLAN

It shall be the function and duty of the Planning Commission to prepare a Comprehensive Plan for the physical development of the Township, including proposed public buildings, street arrangements and improvements, the use of property, the density of population, and other matters relating to the physical development of the Township. Such plan may be prepared in sections, each of which shall relate to a major subject of the plan.

#### 1101.5 PROCEDURE FOR ADOPTION OF COMPREHENSIVE PLAN

The Planning Commission shall hold a public hearing before taking action on the Comprehensive Plan or subsequent amendments, consistent with the procedures in Section 1103 of this Ordinance. The Planning Commission shall adopt a resolution recommending that the Town Board approve all or part of the Comprehensive Plan or subsequent amendments by an affirmative vote of its total members before submitting the Plan to the Town Board for consideration. The Commission may from time to time recommend to the Town Board that all or part of the Comprehensive Plan be amended whenever changed conditions or further studies by the Commission indicate that such an amendment is necessary. An attested copy of the Plan or of any section, amendment, or addition to the Comprehensive Plan proposed by the Planning Commission shall be certified to the Town Board.

#### 1101.6 MEANS OF EXECUTING COMPREHENSIVE PLAN

It shall be the duty of the Planning Commission to recommend to the Town Board reasonable and practicable means for putting all or a portion of the Comprehensive Plan into effect to guide the pattern of orderly physical development of the Township and as a basis for the efficient expenditure of the funds in compliance with provisions of the Comprehensive Plan.

Such means shall consist of a zoning ordinance, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the Township, a long-term program of capital expenditures, and such other matters as will accomplish the purpose of this section.

#### 1101.7 ZONING ORDINANCE AND MAP

As directed by the Town Board, the Planning Commission may prepare a proposed Zoning Ordinance and map for the Township. The Planning Commission shall utilize the same procedure as Section 1103 of this Ordinance before adopting a resolution recommending that the Town Board approve all or part of the Ordinance and map, or amendment. The resolution shall be approved by an affirmative vote of its total members before submitting the Ordinance and map to the Town Board for consideration. The Commission may from time to time recommend to the Town Board that all or part of the Ordinance and map be amended. The same procedure shall apply for the preparation of any plan of proposed rights-of-way for future streets or highways, or the future widening of existing streets or highways, or for the reservation of lands for other public purposes.

#### 1101.8 OFFICIAL MAP OF STREET EXTENSIONS

The Planning Commission, with the assistance of the Township Engineer, upon instruction by the Town Board, shall prepare an Official Map of the platted and unplatted portions of the Township and adjoining territory, or portions thereof, indicating the location of proposed future extension or widening of streets of the Township.

After the Official Map has been prepared and reviewed by the Commission, it shall be submitted to the Board for consideration after following the same procedures as found in Section 1103 of this Ordinance. Before consideration by the Board, the Planning Commission shall hold a public hearing on the proposal at least ten days after a notice has been published in the official newspaper of the Township.

After such map has been adopted by the Board and filed with the County Register of Deeds, whenever any existing street or highway is widened or improved, or any new street is opened, or lands for other public purpose are acquired by action of the Township, it shall not be required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of such a map within the limits of the mapped street, or outside of any building line that may have been established upon the existing street, or outside of any building line that may have been established upon the existing street, or within any area thus reserved for public purposes.

#### 1101.9 PLATS

Every proposed plat of land within the Township limits shall be submitted to the Planning Commission for review and be approved by the Town Board before being filed with the County Register of Deeds.

The Township Clerk shall refer all preliminary plats of subdivisions to the Planning Commission for its recommendations in accordance with the procedures established in Section 903 of this Ordinance. The Planning Commission shall make its recommendations to the Town Board pertaining to a subdivision that has been submitted for review to the Commission. Such recommendations may consist of:

1. Recommendation that the Town Board approve a plat prepared in accordance with such plan; or
2. Recommendation that the Town Board disapprove a plat prepared in accordance with such plan, in which case such recommendation shall include a statement of the specific reasons for such recommendation; or
3. Recommendation that the Town Board approve a plat similar to such plan after specific changes or revisions are made therein; which recommendations may include the condition that a revised plan, containing such changes or revisions, be submitted to the Planning Commission for its further consideration and recommendations before the Town Board acts on the plat.

