

## **CHAPTER 7 : ZONING**

### **7.01 INTRODUCTION**

#### **A. TITLE**

This ordinance, including the Zoning Map made a part hereof, shall be known and may be cited and referred to as the Town of Mosel Zoning Ordinance, adopted pursuant to Chapters 60.62, 61.35, 62.23, and other applicable provisions of the Wisconsin Statutes (2001-2002).

#### **B. PURPOSE AND INTENT**

It is the purpose of this ordinance to promote the health, safety, morals and the general welfare of the Town of Mosel, Sheboygan County, Wisconsin. It is the intent of the Town of Mosel to regulate and restrict by this ordinance the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, mining, residence or other purposes and that there shall be no discrimination against temporary structures. This ordinance is intended to promote the maximum benefit from coordinated area site planning, diversified location of structures and mixed compatible uses. These regulations are further intended to provide for a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities and insure adequate standards of construction and planning. It is the intent of this ordinance to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote the general welfare; provide adequate light and air, including access to sunlight for solar collectors and for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; and to preserve burial sites as defined by Section 157.70(1)(b) of the Wisconsin Statutes (2001-2002). These regulations have been adopted and made with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Mosel.

#### **C. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

**D. INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**E. SEVERABILITY**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**F. REPEAL**

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

**7.02 DEFINITIONS**

**A. GENERAL PROVISIONS**

For the purpose of this ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not directory and the word “building” shall include the word “structure.”

**B. SPECIFIC WORDS AND PHRASES**

**(1) ACCESSORY USE OR STRUCTURE**

A use or detached structure subordinate to the principal use of a structure, land, or water that is located on the same lot or parcel and serves a purpose customarily incidental to the principal use or the principal structure.

**(2) ALTERNATIVE TOWER STRUCTURE**

Man-made structures to which towers and/or antennas may be attached that camouflage or conceal the presence of the tower and/or antenna, including by way of illustration but not limitation elevated tanks, electric transmission poles or towers, non-residential buildings, clock towers, bell steeples, and silos. Refer to Section 7.02 B(14) Communication Tower.

**(3) ANTENNA**

Exterior apparatus designed for transmitting and/or receiving communications signals through electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar), or any other form of wireless telecommunications signal, including radio, television, telephone, microwave, cellular, and PCS signals. Refer to Section 7.02 B(4) Antenna Array.

**(4) ANTENNA ARRAY**

A set of interconnected antennas installed on one tower by one communications provider that receive and/or transmit one type of communications signal.

**(5) ANTENNA, PRE-EXISTING**

Refer to Section 7.02 B(51) Pre-existing Antenna Or Tower.

**(6) APARTMENT HOUSE**

Refer to Section 7.02 B(19) Dwelling, Multi-Family.

**(7) AUTOMOBILE WRECKING YARD**

Refer to Section 7.02 B(55) Salvage Yard.

**(8) BASEMENT**

A story partly underground which, if occupied for living purposes or having one half or more of its height above grade, shall be counted as a story for the purpose of height measurement.

**(9) BED AND BREAKFAST BUSINESS**

A building other than a hotel or motel in which lodging, with or without meals, is offered to transient guests for compensation and in which there are four (4) or fewer sleeping rooms with no cooking facilities in any individual room or apartment.

**(10) BIRD HUNTING PRESERVE**

A parcel of land where non-native game birds may be possessed, propagated, stocked, released, and hunted pursuant to a State of Wisconsin Department of Natural Resources Bird Hunting Preserve license.

**(11) BUILDING**

Any structure erected or constructed of wood, metal, stone, plastic or other materials, having a roof supported by columns or walls, which is intended to be used by human beings or animals for occupancy, livery, commerce, education, storage, or other purposes.

**(12) BUILDING BULK REQUIREMENTS**

Restrictions controlling the size of buildings or other structures and the relationship of buildings, structures and uses to each other and to open areas and lot lines. Bulk requirements include restrictions controlling maximum height, maximum lot coverage, and minimum yard size.

**(13) CO-LOCATION**

Location of antennas or antenna arrays operated by more than one wireless communication service provider on a single tower or alternative tower structure.

**(14) COMMUNICATION TOWER**

Any structure that supports one or more antennas, including self-supporting lattice towers, guyed towers, monopole towers, and alternative tower structures, and including all bases and supports for the structure of the tower.

**(15) CONSERVANCY DISTRICT**

That area set out on the Zoning Map of the Town of Mosel or such area, if greater, set out by the State of Wisconsin or Sheboygan County for floodplain control, preservation of natural resources, and regulation along the Lake Michigan shoreline and the rivers flowing in and through the Town of Mosel.

**(16) DISTRICT**

A portion of the territory of the Town of Mosel within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this ordinance.

**(17) DWELLING**

A building or portion thereof designed for or occupied by exclusively one (1) family for residential occupancy, but not a tent, mobile home or house trailer; except that mobile home units which are delivered to a site in halves which, when joined, total twenty (20) or more feet in width and which are placed on permanent foundations shall be considered a dwelling.

**(18) DWELLING, SINGLE-FAMILY**

A detached dwelling unit.

**(19) DWELLING, MULTI-FAMILY**

A building or portion thereof with two (2) or more dwelling units, including but not limited to an apartment house, but excluding a hotel or motel as defined in this ordinance.

**(20) DWELLING, TWO-FAMILY**

A detached or semi-detached building with two (2) dwelling units.

**(21) DWELLING UNIT**

One (1) or more rooms in a residential building, or a residential portion of a building, which are arranged, designed, used, or intended for use, by one or more persons living together and maintaining a common household, and which include a lawful cooking space and lawful sanitary facilities reserved for the occupants thereof. Mobile home units which are delivered to a site in halves which, when joined, total twenty (20) or more feet in width and which are placed on permanent foundations shall be considered a dwelling unit.

**(22) FAA**

Federal Aviation Administration.

**(23) FCC**

Federal Communications Commission.

**(24) FAMILY**

Either (a) an individual or two (2) or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or (b) a group of not more than four (4) persons, who need not be related by blood,

marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

**(25) FARM**

Any parcel of land containing at least five (5) acres which is used for gain through the raising of agricultural products, livestock, poultry or dairy products.

**(26) FEEDLOT, HIGH-DENSITY COMMERCIAL**

The raising of animals for meat and/or eggs where the total number of animals exceeds five hundred fifty (550) head.

**(27) FRONTAGE**

The smallest continuous dimension of a lot abutting a public street measured along the street line.

**(28) GARAGE, PRIVATE**

An accessory building or space no larger than 1040 square feet for private storage.

**(29) GARAGE, PUBLIC**

Any building or portion thereof not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, or public parking of motor-driven vehicles.

**(30) GARAGE, STORAGE**

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

**(31) GOVERNING AUTHORITY**

The Town Board of Mosel, or in cases in which authority has been delegated by ordinance to the Planning and Zoning Commission, the Planning and Zoning Commission.

**(32) HOME OCCUPATION**

Any occupation that is customarily incidental to the principal use of a building as a dwelling unit.

**(33) HOTEL OR MOTEL**

A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are five (5) or more sleeping rooms.

**(34) JUNK YARD**

Refer to Section 7.02 B(55) Salvage Yard.

**(35) LOT**

A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet lot width, lot frontage, lot area, setback, yard, parking and other requirements of this Ordinance.

**(36) LOT, CORNER**

A lot abutting on two (2) or more streets at their intersection, provided that the interior angle of such intersections is less than 135°.

**(37) LOT, DEPTH OF**

The mean horizontal distance between the front and rear lot lines measured within the lot boundary.

**(38) LOT, INTERIOR**

A lot other than a corner lot.

**(39) LOT, SUBSTANDARD**

A lot that is smaller than the minimum required acreage or the minimum required lot width for the zoning district in which the lot is located and has been recorded with the Register of Deeds prior to the effective date (December 10, 1980) of this ordinance.

**(40) LOT, THROUGH**

An interior lot having frontage on two (2) non-intersecting streets.

**(41) LOT, WIDTH OF**

The horizontal distance between the side lot lines of a lot, measured within the side lot lines at the building line established by the applicable required front yard.

**(42) LOT LINE, FRONT**

The boundary of a lot which is along an existing or dedicated public street.

**(43) LOT LINE, REAR**

The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front lot line.

**(44) MOBILE HOME**

That which is, or was as originally constructed, designed to be transported in its entirety by a motor-driven vehicle upon public highways and designed, equipped and used primarily as a dwelling unit, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

**(45) MOBILE HOME COURT OR PARK**

Any plot or plots of ground upon which two (2) or more mobile home units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

**(46) MOBILE HOME SALES LOT**

An area for display and inspection of mobile homes which are not at that time used for dwelling purposes.

**(47) MOTEL**

Refer to Section 7.02 B(33) Hotel or Motel.

**(48) PADDOCK**

A small field or enclosure near a stable in which horses are exercised.

**(49) PARCEL**

A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.

**(50) PARKING SPACE – ONE-VEHICLE, OFF-STREET**

For the purposes of this ordinance, two hundred (200) square feet of lot or floor area exclusive of aisles and/or driveways or internal moving lanes and which has a means of ingress and egress from a street.

**(51) PRE-EXISTING ANTENNA OR TOWER**

Any antenna or tower constructed prior to the effective date (December 10, 1980) of this ordinance.

**(52) PROFESSIONAL OFFICE**

The office of an architect, engineer, doctor, dentist, attorney, or other similarly licensed professional person.

**(53) PUBLIC UTILITY**

An entity engaged in providing a utility such as gas, water, sewage, telephone, cable television, electricity, wireless communication, etc., except power generating facilities.

**(54) ROADSIDE STAND**

A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No roadside stand shall have an area of more than three hundred (300) square feet. There shall not be more than one (1) such stand on any one (1) premises.

**(55) SALVAGE YARD**

The use of any tract of land for the storage of scrap metals or scrap materials, or for the dismantling of structures, automobiles or other vehicles, equipment, or machinery, or parts thereof, but not including dumps for the disposal or abandonment of garbage, refuse or trash.

**(56) SANITARY LANDFILL**

As defined in the Wisconsin Administrative Code, Chapter NR 500, Solid Waste Management, or any successor provisions thereof.

**(57) SETBACKS**

The linear distance between a front, side or rear lot line and a building or other structure located on such lot. A setback shall be measured at a right angle from each lot line or from the center of the road, whichever is applicable, and it shall be measured to the nearest line of the building or other structure for which a setback is required.

**(58) SIGN**

Any writing (including letters, words, or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols, or trademarks), flag (including banners or pennants), or any other figure of similar character, which:

- (a) is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure;
- (b) is used to announce, advertise or direct attention to an object, product, place, activity, person, institution, organization or business; and
- (c) is visible from the outside of a building. A sign shall include writing, pictorial representation, or other figure of similar character within a building only when it is illuminated and located in a window.

**(59) STABLE**

An accessory building in which horses or livestock are kept.

**(60) STORY**

That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one half or more of its height above grade, or which is occupied for living purposes, shall be deemed a story for the purpose of height measurement.

**(61) STORY, HALF**

A story which is situated under a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

**(62) STREET**

A public right-of-way not less than sixty-six (66) feet wide providing primary access to abutting properties.

**(63) STREET LINE**

The dividing line between a lot and a contiguous street.

**(64) STRUCTURAL ALTERATIONS**

Any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

**(65) STRUCTURE**

Any man-made combination of materials, other than natural terrain or plant growth, erected or constructed with form, shape and/or utility, including but not limited to, buildings, shelters, containers, driveways, supports or decorations.

**(66) STRUCTURE, PERMANENT**

A structure placed on or attached to the ground or attached to another structure in a fixed and determined position, and intended to remain in place for a period of more than six months.



**(67) STRUCTURE, TEMPORARY**

Any structure not meeting the definition of permanent structure above.

**(68) SUBSTANDARD LOT**

Refer to Section 7.02 B(39) Lot, Substandard.

**(69) TRANSFER STATION**

Area to be used for the collection, temporary storage and periodic removal of solid waste and/or recycling.

**(70) USE, CONDITIONAL**

Use of such special nature as to make impractical its predetermination as a permitted use in a district.

**(71) USE, NONCONFORMING**

A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of the ordinance or any amendments thereto.

**(72) USE, PERMITTED**

A use which may be lawfully established in a particular district.

**(73) USE, PRINCIPAL**

The main or dominant use of the land, a building or other structure as distinguished from a subordinate or accessory use.

**(74) VISION CLEARANCE**

An unoccupied triangular space at the intersection of two (2) or more streets or highways which is bounded by the street lines or highway right-of-way lines and a setback line, with connection points specified by measurement from the corner of each street or highway line.

**(75) WAREHOUSE**

A building where raw materials, manufactured goods, merchandise or similar material is stored temporarily.

**(76) YARD**

Open space which is unoccupied or unobstructed from its lower level to the sky, except for the permitted obstructions.

**(77) YARD, FRONT**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Also called a street yard. Corner lots shall have at least two (2) such yards.

**(78) YARD, REAR**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto

through the nearest point of the principal structure. This yard shall be opposite the front yard or one of the front yards on a corner lot.

