

CHAPTER 12
LICENSES AND PERMITS
LICENSES REQUIRED

Amended 10/14/2015 – 12.05
Transient Merchants

Amended 8/9/2022 – 12.08
Short-Term Rentals.

Amended 5/26/2023 - added
12.09 Mobile Food
Establishments

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12.01 LICENSES REQUIRED.

A license shall be required for each of the following businesses or activities at the indicated license fee, which shall be for one year unless otherwise indicated:

- 1) Soda water beverages. \$5.
- 2) Cigarettes. \$5.
- 3) Dogs. (a) Neutered and Spayed. \$5 (b) Non-Neutered and Spayed \$8
- 4) Direct sellers. \$5 investigation fee.

12.02 GENERAL PROVISIONS AS TO LICENSES.

- 1) **TERMS INTERCHANGEABLE.** The words "license" and "permit" as used throughout this chapter shall be interchangeable.
- 2) **LICENSE REQUIRED.** No person shall engage in any business or activity enumerated in 12.01 without a license therefore as provided by this chapter.
- 3) **APPLICATION.** Application for a license required by this chapter shall be made to the Clerk on a form furnished by the Village and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the Village Board.
- 4) **LICENSE FEES.**
 - a) **FEES TO ACCOMPANY APPLICATION.** License fees imposed under 12.01 shall accompany the application. If a license is granted, the Clerk shall issue the applicant a receipt for his license fee.
 - b) **REFUNDS.** No fee paid shall be refunded unless the license is denied.
- 5) **GRANTING OF LICENSES.** Unless otherwise designated, licenses required by this chapter shall be issued by the Village Clerk.
- 6) **TERMS OF LICENSES.** Unless otherwise provided by this chapter or State law, all licenses issued hereunder, shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at midnight of the last effective day of the license.
- 7) **FORM OF LICENSE.** All licenses issued hereunder shall show the dates of issue and expiration and the activity licensed and shall be signed by the Clerk.
- 8) **RECORDS OF LICENSES.** The Clerk shall keep a record of all licenses issued.
- 9) **DISPLAY OF LICENSES.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued or, if carried on the person, shall be displayed to any officer of the Village upon request.
- 10) **COMPLIANCE WITH ORDINANCES REQUIRED.** It shall be a condition of holding a license under this chapter that the licensee complies with all ordinances of the Village. Failure to do so shall be cause for suspension or revocation of the license.
- 11) **TRANSFER OF LICENSES.** All licenses issued hereunder shall be personal to whom issued, and no license shall be transferred without the consent of the Board.
- 12) **RENEWAL OF LICENSES.** Unless otherwise provided, all applications for renewal of licenses hereunder shall be made to the Clerk 15 days prior to their renewal date.

13) **CONSENT TO INSPECTION.** An applicant for a license under this chapter thereby consents to the entry of authorized representatives of the Village upon the licensed premises at all reasonable hours for the purposes of inspection and search and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or State law.

14) **REVOCATION AND SUSPENSION OF LICENSES.**

- a) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the Village Board. No license shall be revoked except upon written verified complaint filed with the Board by the Village President, a member of the Board or a resident of the Village. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the Board. The licensee shall be given notice of such hearing, which shall be not more than 20 or less than 5 days after notice, except as otherwise agreed between the parties.
- b) At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross-examine witnesses and, upon request, may have subpoenas issued by the Village President or presiding officer of the Board to compel the attendance of witnesses.
- c) After hearing the evidence, the Village Board may revoke such license or impose a limited period of suspension. The determination of the Board shall be final, subject to review under **Ch. 68, Wis. Stats.**, provided the licensee shall not be entitled to a further hearing granted by the Village Board.
- d) If the licensee does not apply for a hearing within the time provided, the Village Board may revoke the license.

12.03 CIGARETTES AND TOBACCO PRODUCTS.

No person shall in any manner, upon any pretense or by any device, directly or indirectly, sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as herein provided or a permit under §139.30 to 139.41 or 139.79, **Wis. Stats.**, without first obtaining a license from the Village Clerk.

12.04 DOGS AND OTHER ANIMALS.

- 1) **LICENSE REQUIRED.** Every person owning, keeping, or harboring a dog in the Village which is more than five (5) months of age shall annually within sixty (60) days after January 1, or at such other time as he may come into possession, charge or custody of any unlicensed dog more than five (5) months of age, register such dog or dogs in the office of the Village Clerk.
- 2) **FEES.** The owner shall annually pay the Village Treasurer a license fee as provided in §12.01 for each dog five (5) months of age or older or one-half the required fee if the dog becomes five (5) months old after July 1 of the license year. The Village Treasurer's receipt therefor shall be presented to the Village Clerk before he shall issue any license hereunder. A late fee of five dollars (\$5) shall also be assessed from every owner of a dog five (5) months of age or older if the owner failed to obtain a license prior to April 1 of each year.
- 3) **FORM OF LICENSE, COLLAR TAGS, EXPIRATION.** Licenses issued shall be on forms furnished by the county clerk and shall be accompanied by collar tags also furnished by the county clerk. Such forms and tags shall be as specified in §174.07, **Wis. Stats.** For each license so issued, the Clerk shall pay to the County Clerk one-half (1/2) of the sum collected. All licenses shall expire on December 31 of each year.