#### 1101.10 PROCEDURE FOR CHANGES TO OFFICIAL CONTROLS

No change shall be made to the Zoning Ordinance, Zoning Map, Official Map, or Subdivision Ordinance after such plans or regulations have been adopted by the Town Board unless the proposed change has first been referred to the Planning Commission for review and recommendation to the Town Board. The procedures for amending official controls shall be consistent with the provisions outlined in Section 1103 of this Ordinance.

1101.11 LIST OF RECOMMENDED PUBLIC WORKS

The Planning Commission may prepare a list of public works which it believes are necessary and desirable to be constructed during the ensuing fiscal year. The list shall be arranged in order of preference with recommendations for the source of Township funds and such other funds that may be advisable or available. The list shall be forwarded to the Town Board for review and consideration.

1101.12 BUILDING PERMITS FOR CERTAIN PROPERTIES

No building permit for structures to be erected on any property shall be issued until the application for the permit has been referred to the Planning Commission for review and a recommendation has been forwarded to the Town Board. Failure of the Planning Commission to submit a recommendation within forty days or such longer period as may be designated by the Board after such reference, shall be deemed to be approval of the permit.

SECTION 1102 COMPLIANCE OFFICER

For purposes of administration and enforcement of this Ordinance, the Town Board Chair or the Chair’s appointee shall be the Compliance Officer, with authority to take the necessary steps required to ensure conformance with the provisions herein.

SECTION 1103 PROCEDURES AND DEADLINES FOR ZONING AMENDMENTS, VARIANCES AND PERMITS

1103.01 APPLICATIONS

Applications for all zoning actions (zoning amendments, variances, conditional use permits, interim use permits) required in this Ordinance may be obtained from the Township Clerk by written request, by visiting the Marshan Township website, or ~~may be obtained~~ at the Town Hall during Regular Planning Commission Meetings and Regular Town Board Meetings. Completed applications must be forwarded to the Township Clerk or may be hand delivered to the Planning Commission during a Regular Planning Commission Meeting or hand delivered to the Town Board during a Regular Town Board Meeting.

1103.02 PUBLIC HEARINGS

Public hearings are required for all variances, zoning amendments, conditional use permits, ~~and~~ interim use permits, subdivision proposals, and comprehensive plan amendments. Upon receipt of completed applications the Township Clerk shall provide notice of public hearings for any requested action, as follows:

1. Notice of the time, place, and purpose of pPublic hearings shall be published in the official Township newspaper and posted at the Town Hall at least 10 days prior to the date of the hearing. Affidavits of publication shall be kept in the records of the proceeding.
2. For all actions other than a zoning text amendment and comprehensive plan amendment, written notice shall be sent to property owners as follows:
  - (a) in the case of variances, to owners of record within 500 feet of the affected property;

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(b) in the case of conditional uses and interim uses, to owners of record within one-quarter mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners;

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(c) in the case of all other official controls, including but not limited to zoning regulations and subdivision regulations, to owners of record within one-half mile of the affected property.

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3. Written notice shall also be given to the Town Board of supervisors, and the municipal council of any municipality within two miles of the affected property.

4. No zoning ordinance or amendment thereto shall be adopted until a public hearing has been held thereon by the Planning Commission. A notice of the time, place and purpose of the hearing shall be published in the official Township newspaper at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates.

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~~5.4. For all actions other than a zoning text amendment, notice of the public hearing shall be mailed to all property owners within 500 feet of the proposed action at least 10 days prior to the action. Failure to notify area landowners shall not invalidate the proceedings, provided a bona fide attempt to notify was made. The notification of property owners beyond 350 feet from the affected property is not required by State law and is advisory only. A copy of the notice and a list of the names and addresses to which the notice was sent shall be kept in the records of the proceeding.~~

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~~6. The public hearing shall be held before the Planning Commission-Town Board. The applicant or its representative shall be given the opportunity to appear before the Planning Commission-Town Board to answer questions or give explanations regarding the proposal. The Planning Commission-Town Board may adjourn the public hearing to its next meeting, either regular or special, and may continue its study and consideration of the application at meetings subsequent to the meeting at which the public hearing was initially held.~~

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~~4-7. The Town Board must take action on the application in accordance with Section 1103.03 of this ordinance. Town Board action may include approval in whole or in part, denial, tabling for a specified period of time, or referral back to the Planning Commission for its further consideration. The applicant shall be notified in writing of the City Council-Town Board's action.~~

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~~5-8. Actions on requests for variances, zoning amendments, conditional use permits, and interim use permits are explained in subsequent sections Section 1105 through Section 1108 of this Ordinance.~~