**(79) YARD, SIDE**

A yard extending from the front yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and the line parallel thereto through the nearest point of the principal structure.

**(80) YARD, STREET**

Refer to Section 7.02 B(77) Yard, Front.

<b>7.03 GENERAL PROVISIONS</b>
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**A. ADMINISTRATION**

The administration of this ordinance is hereby vested in the following four (4) offices of the Town of Mosel:

- (1) Town Board of Mosel.
- (2) Planning and Zoning Commission.
- (3) Board of Appeals.
- (4) Building Permit Official, or the Town Constable, when granted authority by action of the Town Board.

**B. COMPLIANCE**

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this ordinance and all other applicable local, county, and state regulations.

**C. SHORELINE AND FLOODPLAIN ORDINANCE**

This ordinance is subject to the Shoreline and Floodplain Ordinance of Sheboygan County. Any permit required by said County ordinance shall be obtained from the Sheboygan County Zoning Administrator prior to the issuance of any permit under this ordinance.

**D. DUTY OF ENFORCEMENT**

The duty of the Building Permit Official, with the aid of the Town Constable or Sheriff's Department, shall be to investigate all complaints, give notice of violations, and enforce the provisions of this ordinance. The Building Permit Official, Town Constable, and/or any duly appointed deputies, may enter at any reasonable time onto any public or private lands or waters to make an inspection after reasonable effort to provide notice of such inspection.

**E. PENALTIES**

Any person, firm, or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$500.00 and costs of prosecution for each violation; and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until payment thereof, for

a period not to exceed thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

#### **F. SITE RESTRICTIONS**

- (1) Land suitability:** No land shall be used, or structure erected, where the land is held unsuitable for such use or structure by the Town Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Town Board, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. Applicants shall have an opportunity to present evidence contesting such unsuitability if they so desire. Thereafter, the Town Board may affirm, modify, or withdraw its determination of unsuitability.
- (2) Road frontage:** All lots shall abut upon a public street, and each lot shall have a minimum continuous frontage of one hundred (100) feet unless otherwise specified in each zoning district. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (3) Principal structures per lot:** All principal structures shall be located on a lot, and only one (1) principal structure shall be located, erected, or moved onto a lot.
- (4) Private sewer:** In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Chapters COMM 83 and COMM 85 of the Wisconsin Administrative Code, including any amendments or revisions thereto.
- (5) Setbacks:** Setbacks shall meet minimum requirements as set forth in each zoning district. A minimum site triangle at each corner intersection shall have two (2) sides which measure at least two hundred (200) feet along the centerline of the road from the point of intersection. Federal, state, or county highway restrictions shall take precedence where greater.
- (6) Abutting yards of different districts:** Abutting lots of different zoning districts shall provide side and rear yards of not less than those required in the more restrictive abutting district. The street yards in the less restrictive district shall be modified for a distance of not more than sixty (60) feet from the district boundary line so as to equal the average of the street yards required in both districts.
- (7) Average street yards:** The required street yards may be decreased in a residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case shall the street yard be less than fifteen (15) feet in any residential district and five (5) feet in any business district.
- (8) Adjoining yards:** No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall

be included as part of a yard or other open space similarly required for another building.

- (9) **Current permits and construction:** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which any permit has been issued before the effective date of this ordinance, or revisions thereof, as long as construction shall have been started within six months from the permit issuance date.

#### **G. AREA, YARD, AND BUILDING BULK REQUIREMENTS**

- (1) **Lot area:** No building or other structure shall hereafter be erected, altered, or enlarged, nor shall any use of land be established or enlarged on a lot which is smaller in area than the minimum lot area prescribed for the zoning district in which the building, structure or land is located.
- (2) **Lot width:** No building or other structure shall hereafter be erected, altered or enlarged, nor shall any use of land be established or enlarged on a lot the width of which is less than the minimum lot width prescribed for the zoning district in which the building, structure, or land is located.
- (3) **Dwelling units per parcel:** No building or other structure shall be converted so as to conflict, or further conflict, with the lot area per dwelling unit requirements for the zoning district in which such building or structure is located.
- (4) **Lot coverage:** No building or structure shall hereafter be erected, altered or enlarged so as to exceed, or further exceed, the lot coverage percentage for the zoning district in which the building or structure is located.
- (5) **Yards:** No building or other structure shall hereafter be erected, altered or enlarged, nor shall any use of land be established or enlarged, unless the minimum front, side, and rear yards specified for the zoning district in which such building, structure or use of land is located are maintained. All additions to principal buildings (for example, attached garages) shall comply with the yard requirements for the principal buildings.
- (6) **Building height:** When a maximum building height is specified in any zoning district or for any particular type of building or other structure, then no such building or structure shall hereafter be erected, altered or enlarged so as to exceed, or further exceed, such maximum building height.
- (7) **Attached Accessory Uses.** For all residential uses, no attached garage or other storage area foundation shall exceed the square footage of the foundation of the dwelling unit area.

#### **H. HOME OCCUPATIONS**

A home occupation shall be permitted in any dwelling unit, provided it meets all of the standards applicable to the district in which it is located and the following standards. No home occupation shall hereafter be established, altered, or enlarged unless it complies with following:

- (1) Not more than one (1) person, other than a member of the immediate family occupying such dwelling unit, shall be employed on the premises.

- (2) The home occupation shall be conducted entirely within the principal residential building and/or in a permitted accessory building.
- (3) No alteration of the principal building or accessory building shall be made which changes the character thereof.
- (4) No more than 25% of the area of one (1) story of a single-family dwelling nor more than 20% of the area of any other dwelling unit shall be devoted to the home occupation; provided, however, that rooms for rent are not subject to this limitation.
- (5) No extensive mechanical or electrical equipment other than normal domestic or household equipment shall be used.
- (6) The home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors, heat, or any other nuisance.
- (7) No stock in trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.
- (8) There shall be no outside storage of products or equipment or materials used in the home occupation.
- (9) No signs shall be permitted other than those permitted by the applicable regulations in Section 7.10 SIGNS.
- (10) No traffic shall be generated in greater volumes than would normally be expected in the neighborhood of the dwelling unit.
- (11) A bed and breakfast business shall be considered a home occupation provided it meets all applicable standards as set forth in this ordinance.

#### **I. CHARGES FOR DEVELOPMENT SERVICES**

All persons proposing an action that requires the issuance of a building permit, conditional use permit, special land use permit, map approval, plat approval, or rezoning approval, by the Town or any of its commissions, committees, officers or other agents, shall pay such reasonable and necessary charges for professional services incurred by the Town for the review, administration, investigation, and processing of the application. 'Professional services' may include planning, engineering, legal, and related services. Such charges shall be in addition to any other filing, permit, publication or meeting fees, charges, or costs otherwise payable by the applicant.

#### **J. APPEAL OF FEES**

The applicant shall have the right to challenge the amount of any fees levied under Section 7.03 I Charges for Development Services of this ordinance by an appeal to the Town Board of the Town of Mosel. Upon receipt of such an appeal, the Town Board, upon due notice, shall hold a public hearing, the Town Board shall make a determination with respect to the fairness of the amount of fees challenged and shall make a determination to decrease, affirm, or increase the fees concerned.

## **7.04 ZONING DISTRICTS**

### **A. DISTRICTS**

For the purpose of promoting public health, safety, morals, general welfare and conservation of land for farm purposes, the Town of Mosel is hereby divided into the following districts:

- |  |                                       |
|--|---------------------------------------|
| A-1 Prime Agricultural District        | R-2 Two-Family Residential District   |
| A-2 General Agricultural District      | R-3 Multi-Family Residential District |
| A-3 Rural Preservation District        | RH-1 Rural Hamlet District            |
| C-1 Conservancy District               | B-1 Business District                 |
| R-1 Single-Family Residential District | I-1 Industrial District               |

No building shall be erected or altered, nor shall any building or premises be used for any purpose other than that which is permitted in the zoning district in which the building or premises is located, except as specifically identified in Section 7.08 NONCONFORMING USES AND PROPERTY.

## **B. ZONING MAP**

The boundaries of the zoning districts are hereby established as shown on a map entitled ZONING MAP, TOWN OF MOSEL, SHEBOYGAN COUNTY, WISCONSIN, which is dated December 31, 2002, together with any subsequent amendments and revisions. Said map accompanies and is a part of this ordinance. The official copy of the Zoning Map shall be adopted as part of the ordinance and shall be available to the public in the office of the Town Clerk. The Town Board shall update the Zoning Map as necessary to reflect any changes in zoning district boundaries. In the event uncertainties exist with respect to the intended boundaries of the zoning districts shown on the Zoning Map, the following rules shall apply:

- (1) Unless otherwise indicated, the district boundaries are corporate limits, U. S. public land survey lines, and, where the designation of a boundary line on the Zoning Map coincides with the location of a street, the centerline of said street.
- (2) Where the district boundary coincides with lot lines, the lot lines shall be construed to be the boundary of the district.
- (3) Where the district boundaries do not coincide with the location of street, corporate lines, U. S. public survey lines, or lot lines, or such lines extended, the district boundary lines may be identified by boundaries of natural vegetation, slope and other natural resource base features unless otherwise noted on the Zoning Map, or shall be determined by the use of a scale on the Zoning Map.

## **7.05 DISTRICT REGULATIONS**

### **A. A-1 PRIME AGRICULTURAL DISTRICT**

No building or use shall hereafter be established or enlarged within the A-1 Prime Agricultural District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

- (1) Permitted Uses
  - (a) Apiculture (beekeeping)

- (b) Dairying
  - (c) Equestrian trails
  - (d) Forest and game management
  - (e) Gas and electric utility uses not requiring authorization under Chapter 196.49, Wisconsin Statutes (2001-2002).
  - (f) Grazing
  - (g) Greenhouses and plant nurseries
  - (h) Horticulture (cultivation of fruits, vegetables, flowers, ornamental plants)
  - (i) Livestock raising, except high-density feedlot operations
  - (j) Nature trails and walks
  - (k) Orchards
  - (l) Paddocks and stables
  - (m) Ponds, lagoons, and structures designed for the storage of manure in excess of two hundred (200) feet from any lot line
  - (n) Poultry raising, except high-density feedlot operations
  - (o) Raising of grain, grass, mint, herb and seed crops
  - (p) Raising of fruits, nuts and berries
  - (q) Residence of the farm operator of the land upon which the use is conducted (refer to Section 7.01 J Conditional Uses in A-1/A-2 Agricultural Districts for additional residential buildings)
  - (r) Roadside stands
  - (s) Sod farming
  - (t) Other uses as interpreted by the Town Board and generally understood to be “agricultural uses”
- (2) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.
- (3) Area, Yard, and Building Bulk Requirements
- (a) **Minimum lot area:** Thirty-five (35) acres.
  - (b) **Minimum lot width:** Two hundred fifty (250) feet.
  - (c) **Residence limits:** There shall be no more than one residence for every thirty-five (35) acres of land owned by the farm operator; and each residence shall be located so as to preserve agricultural land.
  - (d) **Maximum residential area:** No more than five (5) acres shall be removed from agricultural use for a residence.
  - (e) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
  - (f) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
  - (g) **Maximum building height:** No building used for dwelling purposes shall be more than thirty-five (35) feet in height.

## **B. A-2 GENERAL AGRICULTURAL DISTRICT**

The purpose of the A-2 General Agricultural District is to provide for single-family dwellings on large enough plots of land to enable residents to in smaller scale agricultural pursuits, or hobby farming, and the keeping of a limited number of poultry or animals. No building or use shall hereafter be established or enlarged

within the A-2 General Agricultural District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses**

- (a) All uses permitted in the A-1 Prime Agricultural District, provided the minimum land area is equal to or greater than twenty (20) acres. If the land area is less than twenty (20) acres, all permitted uses in the A-1 District shall be conditional uses in A-2, except as provided in subsections (b) through (e) below.
- (b) Single-family dwellings. Any such dwelling must comply with the requirements set forth in Section 7.01 B(3) Area, Yard, and Building Bulk Requirements. The dwelling must be located so as to preserve productive farmland.
- (c) Horticulture, excluding greenhouses and plant nurseries
- (d) Crop and tree farming
- (e) Keeping of riding horses, ponies, or donkeys in private stables; and livestock and poultry in suitable enclosed buildings, with a maximum of five (5) head of livestock and/or twenty (20) fowl per acre.

**(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.**

**(3) Area, Yard, and Building Bulk Requirements**

- (a) **Minimum lot area:** Five (5) acres.
- (b) **Minimum lot width:** Two hundred fifty (250) feet.
- (c) **Agricultural use required:** With the exception of the first five (5) acres, a parcel in the A-2 General Agricultural District must remain in an agricultural use as provided by this ordinance.
- (d) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
- (e) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
- (f) **Maximum building height:** No building used for dwelling purposes shall be more than thirty-five (35) feet in height.
- (g) **Minimum setback for livestock buildings:** No building serving to house livestock or poultry shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- (h) **Maximum lots allowed:** Any parcel of land zoned A-2 and in common ownership may not be divided into more than four (4) lots. Parcels to be divided into more than four (4) lots require residential zoning.

