

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.

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 within Marshan Township that is used for agricultural operations, zoned for agricultural use, or designated for agricultural purposes by the Township Comprehensive Plan

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 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:** 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:
- (1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars.
 - (2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - (3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - (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.
 - (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

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.

Carport:	An automobile shelter having one or more sides without a door, without a wall, or otherwise open.
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.
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.
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.
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.
Dwelling Unit:	A residential building 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, CO₂, 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 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.
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 mean horizontal distance between the front lot line and 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.
Lot Line, Side:	Any boundary of a lot that is not a front lot line or a rear lot line.
Lot of Record:	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.
Lot Width:	The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of a lot depth.
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.

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

- 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:	<p>The boundary of water basins, watercourses, public waters, and public waters wetlands, and</p> <ol style="list-style-type: none">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.
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.
Planning Commission:	The Planning Commission of Marshan, except when otherwise designated.
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.
- Setback Line, Building: A line within any lot which represents the minimum yard area required for placement of a building.
- 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.
- 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 setback regulations for the zoning district in which such lot is located.
- Yard, Front: A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.

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.
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.