1103.03 DEADLINE FOR ACTIONS

It is the intent of the Township to comply with State requirements [in Minnesota Statutes §15.99](#) for timely review and actions requiring approval by the Township. Information submissions and applications must be determined by the Township to be complete before a timeline for action is initiated. The review for completeness will be conducted by the Township within fifteen (15) business days of receipt of an application. In the event the Township cannot act upon a request within a timeframe of 60 days, the Township will notify an applicant in writing that action will be completed within 120 days of the date the application was accepted by the Township. In the event that multiple approvals are involved in any action, such as a subdivision requiring a variance or a Zoning Ordinance amendment requiring a Comprehensive Plan amendment, each action shall require a separate, independent timeline for action. An applicant may also extend the deadline for action by submitting written notice to the Township.

#### SECTION 1104 BUILDING PERMITS

All architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing, or remodeling of the exterior of any building or structure that will change the outside dimensions of that building must receive a building permit from the Building Inspector before beginning or undertaking such work.

1. A building permit must be [approved by the Town Board](#) ~~received~~ before undertaking any of the above-mentioned work ~~on a nonconforming building or structure~~.
2. If the proposed work does not conflict with any portion of the Zoning Ordinance, the permit shall be granted after the appropriate fee is paid to the Building Inspector. If the building permit is not issued, the reason why will be made known to the applicant.
3. All building permit applications are to be examined and processed by the Building Inspector within 30 days of receipt of such application, unless the Town Board extends the time limit for such processing.
4. Building permits are valid for one year from date of issue. In the event that construction is not completed by the expiration date of the building permit, construction shall not continue until a new permit is issued.

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#### SECTION 1105 VARIANCES AND APPEALS

Where there are practical difficulties ~~and demonstrated hardship~~ in any way of carrying out the strict letter of the provisions of this code, an appeal may be made and a variance may be granted.

Such variances are to be considered by the Board of Appeals and Adjustment. The Town Board shall act as the Board of Appeals and Adjustment. Appeals to the Board of Appeals and Adjustment may be taken by an affected person. The Board may hear appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the Zoning Code.

The Board of Appeals and Adjustment shall not permit as a variance any use that is not permitted under the code for property in the zoning district where the affected person's property is located. In order to grant a variance, the Town Board must determine that the ~~practical hardships or~~ difficulties have to do with the characteristics of the land and not of the property owner. [Economic considerations alone do not constitute practical difficulties. Variances shall only be permitted when they are in](#)



harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. The following circumstances must also be present:

1. The applicant for the variance establishes that there are “practical difficulties” in complying with the zoning ordinance:

**PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means that:

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(a) The property owner proposes to use the property in a reasonable manner not permitted by this chapter;

(b) The plight of the property owner is due to circumstances unique to the property and not created by the owner; and

(c) The variance, if granted, will not alter the essential character of the locality.

Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subd. 14, as it may be amended from time to time, when in harmony with this chapter.

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- ~~1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and which result from lot size, shape, topography, or other circumstances over which the owners of the property have had no control;~~
- ~~2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;~~
- ~~3. That the special conditions or circumstances do not result from the actions of the applicant;~~
- ~~4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to others of other lands, structures or buildings in the same district;~~
- ~~5. The variance will not allow any use that is not permitted by this Ordinance for a property in the zone where the affected applicant’s land is located; and~~
- ~~6. That the variance requested is the minimum variance that would alleviate the hardship.~~

The Board of Appeals and Adjustment may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.

The procedure for consideration of appeals or variance requests is as follows:

1. A person desiring a variance shall meet with the Planning Commission to discuss the appeal and receive an application form provided by the Township. The applicant shall file the completed application, and any fees established by the Town Board, with the Township.
2. The Township Clerk upon determination of a complete application shall schedule a public hearing before the Board of Appeals and Adjustments.
3. All public hearings shall conform with the requirements of Section 1103.
4. The Board of Appeals and Adjustment shall take action on the application within 60 days of the submission of a complete application unless action is deferred in accordance with the

provisions in Section 1103 of this Ordinance. The applicant shall be notified of the Board's action.

5. The variance approval shall become null and void if not used within twelve (12) months after approval.
6. No application for a variance that has been denied may be submitted within twelve (12) months of denial.