**C. A-3 RURAL PRESERVATION DISTRICT**

The purpose of the A-3 Rural Preservation District is to maintain, preserve, and enhance undeveloped or agricultural land by (1) protecting those parcels which shall become nonconforming through adoption of this ordinance; (2) providing for residential uses on developed parcels resulting from farm consolidation; and (3) recognizing that parcels exist which are not ideally suited to agricultural use but should be protected to benefit the public welfare. No building or use shall hereafter



be established or enlarged within the A-3 Rural Preservation District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

(1) Permitted Uses

- (a) All permitted uses in the A-1 Prime Agricultural District, except residences, are permitted in A-3, provided the minimum land area is equal to or greater than twenty (20) acres. If the land area is less than twenty (20) acres, all permitted uses in the A-1 District shall be conditional uses in A-3, except as provided in subsections (b) through (e).
- (b) Horticulture, excluding greenhouses and plant nurseries
- (c) Crop and tree farming
- (d) Single-family dwellings
  - (i) Construction of a new single-family residence is permitted **ONLY** if it replaces a previously-existing single-family residence. Construction cannot begin until the old dwelling unit is razed and removed.
  - (ii) All dwellings must be located so as to preserve productive farmland.
- (e) Keeping of riding horses, ponies, or donkeys in private stables, and livestock and poultry in suitable enclosed buildings, with a maximum of five (5) head of livestock and/or twenty (20) fowl per acre. Buildings which house permitted animals shall be for the sole use of the residents of said lot and their guests, and shall not be for hire or livery.

(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.

(3) Area Requirements

- (a) **Existing Lots:** The minimum lot size of an existing lot shall be the size of the lot at the time it is rezoned to A-3. No further division of the lot is allowed.
- (b) **Newly-Created Lots:** Lots under five (5) acres are strongly discouraged and should only be allowed when the Town Board determines that a reduced size is in the best interest of the Town. Once created, no further division of the lot is allowed.

(4) Yard and Building Requirements

- (a) **Front yard setback:** Not less than seventy-five (75) feet from the centerline of the adjacent street.
- (b) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
- (c) **Maximum building height:** No building used for dwelling purposes shall be more than thirty-five (35) feet in height.
- (d) **Preserve farmland:** Dwellings shall be located so as to preserve productive farmland.
- (e) **Minimum setback for livestock buildings:** No building serving to house livestock or poultry shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.

#### **D. C-1 CONSERVANCY DISTRICT**

No building or use shall hereafter be established or enlarged within the C-1 Conservancy District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses**

- (a) Grazing of animals and raising of crops
- (b) Harvesting of wild crops
- (c) Hunting, fishing and trapping
- (d) Preservation of wildlife and forestry
- (e) Public parks and recreation areas

**(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.**

**(3) Restrictions**

No existing trees or shrubs shall be removed unless damaged or diseased; no stream, river, or creek shall be diverted, dammed, filled, or otherwise affected; and no grading, removal of soil, or disturbing of the natural topography shall be undertaken unless the approval of the plan is obtained from the Town Board. No activity shall be allowed which would substantially disturb or alter the natural flora, fauna or topography.

**(4) Yard and Building Requirements**

- (a) **Front yard setback:** Not less than seventy-five (75) feet from the centerline of the adjacent street.
- (b) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.

#### **E. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

No building or use shall hereafter be established or enlarged within the R-1 Single-Family Residential District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses**

- (a) Single-family dwellings
- (b) Public utilities, excluding buildings

**(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.**

**(3) Area, Yard, and Building Bulk Requirements**

- (a) **Minimum lot area:** 20,000 square feet for sewered lots and 60,000 square feet for unsewered lots.
- (b) **Minimum lot width:** One hundred (100) feet for sewered lots and one hundred fifty (150) feet for unsewered lots.
- (c) **Lot coverage:** No more than 30% of the area of a sewered lot, or 25% of the area of an unsewered lot, shall be occupied by buildings and structures.
- (d) **Front yard setback:** Not less than seventy-five (75) feet from the centerline of the adjacent road.

- (e) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
- (f) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.

**F. R-2 TWO-FAMILY RESIDENTIAL DISTRICT**

No building or use shall hereafter be established or enlarged within the R-2 Two-Family Residential District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses**

- (a) Single-family and two-family dwellings
- (b) Churches and similar places of worship
- (c) Public schools, parks, and playgrounds
- (d) Private elementary and high schools
- (e) Fire stations
- (f) Public utilities, excluding buildings

**(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.**

**(3) Area, Yard, and Building Bulk Requirements**

- (a) **Minimum lot area:** 20,000 square feet for sewered lots and 60,000 square feet for unsewered lots.
- (b) **Minimum lot width:** One hundred (100) feet for sewered lots and one hundred fifty (150) feet for unsewered lots.
- (c) **Lot coverage:** No more than 30% of the area of a sewered lot, or 25% of the area of an unsewered lot, shall be occupied by buildings or structures.
- (d) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
- (e) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
- (f) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.

**G. R-3 MULTI-FAMILY RESIDENTIAL DISTRICT**

No building or use shall hereafter be established or enlarged within the R-3 Multi-Family Residential District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses**

- (a) Any use permitted in the R-2 Two-Family Residential District
- (b) Multi-family dwellings containing no more than four (4) dwelling units
- (c) Professional offices

**(2) Conditional Uses - Refer to Section 7.06CONDITIONAL USES.**

**(3) Area, Yard and Building Bulk Requirements**

- (a) **Minimum lot area:**
  - (i) Multi-family dwellings: 20,000 square feet for sewered lots and 60,000 square feet for unsewered lots for two-family

- dwellings and 5,000 square feet of unoccupied land for each additional dwelling unit.
- (ii) All other permitted uses: 20,000 square feet for sewerred lots and 60,000 square feet for unsewerred lots.
- (b) **Minimum lot width:** One hundred (100) feet for sewerred lots and one hundred fifty (150) feet for unsewerred lots.
  - (c) **Lot coverage:**
    - (i) No more than 50% of the area of an interior lot nor more than 60% of the area of a corner lot shall be occupied by a residential building or structure with its accessory buildings.
    - (ii) No more than 35% of the area of an interior lot nor more than 45% of the area of a corner lot shall be occupied by any other building or structure with its accessory buildings.
  - (d) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
  - (e) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
  - (f) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.

#### **H. RH-1 RURAL HAMLET DISTRICT**

The intent of the RH-1 Rural Hamlet District is to establish reasonable standards that permit and control growth in this district, thus creating the atmosphere of a rural community developed in the 1930s. Furthermore, it is the intent of this section to:

- ... encourage commercial and office uses that do not attract large volumes of traffic and continuous customer turnover.
- ... limit and discourage development of strip-type, highway-oriented commercial uses that create traffic hazards and congestion.
- ... permit uses that promote conversion of existing buildings in a manner that maintains the visual character and architectural scale of existing development within the district.
- ... minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
- ... encourage uses that minimize noise and congestion.

No building or use shall hereafter be established or enlarged within the RH-1 Rural Hamlet District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses:**

- (a) Retail specialty shops including, but not limited to, the sale of gifts, antiques, art, books, jewelry, wearing apparel, or craft shops making articles exclusively for sale at retail on the premises
- (b) Personal service shops including, but not limited to, tailors, barbers, beauty salons, shoe repair shops, dressmakers, or similar service uses
- (c) Bed and breakfast businesses as described in Section 7.02 B(9) Bed and Breakfast Business

- (d) Multi-family dwellings containing no more than four (4) dwelling units.
  - (e) Single-family and two-family residences
  - (f) Mixed-use structures containing dwelling units and other permitted uses
  - (g) Buildings or structures owned or operated by the Town or an organization authorized by the Town
- (2) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.
- (3) Standards and Criteria for Permitted and Conditional Uses
- (a) The proposed use will not attract large volumes of vehicular traffic.
  - (b) The proposed use is of a similar architectural scale to existing development in the zoning district or will use an existing building for its purpose.
  - (c) Minimum visual and functional conflicts will be created between the proposed use and nearby uses.
  - (d) The proposed use will share an access driveway and/or parking with another abutting use, or is designed to permit such sharing when and if it becomes feasible.
  - (e) Anticipated noise and congestion will be comparable to the levels created under permitted uses.
- (4) Area, Yard and Building Bulk Requirements
- (a) **Lot area:** A minimum area of 20,000 square feet, and maximum of 60,000 square feet, shall be provided for each and every building used in accordance with the uses identified in Section 7.01 H(1) RH-1 Rural Hamlet District – Permitted Uses and Section 7.06 N Conditional Uses in RH-1 Rural Hamlet District. An additional 3,000 square feet per dwelling unit must be provided for each dwelling unit more than one on any lot.
  - (b) **Minimum lot width:** Eighty (80) feet.
  - (c) **Lot coverage:** Not more than 80% of any lot area may be covered by buildings and/or impervious materials, and not more than 40% of any lot area may be occupied by buildings. A minimum of 20% of each lot shall be landscaped.
  - (d) **Front yard setbacks:**
    - (i) The minimum required front yard shall be not less than the smaller of the front yards of the two buildings immediately adjacent (on either side) of the proposed use, or twenty (20) feet from the right-of-way of the street, whichever is greater.
    - (ii) For corner lots, a front yard shall be required on each street, equal to the front yard of the adjacent building on each street frontage, or twenty-five (25) feet from the right-of-way, whichever is greater, to ensure adequate visibility at intersections.
  - (e) **Side yard setbacks:** For every building, two side yards are required that shall be not less than twenty (20) feet in aggregate width nor less than eight (8) feet in minimum width.

- (f) **Rear yard setbacks:** There shall be a rear yard on each lot that shall be not less than twenty (20) feet in depth.
  - (g) **Maximum building dimension:** In no instance shall the greatest dimension of a building exceed one hundred (100) feet, measured parallel to exterior building walls.
  - (h) **Minimum distance between buildings:** The minimum distance between any two (2) buildings or portions thereof shall be sixteen (16) feet.
  - (i) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.
  - (j) **Accessory use setback:** No accessory use shall be permitted within the front yard. Setbacks from side or rear property lines shall be a minimum of eight (8) feet.
- (5) **Parking Capacity Regulations**
- (a) **Minimum number of spaces:** The minimum number of off-street parking spaces required shall be the sum-total number determined by application of the following standards:
    - (i) Two (2) spaces per residential dwelling unit.
    - (ii) Three (3) spaces per person performing a personal service (barber, tailor, etc.).
    - (iii) One (1) space per every three (3) employees, not including persons covered by (ii) above.
    - (iv) In no case shall less than three (3) off-street parking spaces be provided for each individual nonresidential use. The number of uses in a building shall equal the number of leasable units in the building, including owner-occupied units.
    - (v) No parking is permitted in excess of six (6) stalls within the front yard.
  - (b) **Parking held in reserve:** If the number of spaces required by Section 7.01 H(5)(a) above is substantially larger than the number anticipated by the applicant, the reserve parking concept may be used to avoid unnecessary paving, in accordance with the following criteria:
    - (i) The total number of spaces that must be paved initially may be reduced up to 50% by the Town Board, upon recommendation of the Planning and Zoning Commission.
    - (ii) Suitable area must be available and reserved for construction of the balance of the total number of spaces otherwise required by Section 7.01 H(5)(a) if and when they are deemed necessary by the Town Board, upon recommendation of the Planning and Zoning Commission.
    - (iii) A reevaluation of parking capacity shall be required upon a change in status (use, building additions, ownership, number of employees.) Following reevaluation, the Town Board may require installation of additional parking spaces, upon recommendation of the Planning and Zoning Commission.

- (iv) To apply for use of the reserve parking concept, the applicant shall provide evidence supporting reduced parking needs to the Planning and Zoning Commission for their review and recommendation.

**(6) Parking and Vehicular Access Design Standards**

- (a) No more than one (1) parking row shall be permitted in the front yard of a lot.
- (b) Parking shared by the uses located on two (2) or more adjacent lots may extend to and over the boundary lines of the lots served.
- (c) Common parking areas and/or accessways shall be permitted and encouraged provided that:
  - (i) Access easement and maintenance agreements or other suitable legal mechanisms shall be provided where necessary.
  - (ii) Liability safeguards for all property owners and lessees served by the common parking areas and/or accessways shall be guaranteed to the satisfaction of the Town Attorney.
- (d) All required parking shall be improved and maintained to the satisfaction of the Town Board.

**(7) Other Development Regulations**

- (a) **Utilities:** All utility lines (electrical, telephone, etc.) shall be placed underground whenever possible.
- (b) **Lighting facilities:** Lighting shall not produce unreasonable glare or hazardous interference on abutting properties or highways.
- (c) **Landscape planting:** Shade trees and other plant materials satisfactory to the Town Board shall be provided along the street frontage occupied by developments in the Rural Hamlet District, in other unpaved areas of the site, and within traffic-barrier islands installed in the parking lot. Emphasis shall be placed on the use of shade trees. No shrubs shall be used that will interfere with driver's sight distances at driveway intersections.

**(8) Architectural Regulations**

- (a) Present a residential atmosphere. To accomplish this, new buildings should be compatible in size, scale, and mass with existing buildings.
- (b) Roofs are to be compatible with surrounding residential buildings—circa 1930.
- (c) Exterior materials are to be natural in appearance. Preference is to be given to wood, wood siding, stone, brick, and stucco. Second choice should include vinyl or aluminum siding that simulates wood siding.
- (d) Color should be compatible with the atmosphere of the Rural Hamlet and/or be typical of the period—circa 1930.
- (e) HVAC systems, audio/video antennas and mechanical equipment should be installed in places where they will be visually unobtrusive.
- (f) Dumpsters shall be located at the rear or side of the site and must be screened.

- (g) Small litter receptacles, benches, and other street furniture should be of materials and design compatible with the architecture of the rural hamlet.

**(9) Standards for Change of Use**

Any change of use on property zoned RH-1 Rural Hamlet District shall comply with all the regulations contained herein, as if it were a proposal for a new development. Proposals for a change of use shall include, at a minimum, a complete description of the proposed use, and plans which thoroughly describe how the new use will meet the requirements of this ordinance. Forms can be obtained from, and should be returned to, the Town Clerk. All items submitted shall be reviewed by the Town Board for compliance with the requirements. Exceptions to these requirements may be made by the Town Board only for major existing conditions that cannot reasonably be expected to be brought into compliance including, but not limited to, existing buildings.

**I. B-1 BUSINESS DISTRICT**

No building or use shall hereafter be established or enlarged within the B-1 Business District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses -**

- (a) Business and professional offices of not more than two-thousand (2,000) sq.ft.
- (b) Public Libraries.
- (c) Parking lots.
- (d) Residences which existed as of December 10, 1980.

**(2) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.**

**(3) Area, Yard and Building Bulk Requirements**

- (a) **Minimum lot area:** 20,000 square feet.
- (b) **Minimum lot width:** One hundred (100) feet.
- (c) **Lot coverage:** No more than 50% of the lot shall be occupied by buildings or structures.
- (d) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
- (e) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
- (f) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.

**(4) Standards**

- (a) No new residential buildings shall be constructed in the B-1 Business District. Existing residential buildings may be altered, remodeled, improved or enlarged subject to the restrictions and regulations which would be applicable to residences located in the R-3 Multi-Family Residential District.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.



- (c) All business, servicing, storage and display of goods (except for off-street parking and loading) shall be conducted within completely enclosed buildings.
- (d) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any property located in a residential district or upon any public street or park.

**J. I-1 INDUSTRIAL DISTRICT**

No building or use shall hereafter be established or enlarged within the I-1 Industrial District unless it conforms to the following regulations, except for such building or use identified and regulated in Section 7.07 ACCESSORY USES.

**(1) Permitted Uses –**

- (a) Parking lots.
- (b) Agriculture. Those agricultural uses permitted in the Agricultural Land Districts pursuant to Section 7.05.A. (1), except that no structures may be built without first obtaining a conditional use permit pursuant to Section 7.06.
- (c) Passive Outdoor Recreation. Passive, outdoor recreational land uses such as arboretums, natural areas, wildlife areas, hiking trails, bicycle trails, cross country ski trails, horse trails, picnic areas, gardens, fishing and hunting areas, and similar land uses.
- (d) One warehouse or storage building of not more than three-thousand (3,000) sq. ft.

**(2) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.**

**(3) Area, Yard and Building Bulk Requirements**

- (a) **Minimum lot area:** 20,000 square feet.
- (b) **Minimum lot width:** One hundred (100) feet.
- (c) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
- (d) **Side and rear yard setbacks:** Not less than twenty-five (25) feet; if the lot abuts a residential district, the side and rear yards shall be not less than fifty (50) feet where the industrial and residential zones abut.
- (e) **Maximum building height:** No building shall be more than thirty-five (35) feet in height.

<b>7.06 CONDITIONAL USES</b>
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**A. SPECIAL LAND USE**

To accomplish the purposes of this ordinance, it is necessary to give special study and consideration to certain uses because they are of an extraordinary nature, and may present unusual problems because of incompatibility with neighboring land uses or because of distinctive requirements applicable to a particular use. These uses are not automatically permitted in any district, but may be allowed in certain districts upon study and approval of the specific use and compliance with the conditions imposed by the Town Board. An application for a Special Land Use Permit shall be made in accordance with the provisions of Section 7.01 C Application.

## **B. ANTENNAS AND COMMUNICATION TOWERS**

All antennas and communication towers subject to Section 7.09 COMMUNICATION TOWERS AND ANTENNAS shall require a Conditional Use Permit. Application shall be made in accordance with the provisions of Section 7.01 C Application.

## **C. APPLICATION**

Application for a Conditional Use Permit or a Special Land Use permit shall be made to the Town Board on forms available in the office of the Town Clerk. The following information shall be required:

- (1) Names and addresses of the applicant; the owner of the parcel; the architect, planner, and/or engineer responsible for the design; the contractor; and all property owners of record within a four hundred (400) foot radius of the subject parcel.
- (2) Legal and common description of the area to be developed, including street address, lot, block, and recorded subdivision.
- (3) The type of structure proposed, the use proposed, and the existing zoning classification.
- (4) Plat of survey (in quadruplicate) prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, uses and size of the following:
  - (a) subject site
  - (b) existing and proposed structures, landscaping, natural ground features, easements, streets, and other public ways
  - (c) off-street parking, loading areas, and driveways
  - (d) existing highway access restrictions
  - (e) existing and proposed front, side, and rear yards
  - (f) location and use of abutting lands and structures within fifty (50) feet of the subject site
- (5) Fee receipt from the Town Treasurer in the amount set by the Town Board for Conditional Use Permit applications.
- (6) Additional information as may be required by the Town Board or as indicated in subsequent paragraphs of this section.

## **D. TOWN BOARD REVIEW**

The Town Board shall review the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation, and/or improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat, and shall hold a public hearing within the parameters identified in this section.

## **E. PUBLIC HEARING**

No more than sixty (60) days after the filing of the application for a Conditional Use Permit or Special Land Use Permit, or ninety (90) days for a Planned Residential Development, a public hearing shall be held by the Town Board. Notice of the hearing shall be posted in the Town and published at least one time in the Town of Mosel's designated newspaper not less than ten (10) nor more than thirty (30) days before the date of such hearing. Written notice of the hearing shall be given to the applicant at least ten (10) days before the hearing. The notice of public hearing shall contain at a minimum the date, time, and place of the hearing; the street address or common description of the property involved; and a brief statement of the conditional use sought.

#### **F. APPROVAL AND CONDITIONS**

- (1) The Town Board may authorize the Town Clerk to issue a Conditional Use Permit or a Special Land Use Permit after review and public hearing, provided that such conditional or special land use is in accordance with the purpose and intent of this ordinance and is found to be not hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town of Mosel. If an application is filed for a Planned Residential Development, the Town Board must first request a written recommendation from the Town Planning and Zoning Commission before holding a public hearing and taking action on the application. The Commission has sixty (60) days to respond.
- (2) Conditions such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- (3) Compliance with all other provisions of this ordinance such as lot area and coverage, yards, building bulk regulations, parking, loading, traffic, highway access, and performance standards shall be required of all conditional uses. Variances shall only be granted as provided in Section 7.12 VARIANCES AND APPEALS.

#### **G. VIOLATION AND REVOCATION**

A violation of any permit restriction as set forth herein and determined by the Town Board shall be deemed a revocation of said permit and said use shall be removed immediately. Nothing in this section shall be deemed to give the owner, applicant or occupant of said lands a vested interest in the use established in said permit. In addition, the Town Board or Town Constable shall revoke a Conditional Use Permit if at any time there has been a failure to comply with the conditions imposed

or if there has been a substantial change in the development, unless such change has been approved by the Town Board.

#### **H. EXPIRATION**

A Conditional Use or Special Land Use Permit shall be deemed to authorize only one particular use and shall expire if the authorized use ceases for more than twelve (12) months for any reason. Any permit issued shall expire if not used within a six (6) month period.

#### **I. GENERAL CONDITIONAL USES**

The following uses shall be conditional uses in all districts:

- (1) Public utilities engaged in the sale and delivery of gas, water, electric, cable television and telecommunications service, including equipment and facilities required for the distribution, regulation and metering of such utilities in any district, but not including power generating facilities. In addition, antennas and communication towers shall not be allowed in the R-1, R-2, or R-3 Residential Districts, the C-1 Conservancy District, or the RH-1 Rural Hamlet District.
- (2) Cemeteries:
  - (a) All burial lots or structures shall be set back a minimum of one hundred (100) feet from any street right-of-way line.
  - (b) The site proposed shall not interfere with the development of thoroughfares in the area.

#### **J. CONDITIONAL USES IN A-1/A-2 AGRICULTURAL DISTRICTS**

##### **(1) General Requirements**

All conditional uses in the A-1/A-2 Districts shall be consistent with agricultural use as allowed by this ordinance and meet the following conditions, as defined by Section 91.01(10), Wisconsin Statutes (2001-2002):

- (a) The use will not convert land that has been under agricultural use for at least 12 consecutive months during the preceding 36-month period.
- (b) The use will not limit the surrounding land's potential for agricultural use.
- (c) The use will not conflict with agricultural operations on the land subject to a farmland preservation agreement.
- (d) The use will not conflict with agricultural operations on other properties.

##### **(2) Conditional Uses in A-1**

- (a) Additional dwellings:
  - (i) Single-family and two-family dwellings if used in connection with agricultural purposes
  - (ii) Owner's retirement residence
  - (iii) Owner's child's residence
  - (iv) Standards:

- (a) Any such residence must comply with the lot width, lot coverage, yard, and building bulk requirements of the R-1 Single-Family Residential District.
- (b) The residence must be located to preserve productive farm land.
- (c) If any residence built under this conditional use is sold to persons unconnected to the agricultural operation and use of the land, no additional homes may be constructed.
- (b) High-density commercial feedlots
- (c) Bird Hunting Preserve, including such outbuildings, parking and related facilities minimally necessary to support game stocking and hunting activities. The following activities and facilities are specifically excluded: trap, range and skeet shooting; kenneling, keeping and training of dogs; and restaurant, lodging for more than 8 persons, retail, tavern, and similar commercial uses.
- (3) Conditional Uses in A-2
  - (a) If the land area is less than twenty (20) acres, all permitted uses in the A-1 District shall be conditional uses in A-2, except for those permitted uses as provided in Section 7.05 B(1)(b) through 7.05 B(1)(e).
  - (b) Golf courses
  - (c) Processing or sale of agricultural products
  - (d) Sportsmen's clubs and shooting ranges
- (4) Conditional Uses in A-1 and/or A-2
  - (a) Antennas
  - (b) Communication towers
  - (c) Fish or fur farming
  - (d) Municipal Sanitary landfill
  - (e) Dog kennels and stables
  - (f) Governmental and cultural uses, such as fire and police stations, community centers, libraries, parks, playgrounds, and museums
  - (g) Ponds, lagoons, or structures designed for the storage of manure within two hundred (200) feet of any lot line.
  - (h) Rental of gardening plots to others, only with off-road parking for all users to minimize safety hazards.

**K. CONDITIONAL USES IN A-3 RURAL PRESERVATION DISTRICT**

Except as specifically allowed in the A-3 Rural Preservation District regulations, all permitted uses in the A-1 Prime Agricultural District, except residences, are conditional uses in A-3. If the land area is twenty (20) acres or more, all conditional uses listed in Section 7.01 J(4) Conditional Uses in A-1 and/or A-2 shall also be conditional uses in A-3.