#### **SECTION 1106 ZONING AMENDMENTS**

The procedure for zoning amendments shall be as follows:

1. The Planning Commission, Town Board, or an applicant may initiate a zoning amendment. Applicants wishing to initiate an amendment shall meet with the Planning Commission to discuss the amendment and receive an application form provided by the Township. The applicant shall file the completed application, and any fees established by the Town Board, with the Township Clerk.
2. The Township Clerk shall set a public hearing consistent with the requirements in Section 1103, upon receipt of the completed application.
3. The Planning Commission shall determine whether the proposed change conforms to the Township Comprehensive Plan. It shall make its recommendation to the Town Board within 45 days of submission of a complete application and after the public hearing, unless action is deferred in accordance with the provisions in Section 1103 of this Ordinance.
4. The Town Board shall take action on the application within 60 days of the submission of a complete application unless action is deferred in accordance with the provisions in Section 1103 of this Ordinance. The applicant shall be notified of the Town Board's action. An amendment petition, which has been denied in whole or in part, may be resubmitted but not sooner than six months. A new process and separate fee, established by the Town Board, shall be required with each application.

#### **SECTION 1107 CONDITIONAL USE PERMITS**

A conditional use is a use which, because of certain characteristics, cannot be properly classified as a permitted use in the zoning district within which it is proposed. Any proposed conditional use shall be presented to the Planning Commission for a determination of its applicability. Any conditional use proposed, but not listed in the district in which it is proposed, may not be considered without first amending this Ordinance and adding the proposed use to the list of allowable conditional uses.

##### **1107.01 PROCEDURE FOR CONDITIONAL USE PERMITS**

The following procedure shall be followed in requesting a conditional use permit:

1. The applicant for a conditional use permit shall meet with the Planning Commission to discuss the request and receive an application form provided by the Township.
  - ~~6.~~ a. In support of determining the issuance of the conditional use permit the Township may require preliminary architectural drawings or sketches on all buildings or groups of buildings showing front, side, and rear elevations of the proposed building, structure, or other improvements at their proposed location on the lot.

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- ~~7.~~ b. The Township Clerk shall set the date of a public hearing with the Planning Commission upon receipt of a complete application. Publication and notification of the public hearing shall be consistent with the procedures in Section 1103 of this Ordinance.
- ~~8.~~ c. The Town Board shall take action on the application upon recommendation of the Planning Commission and consistent with the timeline established in Section 1103 of this Ordinance. If the Town Board grants the conditional use permit, it may impose any special additional conditions it considers necessary to protect the public health, safety and welfare.
- ~~9.~~ d. The conditional use permit, if granted, shall be recorded with the County Recorder and become a part of the title of the property.
- ~~10.~~ e. The conditional use permit shall expire if not used within twelve (12) months from the date of issuance by the Town Board.
- ~~11.~~ f. The Town Board may review conditional use permits on an annual basis to determine compliance with the conditions and may revoke a permit upon violation of any condition of the permit, any law of the United States or the State of Minnesota, or any County or Township ordinance.
- ~~12.~~ g. Any change in the nature, operation, or conditions of the conditional use as represented by the applicant to the Township Planning Commission and Town Board shall require review and approval by the Town Board in the same manner as the initial conditional use permit.
- ~~13.~~ h. The conditional use permit shall remain in effect as long as the conditions are met. A conditional use permit shall expire if normal operation of the use has discontinued for twelve (12) or more months.

#### 1107.02 CONDITIONAL USE PERMIT REVIEW CRITERIA

The Planning Commission, in considering an application for a conditional use permit, shall prepare its report and make findings on the following criteria:

1. That the establishment, maintenance, or operation will not be detrimental to or endanger the public health, safety, or general welfare and is not contrary to established standards, regulations, or ordinances of other governmental agencies.
2. That each structure, improvement, or use is designed, constructed, and operated so that it is not unsightly, undesirable, or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the Township and the use district wherein proposed.
3. That the use will not be substantially injurious to the permitted uses nor unduly restrict the enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the area.
4. That adequate water supply and sewage disposal facilities are provided and in accordance with applicable standards.
5. That adequate access roads, on-site parking, on-site loading and unloading berths, and drainage have been or will be provided in a timely manner.

- 6. That adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion on public roads.
- 7. That the use will conform to all applicable regulations of the district wherein proposed.

**SECTION 1108 INTERIM USE PERMITS**

1. Application, Public Hearing, Notice, and Procedure.

The application, public hearing, notice, and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in Section 1107 of this Ordinance, except that interim use permits are not recorded with the County and are not transferable.

~~14.~~ 2. Termination.

- a. An interim use permit shall terminate on the happening of any of the following events, whichever first occurs:
  - (1.)The termination date stated in the permit;
  - (2.)The happening of an event identified in the permit as a terminating event;
  - (3.)A violation of the condition under which the permit was issued; or
  - (4.)The approved interim use has not commenced within twelve (12) months of approval or the approved use has been discontinued for a period of twelve (12) months
- b. If a lawfully existing interim use is rendered nonconforming as a result of a change in this Ordinance, the use may continue until it is terminated in accordance with the terms of the interim use permit issued for the use, or until the use is discontinued for at least twelve (12) months, whichever occurs first.

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~~15.~~ 3. Standards

- a. The interim use must be allowed as an interim use in the zoning district where the property is located.
- c. The interim use must meet or exceed the performance standards set forth in this Ordinance and other applicable Township ordinances.
- d. The interim use must comply with the specific standards for the use identified in this Ordinance, and must comply with all conditions of approval which shall be included in an interim use permit agreement.

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4. Conditions

The Township may attach conditions to approval of a permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards of approval, to protect the value of other property, and to achieve the goals and objectives of the Comprehensive Plan.

5. Reapplication

No application for an interim use permit that has been denied shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

### SECTION 1109 FEES

The Town Board shall establish by ordinance a schedule of fees and collection procedures for permits and other procedures as required by this Ordinance. The schedule of fees is available from the Township Clerk and shall be modified, as appropriate, by the Town Board.

Building permit fees shall be paid in full to the Building Inspector, and all other application fees shall be paid in full to the Township Clerk. No action shall be taken on proceedings before the Town Board nor any building permits issued until the application fees have been paid in full.

### SECTION 1110 VIOLATIONS AND PENALTIES

1. Misdemeanor. Any person who violates any provision of this Ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited act, shall be considered guilty of a misdemeanor, and upon conviction may be punished to the maximum extent allowed by law.

~~2.~~ In the event of a violation of this Ordinance, the Township may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Township Attorney may institute such action.

3. Separate Offenses. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any violation of this Ordinance is hereby declared to be a public nuisance.

4. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

5. Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

6. In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

7. Administrative Remedy. Whenever any activity is being done contrary to the provisions of this Ordinance, the work shall be stopped when written notice is served on any persons engaged in the doing or causing such work to be done or when such notice is posted at the site of the activity. The Zoning Administrator or Building Official may, in writing, suspend a permit for violation of any provisions of this Ordinance.

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8. Civil Remedy. In the event of a violation of this Ordinance, the Township may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Township Attorney may institute such action.

9. Criminal Remedy. Any person, firm or corporation who shall violate any of the provisions of this Ordinance or who shall fail to comply with any of the provisions of this Ordinance or who shall make any false statement in any document required to be submitted under the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense.

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**SECTION 1111 REPEALER**

Ordinance No. 20~~1004~~ and all amendments thereto are hereby repealed. Parts of other ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

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**SECTION 1112 PUBLICATION BY SUMMARY**

1. Summary Approval

Pursuant to Minnesota Statutes Section 365.125, the Town Board hereby determines that publication of the title and a summary of this Ordinance will clearly inform the public of the intent and effect of this Ordinance. The text of the summary of this Ordinance, entitled "Official Summary of Ordinance No. 2010," is hereby approved.

~~16-9.~~ Publication, Inspection, and Posting

The Township Clerk is hereby directed that only the title of this Ordinance and approved summary be published and posted with a notice that a printed copy of the entire Ordinance is available for inspection by any person during regular office hours at the Town Hall during regular meetings of the Planning Commission and Town Board, and by appointment with the Township Clerk.

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**SECTION 1113 EFFECTIVE DATE**

This Ordinance shall take effect and be in full force upon its adoption and upon the publication of its title and official summary.

Adopted by the Town Board of Marshan Township, Dakota County, Minnesota, this ~~2149~~<sup>st</sup> day of ~~Decem~~<sup>October</sup>, 2021~~10~~.

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Marshan

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Gloria Pinke~~Jerry Bauer~~, Chair, Town Board of

ATTEST:

Marjory J. Snyder, Clerk, Township of Marshan

Title and Official Summary of Ordinance No. 2010 were published in the Hastings Star Gazette on October 28, 2010.

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