**L. CONDITIONAL USES IN C-1 CONSERVANCY DISTRICT**

- (1) Boat launching areas and boat liveries
- (2) Campgrounds

- (3) Non-residential buildings and structures used for the raising of wildlife and fish and the practice of forestry
- (4) Sale of bait and commercial recreation areas and customary accessories
- (5) Sportsmen's clubs and shooting ranges
- (6) Stream bank and shoreland protection and preservation

**M. CONDITIONAL USES IN R-1/R-2/R-3 RESIDENTIAL DISTRICTS**

- (1) Parks and playgrounds (R-1 only)
- (2) Utility buildings
- (3) Planned Residential Developments (PRDs), such as cluster developments (R-3 only)
  - (a) A PRD may be established only after review and adoption by the Town Board after public hearing pursuant to Section 7.01 C Application. The Town Board must allow the Planning and Zoning Commission sixty (60) days to file a recommendation with the Board. After sixty (60) days, the Town Board may act on the petition without having received a written recommendation. The Board may adopt or disapprove the plan as submitted or it may modify, alter, or amend the plan and prescribe other conditions before adoption.
  - (b) The district regulations governing population density and/or building intensity may be varied, provided other provisions are incorporated in the plan which would significantly enhance the character of the development, and provided the average intensity and density of land use shall be no greater than that required in the district in which it is located.
  - (c) Character, identity and architectural and siting variation incorporated in a development may include (but are not limited to) the following:
    - (i) Landscaping
      - (a) Open spaces and plazas
      - (b) Use of existing landscape
      - (c) Pedestrian-way treatment
      - (d) Recreational areas
    - (ii) Siting
      - (a) Visual focal points
      - (b) Use of existing physical features (topography, etc.)
      - (c) View
      - (d) Sun and wind orientation
      - (e) Circulation pattern
      - (f) Physical environment
      - (g) Variation in building setbacks
      - (h) Building groups (clusters, etc.)
    - (iii) Design features
      - (a) Street sections
      - (b) Architectural styles
      - (c) Harmonious use of materials
      - (d) Parking areas broken by landscape features
      - (e) Varied use of housing types

- (d) Common open spaces shall be reserved by a legally binding agreement and may be in the form of land located within the planned district, land located near the planned district, or funds which the Town shall use for the acquisition and development of public open space located near the district for enjoyment and use of the public. If the common open space is not dedicated for public use, legal agreements shall include an open space easement granted to the Town and provision for adequate future maintenance.
- (e) The following provisions shall be complied with:
  - (i) **Development:** Minimum of twenty (20) acres.
  - (ii) **Lot**
    - (a) **Area:** minimum of 2/3 of the minimum lot area for the district in which located.
    - (b) **Width:** minimum of 2/3 of the minimum lot width for the district in which located.
  - (iii) **Building**
    - (a) **Area:** Minimum building area for the district in which located.
    - (b) **Height:** maximum of thirty-five (35) feet.
    - (c) **Rooms:** all living rooms shall have windows opening onto a yard.
  - (iv) **Yards**
    - (a) **Front:** not less than eighty (80) feet from the centerline of the adjacent street.
    - (b) **Rear:** not less than twenty-five (25) feet in depth.
    - (c) **Side:** not less than twenty-five (25) feet on each side of lot.
  - (v) **Streets and Sidewalks**
    - (a) **Streets:** all streets shall be hard surfaced at a minimum of twenty (20) feet in width with a sixty-six (66)-foot right-of-way and shall be well-graded and surface-drained.
    - (b) **Sidewalks:** sidewalks shall be hard-surfaced with a minimum width of forty-two (42) inches. Ample street lighting shall be provided for streets. Approved surface water drainage shall be provided.

**(4) Mobile home park. (R-3 only)**

The following conditions shall apply:

- (a) The park shall be located on a well-drained site consisting of at least twenty (20) acres, properly graded to insure rapid drainage and freedom from stagnant pools of water.
- (b) Community sewer and water facilities must be provided directly to each mobile home site.
- (c) Front setback shall be sixty (60) feet from the centerline of the road. Minimum rear and side yards shall be twenty-five (25) feet each.
- (d) No mobile home shall be located closer than fifty (50) feet from any community building, including any washroom, toilet, or laundry facility, within the park or from any property line of the park.

- (e) Each mobile home park shall devote at least 25% of its total area to open space provided for the recreational uses and enjoyment of the occupants of the park.
- (f) All mobile home spaces shall abut upon a driveway of not less than twenty (20) feet in width, which shall have unobstructed access to a private street.
- (g) Each mobile home shall have well-anchored tie-downs capable of withstanding a minimum tensile strength of 2,800 pounds. A minimum of four (4) tie-downs shall be provided for each mobile home.
- (h) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any property located in a residential district or upon any public street or park.
- (i) In all other respects, mobile home parks shall comply with all of the applicable regulations of all departments, commissions, and agencies of Sheboygan County and the State of Wisconsin.
- (j) Each mobile home shall be set on a reinforced concrete slab. Said slab shall at a minimum equal the outside dimensions of the mobile home.
- (k) The mobile home park shall provide an approved, screened refuse and garbage receptacle with properly controlled collection disposal sources. The entire mobile home park area shall be well maintained and properly screened from all public roadways.

**N. CONDITIONAL USES IN RH-1 RURAL HAMLET DISTRICT**

The following uses shall be conditional uses in the RH-1 Rural Hamlet District, subject to the standards in Section 7.01 H(3) Standards and Criteria for Permitted and Conditional Uses.

- (1) Confectionery or bakery for production of articles to be sold at retail only on the premises
- (2) Small restaurant or tavern
- (3) Small gas station or convenience store
- (4) Small professional offices

**O. CONDITIONAL USES IN B-1 BUSINESS DISTRICT**

- (1) All permitted uses in the R-2 and R-3 Residential Districts
- (2) Any retail business not specifically prohibited by this section, with total buildings of 20,000 square feet or less
- (3) Animal hospitals and veterinary clinics
- (4) Antennas
- (5) Bowling alleys
- (6) Business and professional offices and services
- (7) Communication towers
- (8) Contractors' and Construction shops/offices/yards, with total buildings of 20,000 square feet or less
- (9) Dance halls
- (10) Drive-in eating establishments



- (11) Drive-through sales establishments
- (12) Gasoline filling stations and garages
- (13) Hotel or Motel
- (14) Mini-warehouse storage facilities
- (15) Outdoor storage
- (16) Printing and duplicating establishments
- (17) Private clubs and lodges
- (18) Public utilities
- (19) Radio and television broadcasting studios
- (20) Research laboratories
- (21) Self-service retail establishments
- (22) Sign shops
- (23) Sport and recreation centers
- (24) Taverns and restaurants
- (25) Theaters , except outdoor theaters

**P. CONDITIONAL USES IN I-1 INDUSTRIAL DISTRICT**

- (1) All industrial uses not specifically indicated as conditional uses in this district
- (2) Antennas
- (3) Beverage and bottling works, canning or preserving factories, food product plants
- (4) Building material sales and storage
- (5) Business offices
- (6) Communication towers
- (7) Contractors' and construction offices/shops/yards
- (8) Crematoriums
- (9) Machine shops and metal products manufacturers and tool and die shops, provided they do not include drop forges or riveting machines
- (10) Machinery sales
- (11) Manufacturers and/or assemblers of products from substances such as wood, cork, glass, leather, fur, plastic, felt, and other textiles
- (12) Manufacturers of electronic products and components
- (13) Mini-warehouse storage facilities
- (14) Municipal earth and sanitary landfill operations
- (15) Power generating facility
- (16) Printing and binding plants
- (17) Public passenger transportation and terminals, radio and television towers
- (18) Radio and television broadcasting stations and electronic equipment
- (19) Salvage yards, provided as follows:
  - (a) They shall be enclosed around the entire perimeter by a solid fence of a height sufficient to effectively screen the scrap material.
  - (b) Said fence shall be located at least seven hundred fifty (750) feet from any public road or highway, lake or stream and not less than one-half mile from the boundary of any residential district.
  - (c) The yards shall be properly licensed or shall be fully qualified for licensing under state statute and/or town ordinance.

- (d) The Town Board may recommend and prescribe other conditions as to access roads, landscaping, sun and wind orientation, pedestrian-way treatment, and parking facilities.
- (20) Temporary retail sales, not to exceed twenty-four (24) days per calendar year
- (21) Transfer stations, provided as follows:
  - (a) The transfer stations shall be properly licensed or shall be fully qualified for licensing under state statute or town ordinance.
  - (b) The Town Board may recommend and prescribe other conditions as to access roads, landscaping, sun and wind orientation, pedestrian-way treatment, fencing, regulations for covering and sanitation and parking facilities.
  - (c) Side and rear yards shall not be less than fifty (50) feet.
- (22) Warehouses and storage yards, not including salvage yards
- (23) Wholesale distributorships

**Q. ADULT-ORIENTED LAND USES**

It is the purpose of this section to regulate sexually-oriented adult entertainment land uses (hereafter referred to as adult-oriented businesses) to promote the health, safety, and general welfare of the residents of the Town of Mosel, to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such businesses, and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those businesses.

**(1) Definitions.**

- (a) Adult-oriented business – a bookstore, theater, massage parlor, sauna, entertainment center, cabaret, health/sports club, steam room/bathhouse facility, dance hall, restaurant, or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers or waiters or waitresses who engage in sexual conduct, or the simulation of such conduct, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or other sexual practices.
- (b) Nudity – the showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus, or female breast.
- (c) Sexual conduct – the commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
- (d) Sexual excitement – the condition of human male or female genitals when in a state of sexual stimulation or arousal.

**(2) Applicability and Non-conforming Uses.**

- (a) The provisions of this section shall apply to all existing and future adult-oriented businesses.
- (b) Any existing business that does not meet the restrictions of this section shall be allowed to continue as a non-conforming use, subject to the restrictions of Section 7.08 of this Code, except that such privilege of non-conforming use shall cease upon the discontinuance of the activities within such business for seven consecutive calendar days, including any days when the establishment is normally closed for business.

**(3) General Requirements.**

- (a) Zoning District – Adult-oriented businesses are not a permitted use in any district. They may be operated with a conditional use permit, which may include additional conditions for operation, in the I-1 Industrial District only, with the following limitations (distances shall be measured in a straight line from the main public entrances of said businesses, to the lot lines of properties or facilities as described below):
  - (i) No such adult-oriented business shall be located within 1000 feet of any agricultural, residential or business district, or within 1000 feet of a place of worship, public park, licensed day care facility, public library, public or private educational facility which serves persons age 17 or younger, elementary school, high school, or elderly housing facility.
  - (ii) No such adult-oriented business shall be located so that it is within 2500 feet of another such business, and no adult oriented business shall be located in the same building or upon the same premises as any other such use, even if owned by the same owner.
- (b) Building Exterior – The building exterior of any premises containing an adult-oriented business shall meet the following criteria:
  - (i) Colors shall be earth or neutral tones.
  - (ii) Stripes and geometric patterns are prohibited.
  - (iii) The exterior shall be adequately maintained in good condition.
- (c) Conditions of Operation – All adult-oriented business shall be subject to the following conditions:
  - (i) Activities regulated by Chapter 125: Alcohol Beverages, of the Wisconsin Statutes, are prohibited.
  - (ii) No employee shall solicit business outside the building in which the business is located.
  - (iii) No male or female person shall expose to public view his or her genitals, pubic area, anus, or anal cleft. Full nudity is prohibited.
  - (iv) No person on the premises shall engage in sexual conduct, or in any way fondle his or her genitals.
  - (v) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performances shall only occur on a

stage, or on a table that is in a designated area which is elevated at least eighteen inches above the immediate floor level and removed a distance sufficient to prevent actual physical contact between the entertainer and another entertainer or any other person, employee or patron.

- (vi) No person under the age of 18 years may be admitted to, may enter or remain on, may purchase goods or services at, or may work or be permitted to work as an employee in any capacity at an business subject to the provisions of this section.
- (vii) No person shall cause another to commit a violation of this section, nor shall any person permit such violation to occur on any premises under his/her control, tenancy, management or ownership.

**(4) Sign Restrictions.**

Notwithstanding any other provision of this Code, an adult-oriented business shall be permitted only one on-site sign advertising its business, subject to the following criteria:

- (a) Signs which have merchandise or pictures of the products or entertainment on the premises shall not be allowed in any area where they can be viewed from the sidewalk or public street in front of or adjacent to the building.
- (b) Signs shall not be placed in any window or doorway, except for one sign, up to one square foot, which states hours of operation and indicates admittance to adults only.
- (c) Signs shall not contain any flashing lights, moving elements, or mechanically changing messages.
- (d) Signs shall not contain any depiction of the human form or any part thereof, nor shall it contain sexually explicit language such as ‘nude dancing’ or ‘girls, girls, girls,’ etc.

<b>7.07 ACCESSORY USES</b>
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**A. PURPOSE**

The uses of land, buildings, and other structures permitted in each zoning district are determined by the list of permitted uses for such district. In addition to the listed permitted uses, it is customary to allow certain accessory uses. This section defines generally the types of accessory and temporary uses which will be allowed and gives certain specific examples of each.

**B. GENERAL PERMITTED USES**

Accessory uses or structures are permitted in any zoning district in connection with any use which is permitted within such district.

(1) An accessory use is a building or use which:

- (a) is subordinate to and serves a principal building or a principal use.
- (b) is subordinate in area, extent or purpose to the principal building or principal use served.

- (c) contributes to the comfort, convenience or necessities of occupants, business or industry in the principal building or principal use served.
  - (d) is located on the same premises as the principal building or principal use served.
- (2) In the A-1 Prime Agricultural District, the A-2 General Agricultural District, or the A-3 Rural Preservation District, accessory uses or structures, such as barns, silos, and other outbuildings used in connection with any permitted use, except a permitted residential use, are not subject to the restrictions of this section, but shall meet all the area, yard and building bulk requirements of the appropriate zoning district.

**C. SPECIFIC EXAMPLES**

An accessory building or use includes but is not limited to the following, provided that all of the following examples comply with those provisions identified in Section 7.07 B General Permitted Uses.

- (1) Private garage or carport, not to exceed the following capacity:
  - (a) single-family residential use: 1040 square feet (i.e. 26x40) subject to the following exception – additional square footage may be added in any zoning district, up to a maximum size of two thousand four hundred (2,400) square feet, in an equal ratio to the percentage of parcel size in excess of the minimum required lot size for the R-1 Single Family Residential District.
  - (b) multi-family residence: 576 square feet per dwelling unit.
- (2) A shed or building for storage incidental to a permitted use, provided that such shed shall not exceed two hundred (200) square feet and shall have a maximum sidewall height of eight (8) feet.
- (3) A child’s playhouse
- (4) Private swimming pool and bath house
- (5) Statuary, arbors, trellises, barbecue stoves, flag poles, fences, walls and hedges

**D. BULK REGULATIONS**

All accessory uses shall comply with the bulk regulations of the district in which they are located; except the following are permitted in all yards:

- (1) open terraces and decks not over four (4) feet above the average level of the adjoining ground, but not including permanently roofed-over terraces, decks or porches
- (2) awnings and canopies
- (3) steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley
- (4) one (1) story bay windows and overhanging eaves and gutters projecting thirty (30) inches or less into the yard
- (5) chimney projections thirty (30) inches or less into the yard
- (6) arbors and trellises
- (7) flag poles, recreation and laundry-drying equipment

**E. STANDARDS**

All accessory uses or structures shall comply with the standards applicable to the zoning district in which they are located and the following additional standards:

- (1) No accessory building or structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal building to which it is accessory.
- (2) No part of any accessory building shall be located closer than ten (10) feet from any side or rear property line, nor closer than ten (10) feet to any main building, except as otherwise designated in Section 7.01 H(4)(j) RH-1 Rural Hamlet District, or any other sections of this Ordinance.
- (3) Generally, no accessory use or structure shall be permitted in a front yard unless it is a permitted obstruction within the meaning of Section 7.07 D Bulk Regulations. One accessory structure may be located in the front yard of any zoning district except RH-1 Rural Hamlet District, if it meets all of the following criteria:
  - (a) The structure meets or exceeds all primary structure setbacks for the zoning district in which it is located.
  - (b) No portion of the structure shall be placed between the principal building and the front lot line.
  - (c) The property owner has obtained a Conditional Use Permit as set forth in Section 7.06 CONDITIONAL USES.
- (4) A maximum of three thousand (3,000) square feet of detached accessory use structures are allowed per parcel. Small storage shed which do not exceed two hundred (200) square feet and sidewall height of eight (8) feet shall not be counted toward the maximum.

#### **F. FENCES**

The yard requirements stipulated elsewhere in this ordinance shall be modified as follows:

- (1) Residential fences are permitted on the property lines in residential districts but shall not in any case exceed a height of six (6) feet or be closer than two (2) feet to any public right-of-way.
- (2) Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

## **7.08 NONCONFORMING USES AND PROPERTY**

### **A. EXISTING NONCONFORMING STRUCTURES AND USES**

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption of this ordinance or created by amendment to this ordinance may be continued although the use does not conform with the provisions of this ordinance; however:

- (1) If the use of the property is non-conforming, only that portion of a structure, land or water in actual use may be so continued; structures may not be extended, enlarged, reconstructed, substituted, moved, or altered, or the use expanded, except when required to do so by law or order or so as to comply with the provisions of this ordinance.

- (2) If the use conforms to the provisions of this ordinance, but a structure is non-conforming, such structure may only be extended, enlarged, reconstructed, substituted, moved or altered so that the size or impact of the non-conformity is not increased or is reduced.
- (3) Structural repairs or alterations to a structure which is part of a nonconforming use shall not during its life exceed 50% of the Town's current assessed value of the structure unless permanently changed to a conforming use.
- (4) Substitution of new equipment may be permitted by the Board of Appeals if such equipment shall reduce the incompatibility of the nonconforming use with the neighboring uses.

**B. ABOLISHMENT OR REPLACEMENT**

If the nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this ordinance. When a structure which is part of a nonconforming use is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than 50% of its current assessed value, it shall not be restored except to comply with the provisions of this ordinance.

**C. CHANGES AND SUBSTITUTIONS**

Once a nonconforming use or structure has been changed to conform, it shall not revert to the nonconforming use or structure. Once the Town Board has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the former use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Town Board and this ordinance.

**D. SUBSTANDARD LOTS**

Substandard lots may be used for any use which is permitted in the district in which the lot is located, provided that the lot as it exists was recorded in the office of the Register of Deeds for Sheboygan County prior to the effective date (December 10, 1980) of this Ordinance.

Such lot shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical, provided, however, that variances to the building and yard requirements shall be granted only in accordance with Section 7.12 VARIANCES AND APPEALS.

**7.09 COMMUNICATIONS TOWERS AND ANTENNAS**

**A. APPLICABILITY**

This section applies to all 'communication towers' and 'antennas' as defined in Section 7.02 DEFINITIONS, except for:

- (1) Any device that does not exceed in height the lesser of thirty-five (35) feet, or such other height limitation that may apply to the zoning classification in which the device will be sited.
- (2) Any device not exceeding seventy (70) feet in height for reception of television signals or owned and operated pursuant to a license granted by the FCC.
- (3) Pre-existing towers and antennas.

## **B. PURPOSE**

The purpose of this section is to:

- (1) protect safety by such methods as prohibiting the siting of antennas and towers in or near residential areas, and providing height and setback restrictions;
- (2) promote aesthetics by minimizing the number of towers in the Town, requiring towers to be sited and configured in ways that minimize their adverse visual impact, and by encouraging the utilization of alternative tower structures rather than free-standing towers whenever feasible; and
- (3) encourage commerce by implementing rules that will not restrict the ability of telecommunications providers to furnish their services quickly, effectively, and economically.

## **C. PRINCIPAL OR ACCESSORY USE**

Antennas and towers may be considered either principal or accessory uses.

A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased land within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

## **D. INVENTORY OF EXISTING SITES**

Each applicant for an antenna and/or tower shall provide to the governing authority an inventory of its existing towers that are either within the jurisdiction of the governing authority, or within three miles of the border thereof, including specific information about the location, height, and design of each tower. The governing authority may share such information with other applicants applying for administrative approvals or conditional use permits under this section, or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the governing authority is not by sharing such information in any way representing or warranting that such sites are available or suitable.

## **E. AESTHETICS AND LIGHTING**



- (1) If a tower is not subject to FAA regulations, towers shall either have a galvanized steel finish, or be painted a neutral color so as to reduce visual obtrusiveness. If FAA regulations apply, FAA regulations shall be followed.
- (2) At a tower site, the design and construction of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and pre-existing improvements.
- (3) If an antenna is installed on an alternative tower structure, the antenna and supporting electrical and mechanical equipment shall be of neutral colors that are identical to, or closely compatible with, the colors of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (4) Towers shall not be lit artificially, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting and alternatives, and shall approve the design that would cause the least disturbance to surrounding areas.
- (5) Communication towers and antennas shall not be used for displaying any advertising. If FCC rules require that the owner's name be shown on the tower or antenna, it shall be posted no more than six (6) feet above the ground on a placard no larger than one and one half (1 ½) square feet, or as required by the FCC.

#### **F. FEDERAL AND STATE REQUIREMENTS**

All communication towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal or state government with the authority to regulate towers and antennas.

#### **G. BUILDING CODES AND SAFETY STANDARDS**

The owner of a tower shall ensure that it is built and maintained in compliance with the latest standards contained in applicable state and local building codes, and the applicable standards for towers that are published by the State of Wisconsin administrative agency with jurisdiction.

#### **H. SETBACKS**

All alternative tower structures, communication towers, and antennas shall be set back from all dwellings a minimum of one (1) foot for each foot of overall structure height including antennas. If an application for a conditional use permit is required, this one-to-one (1:1) setback requirement may be increased or decreased on a site-by-site basis by the applicable governing authority at its sole discretion; however, in no case shall the structures, towers, and antennas be closer than five hundred (500) feet from any residential parcel.

#### **I. CONDITIONAL USE PERMITS**

Refer to Section 7.01 B Antennas and Communication Towers.

#### **J. REMOVAL OF ABANDONED TOWERS AND ANTENNAS**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the governing authority may remove such antenna or tower at the expense of the tower or antenna owner, or at the expense of the property owner in the case where the owner of the tower or antenna is leasing the property upon which the tower or antenna is installed. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

## **7.10 SIGNS**

### **A. SIGN PERMIT REQUIRED**

No permanent sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a Sign Permit, and without being in conformity with the provisions of this ordinance. The sign shall also meet all the structural requirements of the building code. Applications shall be available in the office of the Town Clerk and permits for applications which conform with this ordinance shall be issued by the Clerk upon payment of the fee set by the Town Board.

### **B. GENERAL RESTRICTIONS**

- (1) Illumination:** All illuminated signs require a sign permit, whether permanent or temporary. Where a reflecting, radiating or other illuminated sign is allowed:
  - (a) Light shall not be projected toward or onto property located in residential districts or onto public highways.
  - (b) Such illumination shall be indirect and non-flashing, and the source of light shall not be exposed.
- (2) Additional requirements:** Landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, traffic safety and restriction, or increased yard may be required by the Town Board before issuance of the Sign Permit upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- (3) Condition:** All signs shall be maintained in good condition as determined by the Town Board.
- (4) Setback:** All signs shall conform to the setback restrictions of the respective zoning districts except as otherwise provided in this ordinance.
- (5) Political signs:** Pursuant to Section 12.04, Wisconsin Statutes (2001-2002), no part of Section 7.10 SIGNS shall be construed as regulating the size, shape, placement or content of any sign containing a political message, when such sign is placed upon residential property during an election campaign period, except such regulations as may be allowed by applicable sections of the Wisconsin Statutes.

### C. RESIDENTIAL AND CONSERVANCY DISTRICTS

Signs are prohibited in the Residential and Conservancy Districts except for the following unlit signs which shall meet a minimum setback of ten (10) feet from the right-of-way and property lines and shall not exceed a height of six (6) feet:

- (1) Signs over windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor.
- (2) Real estate signs not to exceed ten (10) square feet which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- (3) Name, occupation, and warning signs not to exceed eight (8) square feet; and shall be located on the premises.
- (4) Bulletin boards for public, charitable or religious institutions; and shall be located on the premises of said institution.
- (5) Memorial signs, tablets, names of buildings, and dates of erection.
- (6) Official signs, such as traffic control, parking restrictions, information and notices.
- (7) Construction signs, not to exceed ten (10) square feet, carrying the name of the contractors, engineers, and/or architects during the construction period.

### D. AG, BUSINESS, RURAL HAMLET, AND INDUSTRIAL DISTRICTS

(1) Permitted signs in the Agricultural, Business, Rural Hamlet, and Industrial Districts:

- (a) On-site identification signs that reference the property on which located, or product made or sold at that property, if unlit and less than twenty-five (25) square feet; such signs shall meet a minimum setback of ten (10) feet from right-of-way and property lines and shall not exceed a height of six (6) feet.
  - (b) Off-site advertising signs are not permitted.
- (2) Permitted signs in the Business and Industrial Districts:
- (a) **Wall signs** placed against the exterior walls of buildings shall not extend more than twelve (12) inches outside of a building's wall surface, shall not exceed one hundred fifty (150) square feet in area for any one building, and shall not exceed twenty (20) feet in height above the building grade.
  - (b) **Projecting signs** fastened to, suspended from, or supported by structures shall not exceed sixty (60) square feet for any one premises; shall not extend more than six (6) feet into any required side yard; and shall not be less than ten (10) feet from all side lot lines. In addition, such signs shall not exceed a height of twenty (20) feet above the mean centerline street grade, and shall not be less than ten (10) feet above the sidewalk or fifteen (15) feet above a driveway or an alley. A Conditional Use Permit is required for signs greater than sixty (60) square feet, but in no case shall such signs exceed one hundred (100) square feet. Application shall be made as set forth in Section 7.06 C Application.

- (c) **Ground signs** shall not exceed twenty (20) feet in height above the mean centerline street grade; shall meet all yard requirements for the district in which located; and shall not exceed sixty (60) square feet on one side or one hundred twenty (120) square feet on all sides for any one premises. A Conditional Use Permit is required for signs greater than sixty (60) square feet, but in no case shall such signs exceed one hundred (100) square feet. Application shall be made as set forth in Section 7.06 C Application.
- (d) **Roof signs** shall not exceed the height of the roof; shall meet all the yard and height requirements for the district in which located and shall not exceed one hundred fifty (150) square feet on all sides for any one premises.
- (e) **Window signs** shall be placed only on the inside of buildings.
- (f) **Combinations** of any of the above signs shall meet all requirements for the individual sign.

**E. TEMPORARY AND PORTABLE SIGNS**

Temporary and portable signs and banners shall not exceed thirty (30) square feet and shall not be lit after 10:00 p.m. They shall be erected no earlier than fourteen (14) days before an event and removed no later than five (5) days after the event, and shall be allowed for one (1) event per calendar year, per property.

**F. LOCATION OF SIGNS LIMITED**

No sign except those permitted in Section 7.10 C Residential and Conservancy Districts shall be erected within five hundred (500) feet of any Residential District, Conservancy District, park or other desirable natural feature so as to obstruct the visual enjoyment of such feature from any vantage point such as bridges, highways, streets or other pedestrian or vehicular ways.

**G. DESIGN AND PLACEMENT**

Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

**H. EXISTING SIGNS**

Signs lawfully existing at the time of the adoption or amendment of this ordinance may be continued although the use, size, or location does not conform with the provisions of this ordinance. However, it shall be deemed a nonconforming use or structure, and the provisions of Section 7.08 NONCONFORMING USES AND PROPERTY shall apply.

**7.11 OFF-STREET PARKING AND LOADING**

**A. GENERAL REQUIREMENTS**

No building or other structure shall hereafter be erected, altered, or enlarged, nor shall any use of land be established, unless the minimum off-street parking and loading spaces set out in this section are provided.

- (1) A required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length exclusive of access drives or aisles, ramps, columns, or work areas, and shall have a vertical clearance of at least nine (9) feet.
- (2) Each required off-street parking space shall open directly upon an aisle, driveway, or alley of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- (3) Off-street parking spaces open to the sky may be located in any yard, except that in Residential Districts no such parking spaces shall be located in a required front yard or a required side yard adjacent to a street. When parking is located in an interior side yard, a five (5) foot green strip of grass and landscaping shall be maintained contiguous to the abutting property.
- (4) Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable in the district in which located.
- (5) No obstructions, such as structures, parking, or vegetation, shall be permitted that interferes with traffic visibility.

#### **B. REQUIRED OFF-STREET PARKING SPACE**

Minimum parking space requirements shall be provided in the following amounts:

- (1) **Living quarters:** two (2) for each dwelling unit.
- (2) **Hotel, motel or Bed and Breakfast:** one (1) for each lodging unit.
- (3) **Places of public assembly, auditorium, theater, church:** one (1) for each six (6) seats based on maximum seating capacity; bowling alley: five (5) for each alley; dance hall, skating rink, or private club: one (1) for each one hundred (100) square feet of floor area used for dancing or assembly.
- (4) **Industrial or manufacturing:** one (1) for each employee on the maximum eight-hour shift.
- (5) **Taverns, restaurants, and retail stores:** one (1) for each two hundred (200) square feet of floor space;
- (6) **Offices:** one (1) for each employee.
- (7) **Unspecified:** in case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be the same as the previously-mentioned uses which in the opinion of the Town Board shall be deemed most similar.

#### **C. LOADING REQUIREMENTS**

In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public way and need not back onto the public way.

## **7.12 VARIANCES AND APPEALS**

### **A. FORMATION AND MEMBERSHIP**

A Board of Appeals is hereby established under authority of Chapters 60.74(7), 61.35, and 62.23, Wisconsin Statutes (2001-2002). The Board of Appeals shall consist of five (5) residents of the Town of Mosel, appointed by the Chair of the Town Board and subject to confirmation by the Town Board. No Town Board member may serve as a member of the Board of Appeals. Terms of service shall be three (3) years, except that of those first appointed, one (1) member shall serve for one (1) year, two (2) members shall serve for two (2) years, and two (2) members shall serve for three (3) years. The Town Board Chair shall designate one of the members as the Board of Appeals Chair. The Board of Appeals members shall select an acting Chair in the absence of the appointed Chair. Compensation for the members shall be determined by the Town Board. The Board of Appeals may employ a secretary and other employees. Members shall be removed from office by the Town Board Chair only for cause upon written charges and after a public hearing.

#### **B. ALTERNATE MEMBERS**

The Town Chair may appoint, for staggered terms of three (3) years, two (2) alternate members of the Board of Appeals in addition to the five (5) members above provided. The alternates shall be residents of the Town of Mosel and shall not be members of the Town Board. Annually, the Town Chair shall designate one of the alternate members as 1<sup>st</sup> alternate and the other, as 2<sup>nd</sup> alternate. The 1<sup>st</sup> alternate shall act, with full power, only when a member of the Board of Appeals refuses to vote because of an actual or perceived conflict of interest or when a member is absent. The 2<sup>nd</sup> alternate shall act only when the 1<sup>st</sup> alternate refuses or is absent or when more than one member of the Board of Appeals refuses or is absent.

#### **C. VACANCY**

A vacancy shall be filled for the unexpired term of a member or alternate whose office becomes vacant. The Town Board shall submit a list of candidates to the Town Chair, who shall accept or reject the names submitted. If all names are rejected, the Town Board shall submit a new list.

#### **D. RULES AND MEETING PROCEDURE**

The Board of Appeals shall adopt rules in accordance with the provisions of this section of the ordinance. Meetings shall be held at the call of the Board of Appeals Chair and at such other times as the Board of Appeals may determine. The Chair or acting Chair may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Appeals shall take no action unless at least four (4) members are present.

#### **E. MINUTES**

The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or indicating a member that is absent or fails to vote. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the offices of the Board of Appeals and Town Clerk and shall be a public record. The minutes shall include the grounds of every determination by the Board of Appeals. In the case of a variance from the ordinance, the minutes shall

affirmatively show that literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, and that a variance will not be contrary to the public interest.

#### **F. FILING NOTICE OF APPEAL**

Appeals may be made by any aggrieved person or by any officer, department, or board of the Town affected by any decision of any administrative officer of the Town. The appeal form shall be available in the offices of the Board of Appeals and the Town Clerk; the filing fee shall be determined by the Town Board. Such appeal shall be made within sixty (60) days of the aggrieving action, or as otherwise provided by the rules of the Board of Appeals, by filing a notice of appeal with the administrative officer whose decision is being appealed, with the Board of Appeals, and with the Town Clerk. Such notice shall specify, at a minimum, the grounds for the appeal, the names and addresses of all parties involved, the date and nature of the aggrieving action, and the remedy sought. The administrative officer shall upon receipt of such notice transmit to the Board of Appeals the full record relative to the aggrieving action.

#### **G. STAY OF PROCEEDINGS UPON FILING**

An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals that, by reason of facts submitted with the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed except through a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

#### **H. HEARING OF THE APPEAL**

The Board of Appeals shall schedule a hearing of the appeal or other matter referred to it within sixty (60) days of receiving a completed application; shall give public notice via Class 1 publication; shall notify neighboring property owners and the parties in interest according to the Wisconsin Statutes; and shall decide the same within a reasonable time. Any party may appear at the hearing in person or by agent or attorney.

#### **I. POWERS**

Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district. The Board of Appeals shall have all powers pursuant to the Wisconsin Statutes and the Wisconsin Administrative Code, and the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative officer of the Town in the enforcement of the Town of Mosel Zoning Ordinance or of any ordinance adopted pursuant thereto.
- (2) To hear and decide special exceptions to the terms of the ordinance upon which the Board of Appeals is required to pass under this ordinance.

- (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (4) To permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for public convenience and welfare.

#### **J. ASSUMPTION OF POWERS**

Insofar as the Board of Appeals acts in conformity with the provisions of this Ordinance, the Board of Appeals shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit. In exercising its powers, the Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes ought to be made.

#### **K. SUPER-MAJORITY VOTE**

The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation from the terms of the ordinance. The grounds of every such determination shall be stated in the minutes.

### **7.13 CHANGES AND AMENDMENTS**

#### **A. AUTHORITY**

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may by ordinance change the district boundaries or amend, change, or supplement the regulations established by this ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Planning and Zoning Commission.

#### **B. INITIATION OF CHANGE OR AMENDMENT**

A change or amendment may be initiated by the Town Board or by a petition filed by one or more of the owners of property within the area proposed to be changed.

#### **C. FILING OF PETITION**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk. Said petition shall describe the premises to be rezoned or the regulations to be amended; list the reasons justifying the petition; specify the proposed use; and include the following:



- (1) Plat plan, drawn to scale, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within four hundred (400) feet of the area proposed to be rezoned.
- (2) Owners' names and addresses of all properties within the area to be rezoned and within four hundred (400) feet of the area proposed to be rezoned.
- (3) Additional information as required by the Planning and Zoning Commission or Town Board.
- (4) Fee receipt. The filing fee for the petition shall be determined by the Town Board.

#### **D. COMMISSION RECOMMENDATION AND TOWN BOARD ACTION**

The Planning and Zoning Commission shall review all proposed zoning changes and amendments within the corporate limits and/or to the Zoning Ordinance. The Commission shall hold a public hearing upon each proposed change or amendment, giving at least ten (10) days prior notice by publication at least one (1) time during the preceding thirty (30) days. The notice shall include the hearing time and location and the change or amendment proposed. The Commission shall submit a written recommendation to the Town Board prior to the Town Board's public hearing. The Town Board shall hold a public hearing after receiving said recommendation, giving at least ten (10) days prior notice by publication; said publication shall be by Class 2 notice and shall list the time, place and change or amendment proposed. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of any municipality within one thousand (1000) feet of any land to be affected by the proposed change or amendment.

Following said hearing and after careful consideration of the Planning and Zoning Commission's recommendations, the Town Board shall vote to approve, modify or deny the passage of the proposed change or amendment.

#### **E. PROTEST**

A protest against a change or amendment must be duly signed and acknowledged by:

- (1) the owners of 20% or more of the area included in the proposed amendment;  
or
- (2) the owners of 20% or more of the area immediately adjacent to the subject area and extending one hundred (100) feet therefrom; or
- (3) the owners of 20% or more of the area directly opposite the subject area and extending one hundred (100) feet from the street frontage of such opposite land.

The amendment shall not become effective except by the favorable vote of two-thirds of the members of the Town Board voting on the proposed change.

#### **F. FAILURE TO ACT**

If an application for a proposed amendment is not acted upon finally by the Town Board within six (6) months of the date upon which the findings and recommendations of the Planning and Zoning Commission are filed with the Board, it shall be deemed to have been denied.

## **7.14 BONUS LOT PRESERVATION PLAN (BLPP)**

### **A. PURPOSE AND INTENT**

The purpose of the Bonus Lot Preservation Plan is to implement the farmland preservation objectives within the Town of Mosel Land Use Planning Program and/or an adopted Comprehensive Plan, as well as the objectives of the Sheboygan County Farmland Preservation Plan. This plan contains an overlay zone that allows the development of lands in specified districts at densities greater than otherwise allowed in order to generate funds from the sale of bonus lots to purchase development rights from willing landowners in the Priority Agricultural Preservation Zone, mapped and made a part of this section by reference, and to encourage a more economical use of land that is suited to residential development by permitting more intensive use of such lands without changing the overall rural character of the Town.

Preservation of Agricultural Lands: Lands eligible for preservation through the purchase of development rights must be within the Priority Agricultural Preservation Zone. The majority of lands in this zone have been determined by analysis to be actively farmed, mostly contiguous, consisting primarily of U.S.D.A. Class I and II soils for prime agricultural use, and not likely to undergo development in the near future.

Economical Use of Land: Higher densities on lands already desirable for development concentrate development in fewer areas of the Town than otherwise might occur. Density ratios are calculated to provide an incentive to developers to choose the overlay option; to generate sufficient funding to purchase development rights on approximately the same amount of land that is being developed; and to not exceed densities that would negatively impact the Town's rural character.

### **B. FINDINGS**

- (1) Past Town of Mosel citizen input surveys and consensus mapping exercises conducted by Sheboygan County UW-Extension have shown the vast majority of residents want to preserve agricultural land and rural character within the Town.
- (2) The Land Evaluation and Site Assessment (LESA) model developed by the Sheboygan County Planning Department identified sizable tracts of prime farmland throughout the Town of Mosel. The 2002 land use survey by the Bay-Lake Regional Planning Commission showed 77% of the land within the Town was used for agriculture.
- (3) The Town has been a participant in the state Farmland Preservation Program since the early 1980s.
- (4) Proactive tools like the Bonus Lot Preservation Plan and Purchase of Development Rights have become increasingly important as development pressures increase due to the presence of Interstate 43 and local amenities such as Lake Michigan and Whistling Straits, as well as the increased availability of new on-site waste disposal systems made possible by COMM 83.

- (5) The permanent acquisition by the Town of voluntarily offered development rights, as provided in this Section, will permit these lands to remain in farmland and provide long-term protection for the public interests which are served by contiguous productive farmlands.

### **C. DEFINITIONS**

For the purpose of this section, the following definitions shall be used.

#### **(1) DENSITY**

The number of acres of land per dwelling. This figure is used to calculate the maximum yield of dwellings for a particular property. For example, five-acre density would yield a maximum of eight dwellings on a 40-acre parcel. (Note: Density is not always necessarily equivalent to minimum lot size.)

#### **(2) DEVELOPMENT RIGHTS**

An interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities not incident to agriculture and open space.

#### **(3) LAND PROTECTION AGREEMENT**

A voluntary agreement between a private landowner and a municipal agency or qualified not-for-profit corporation to restrict the development, management, or use of a particular property. That agency holds the interest and is empowered to enforce its restrictions against the current landowner and all subsequent owners of the land.

#### **(4) LIKELY TO UNDERGO DEVELOPMENT**

Land included in, adjacent to, or within one-half mile of a planned or existing sewer service area or incorporated municipality; land currently zoned for development; land identified in the Town of Mosel Comprehensive Plan as being suitable for future development; or land where an expectation of development has been reasonably established.

#### **(5) LOCAL QUALIFIED LAND TRUST**

A non-profit entity that has adopted the “Standards and Practices” of the Land Trust Alliance and has formally identified the Town of Mosel as being within its service area; in this case, Glacial Lakes Conservancy.

#### **(6) OVERLAY ZONE**

A zoning district imposed over existing zoning districts and containing provisions that are applicable in addition to those contained in the zoning law.

#### **(7) PDR FUND**

A separate account, segregated from the Town of Mosel general fund, containing funds used exclusively for costs directly associated with the scoring of program applications, the purchase of development rights, and the legal defense of land protection agreements within the Town.

#### **(8) PRIORITY AGRICULTURAL PRESERVATION ZONE**

A mapped area within the Town of Mosel identified for the preservation of farmland based on relevant factors such as soil types, land use, land values, agricultural contiguity, and limited existing development or development infrastructure.

## **(9) VALUE OF DEVELOPMENT RIGHTS**

The difference between the fair market value of full ownership of the land (excluding the buildings thereon) and the fair market value of the agricultural rights retained by the owner.

## **D. APPLICATION PROCEDURES AND GENERAL REQUIREMENTS**

- (1)** Landowners interested in selling their development rights must submit an official Purchase of Development Rights Application, available from the Town Clerk. An application may be submitted at any time; after scoring, applications are ranked and considered for offers as sufficient funds become available.
  - (a) Potential sellers of residential development rights shall provide documentation at the time of submittal of their application indicating ownership of the subject property or the authority to make commitments on the sale of such rights, including a mortgage subordination agreement, if applicable.
  - (b) Incomplete applications, applications containing inaccurate information, or applications involving properties outside the Priority Agricultural Preservation Zone will not be scored. The Town of Mosel Plan Commission, or a local qualified land trust appointed by and acting on behalf of the Commission, shall score applications within 90 days of receipt. After an application is scored, the Plan Commission shall have up to sixty days to notify the applicant of the results.
  - (c) Application scoring criteria are described in the "Purchase of Development Rights Score Sheet", made a part of this section by reference. Any changes to the criteria shall be implemented pursuant to the amendment procedures for the Town Zoning Ordinance specified in Section 7.13. A minimum score of 110 on the Score Sheet is required for funding consideration. The Plan Commission is responsible for scoring applications; however, the Commission may assign this task to the aforementioned land trust, and if such assignment is made the land trust shall be compensated from the PDR fund for its time and expertise; this compensation shall not exceed \$75 per application.
  - (d) The submission of an application does not bind the Town of Mosel to accept or purchase development rights, regardless of the applicant's score. The decision whether or not to purchase development rights is solely up to the Town Board, whose decision may be appealed to the Board of Appeals pursuant to Section 7.12 of the Zoning Code.
  - (e) An application is considered a formal offer to sell development rights; however, a landowner may withdraw an offer at any time prior to acceptance of the offer by notifying the Town Clerk in writing.
- (2)** Developers who choose to take advantage of the Bonus Lot Preservation Plan's bonus densities must first submit a Bonus Lot Preservation Plan Agreement to the Town Clerk.

- (a) Proceeds from the sale of bonus lots awarded in the overlay zone are split evenly between the developer and the local purchase of developments rights (PDR) fund. Once two-thirds of the lots or dwelling units within the development subject to said Plan Agreement have been sold, the developer shall, within 13 months of the closing of the lot or dwelling unit marking the two-thirds ratio, make a payment to the local PDR Fund equal to the mean sale price of the lots sold multiplied by one-half the number of bonus lots created. If said payment is not made in a timely manner, the developer shall pay an additional \$5,000 to the PDR Fund for each month beyond the 13-month deadline that the payment remains outstanding.
  - (b) Density ratios are listed in the tables in Section E and are based on the gross land area of a property. Smaller minimum lot sizes, created to make room for higher densities, are allowed as specified in the overlay zone.
- (3) As a condition of any development rights purchase, a land protection agreement (also known as a conservation easement) that restricts further non-agricultural development in perpetuity shall be placed on the subject property through negotiation between the landowner and a local qualified land trust. Said agreement shall be recorded with the Sheboygan County Register of Deeds prior to the payout of PDR funds.
  - (4) An endowment fund fee for the legal defense of the land protection agreement, not to exceed two percent of the development rights payout, shall be transferred from the PDR fund to the land trust that is a party to the agreement.

**E. DENSITY CALCULATIONS**

- (1) Standard Densities and Minimum Lot Sizes: The standard densities and minimum lot sizes in the Town Zoning Ordinance remain unchanged. Developer utilization of the Bonus Lot Preservation Plan is voluntary. Developers who elect not to participate will remain subject to the lower density for which their land is zoned
- (2) Bonus Lot Preservation Plan Overlay Zone Densities and Minimum Lot Sizes:
  - (a) The overlay densities and lot sizes apply only in the Town’s A-2, R-1, R-2, and R-3 districts, and then only when invoked by the developer. Density bonuses are awarded for the purpose of generating funds to preserve approximately the same amount of priority farmland in the Town as is being subdivided. To accomplish this objective, the bonus ratios listed in the tables in this section, which can be periodically amended to reflect significant changes in land and development rights values, are based on typical rural lot prices and development rights costs in the area.
  - (b) The Town Plan Commission shall calculate the number of bonus lots to be awarded based on the gross density of the property proposed to be developed. (Note: Overlay density calculations are always rounded up. For example, 1.3 = 2 lots.) To calculate the number of bonus lots

for a 35-acre parcel in R-1 (sewered), first convert to square footage (35 acres multiplied by 43,560 square feet per acre equals 1,524,600). Then divide by the standard density (1,524,600 divided by 20,000 equals 76). Next, divide the total square footage by the overlay density (1,524,600 divided by 18,750 equals 81.31, rounded up to 82). Subtracting 76 from 82 results in 6 bonus lots.

- (c) Developers always have the option to create fewer lots than the number they are entitled to create. For example, a developer of an 80-acre parcel in A-2 can choose to create a 20-lot subdivision rather than the 22-lot subdivision allowed under the overlay. Rather than the potential six (6) bonus lots, there would be four (4) bonus lots. Note: The number of lots allowed in all districts includes lots developed as non-residential uses.
- (d) Allowable Overlay Densities
  - (i) A-2 General Agricultural District:  
Standard density and minimum lot size: 5 acres;  
Overlay density: 3.8 acres; minimum lot size: 3.0 acres
  - (ii) R-1 Single-Family Residential District (unsewered).  
Standard density and minimum lot size: 60,000 sq. ft.  
Overlay density: 54,500 sq. ft.; minimum lot size: 50,000 sq. ft.
  - (iii) R-1 Single-Family Residential District (sewered).  
Standard density and minimum lot size: 20,000 sq. ft.  
Overlay density: 18,750 sq. ft.; minimum lot size: 18,000 sq. ft.
  - (iv) R-2 Two-Family Residential District (unsewered)  
Standard density and minimum lot size: 60,000 sq. ft.  
Overlay density: 57,000 sq. ft.; minimum lot size: 52,000 sq. ft.
  - (v) R-2 Two-Family Residential District (sewered)  
Standard density and minimum lot size: 20,000 sq. ft.  
Overlay density: 19,100 sq. ft.; minimum lot size: 18,000 sq. ft.
  - (vi) R-3 Multi-Family Residential District (unsewered)  
Standard density and minimum lot size: 65,000 sq. ft. for three-family,  
70,000 for four-family  
Overlay density: 62,250 sq. ft. for three-family; 67,250 for four-family  
Overlay minimum lot size: 56,500 sq. ft. for three-family;  
61,000 for four-family
  - (vii) R-3 Multi-Family Residential District (sewered)  
Standard density and minimum lot size: 20,000 sq. ft.  
Overlay density: 19,100 sq. ft.; minimum lot size: 18,000 sq. ft.

Although the use in the R-2 or R-3 district may consist entirely of one dwelling type, the standard zoning allows a combination of single-, two-, three- or four-family dwelling types depending on the district. Therefore to determine the number of total bonus lots, it may be necessary to perform separate calculations for each dwelling type proposed to be part of the development. For example, if an unsewered 80-acre parcel contains 40 acres

of single-family and 40 acres of two-family, the number of bonus lots for each type would be calculated separately, then totaled.

**(e) Sample Development Scenarios**

<b>Zoning</b>	<b>Size of Parent Property to be Divided</b>	<b>Lots (Units) Allowed: Standard Zoning</b>	<b>Lots (Units) Allowed: BLPP Overlay Zoning</b>	<b>Total Number of Bonus Lots</b>
A-2	40 acres	8	11	3
A-2	80 acres	16	22	6
R-1	20 ac. (871200 sq ft)	14	16	2
R-1	60 ac. (2613600 sq ft)	43	48	5
R-1 (sewer)	20 ac. (871200 sq ft)	43	47	4
R-1 (sewer)	60 ac. (2613600 sq ft)	130	140	10
R-2	20 ac. (871200 sq ft)	14 (28)	16 (32)	2
R-2	80 ac. (3484800 sq ft)	58 (116)	62 (124)	4
R-2 (sewer)	20 ac. (871200 sq ft)	43 (86)	46 (92)	3
R-2 (sewer)	80 ac. (3484800 sq ft)	174 (348)	183 (366)	9
R-3 (3-family)	40 ac. (1742400 sq ft)	26 (78)	28 (84)	2
R-3 (3-family)	80 ac. (3484800 sq ft)	53 (159)	56 (168)	3
R-3 (4-family)	40 ac. (1742400 sq ft)	24 (96)	26 (104)	2
R-3 (4-family)	80 ac. (3484800 sq ft)	49 (196)	52 (208)	3
R-3 (sewer)	40 ac. (1742400 sq ft)	87 (261-348)	92 (276-368)	5
R-3 (sewer)	80 ac. (3484800 sq ft)	174 (522-696)	183 (549-732)	9

**F. APPRAISAL**

The Town of Mosel does not require an appraisal under this program, since the Town has established a fee that it will pay for development rights as listed in Section 11.04 of the Mosel Municipal Code. An applicant interested in claiming a charitable deduction for the difference between the Town’s PDR payment and the appraised value of his or her full development rights should consult a tax advisor and a certified real estate appraiser.

**G. PURCHASE OF DEVELOPMENT RIGHTS (PDR) FUND**

- (1) The revenues from bonus lots shall be deposited in a PDR Fund to be hereafter created by the Treasurer of the Town of Mosel as a separate account, segregated from the Town’s general funds. Money in this PDR Fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of Town money.
- (2) The revenues from the bonus lots and any interest received from the deposit or investment of such revenues shall be applied and used solely for the purposes set forth in this Section.

- (3) In the event of the discontinuance of this Section, any funds remaining in the PDR Fund shall be donated to the local qualified land trust to be used for conservation projects on lands within the Town of Mosel; if said land trust no longer exists, the funds shall be deposited to the Town of Mosel general fund to be used as the Town deems appropriate.

#### **H. DURATION OF ACQUIRED DEVELOPMENT RIGHTS**

Development Rights acquired pursuant to this Section shall be mutually held by a local qualified land trust and the Town of Mosel for the benefit of its citizens in perpetuity, subject to the following: If the original or subsequent landowner finds that the property can no longer be appropriately used for agriculture, the landowner may petition the Town Plan Commission to repeal the land protection agreement. The landowner shall present evidence in support of his/her contention; such evidence shall be based on characteristics of the property or its surroundings and shall not be related to the landowner's individual circumstances. The Plan Commission may consult with an independent specialist to help it determine whether the property in question can no longer be used for agricultural use. An affirmative vote by no less than five members of the Plan Commission shall be required to forward a recommendation to repeal the agreement to the board of directors of the local qualified land trust for review. Following such recommendation, an affirmative vote of no less than a two-thirds majority of the board of directors of said land trust shall be required to forward a recommendation to repeal the agreement to the Mosel Town Board. The Town Board must then approve the recommendation to repeal the agreement by a majority vote.

Should the Town Board approve the repealing of the agreement, the repeal would be effective when the Town receives payment from the landowner for the buy-back of the development rights for the property in an amount equal to the original PDR payment plus interest calculated at six percent (6%) plus the Prime interest rate (as reported in the Wall Street Journal on the date petition for repeal is made) for each year since the original payment. For example, the original PDR payment was \$100,000 and the repeal is approved 30 years later. The prime interest rate is 5%. The amount to buyback the development rights would be  $(\$100,000 + (\$100,000 \times 11\% \times 30 \text{ yrs}) = \$430,000)$ . An additional penalty equal to 10 percent of the calculated buyback payment will be due if a landowner wishes to buy back development rights within 25 years of the original PDR payment. This payment shall be deposited in the PDR Fund; if said Fund no longer exists, the payment shall be made to the local qualified land trust to be used for conservation projects within the Town of Mosel; if said land trust no longer exists, the payment shall be made to the Town of Mosel to be used as the Town deems appropriate.

#### **I. DISCONTINUANCE OF BONUS LOT PRESERVATION PLAN**

Rescinding this Section requires a two-thirds vote of the Town of Mosel Board.

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