- 4) **STATE REGULATIONS.** Chapter 174, Wis. Stats., pertaining to licensing of dogs is made a part of this chapter by reference.
- 5) **DOGS NOT TO RUN AT LARGE.** No owner or person in control of or having custody of a dog shall allow the same to run at large within the Village. A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.
- 6) **HARBORING CERTAIN DOGS PROHIBITED.** No person shall own, harbor or keep a dog which:
 - a) Habitually pursues any vehicle upon any public street, alley or highway.
 - b) Habitually pursues any person walking upon the sidewalk adjacent to the premises where such dog is kept or upon the public highway adjacent to such premises.
 - c) Assaults or attacks any person.
 - d) Is vicious. Showing that a dog has bitten, attacked, or injured any person shall constitute a prima facie, showing that such dog is vicious.
 - e) Habitually howls or barks.
- 7) **ENFORCEMENT.** The pound officer and any police officer shall attempt to seize and impound any dog found running at large in the Village or which does any of the things prohibited under sub. (6) and confine the same in a suitable dog pound.
- 8) **ATTEMPT TO NOTIFY OWNER.** The pound or officer to whom the dog is delivered shall make a reasonable effort to determine ownership. If ownership can be determined, such individual shall be notified in person or by mail as to where the dog is detained. If the owner is unknown or does not claim the dog within seven (7) days after the dog is delivered to the pound, the pound officer shall dispose of the dog in a proper and humane manner or may release the dog as provided in §174.046 (7), (8), (9), Wis. Stats.
- 9) **BOARDING FEE AND RELEASE FROM POUND.** A boarding fee of five dollars (\$5) per dog shall be paid to the pound officer. No dog shall be released from the pound without evidence of proper license, payment of boarding fees, and payment of other penalties for violation of this section.

12.05 TRANSIENT MERCHANTS

- 1) **REGISTRATION REQUIRED.** No person shall engage in direct sales or render a service on public property within the Village without being registered for that purpose as provided in this section and upon approval by the Ephraim Board of Trustees.
- 2) **DEFINITIONS.** As used in this section, the following terms shall have the meaning indicated:
 - a) **CLERK.** The Village Clerk, or his/her designee.
 - b) **DIRECT SELLER.** Any individual who, for himself or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of such individual, partnership, association, or corporation and shall include, but not be limited to, peddlers, solicitors, and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
 - c) **GOODS.** Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

- d) **NON PROFIT ORGANIZATION.** An Organization that qualifies for charitable status from the Department of Revenue.
- e) **PERMANENT MERCHANT.** A direct seller who for at least one (1) year prior to the consideration of the application of this section has continuously operated an established place of business in this Village and now does business from his residence.
- f) **TRANSIENT MERCHANT.** Any person who either as principal or agent engages in a temporary or transient business either in one locality or in traveling from place to place buying or selling goods, wares, merchandise, or services

3) **REGISTRATION.**

- a) Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall contain the following information:
 - i) Name, permanent address and telephone number and temporary address.
 - ii) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by or whose merchandise is being sold.
 - iii) Nature of business to be conducted and a brief description.
 - iv) Proposed method of delivery of goods, if applicable.
 - v) Make, model and license number of any vehicle to be used by applicant in the conduct of his business.
 - vi) Applicant's Seller's Permit number.
- b) Applicants shall present to the Clerk for examination:
 - i) A driver's license or some other proof of identity as may be reasonably required.
- c) At the time the registration is returned, a fee of twenty five dollars (\$25) per event shall be paid to the Clerk. This fee may be waived by the Clerk in the case of a non-profit organization, or reduced by the Village Board in the case of multiple events during the year. The applicant shall also sign a statement appointing the Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant if the applicant cannot, after reasonable effort, be served personally. Upon payment of the fee, signing of the statement, and Village Board approval the Clerk shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period set by the Village Board determined on a case by case basis subject to par. (5)(b) below.

4) **INVESTIGATION.**

- a) The Clerk may refuse to register the applicant if it is determined pursuant to investigation that the application contains any material omission or materially inaccurate statement.
- b) The Village Board shall review, approve, deny or conditionally approve the application for purposes of safety, health, and general welfare, including without limitation by reason of enumeration: public convenience; noise, light and glare; sanitation, litter and waste; traffic; competition with existing businesses; and aesthetic concerns and site dimensions.

- 5) **APPEAL.** Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of **§68.07 through §68.17, Wis. Stats.**
- 6) **REVOCATION OF REGISTRATION.**
- a) Registration may be revoked by the Village Board after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this section, operated in a manner inconsistent with the application, discussion, or conditions discussed during the Village Board hearing, or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
 - b) Written notice of the hearing shall be mailed to the registrant at least ninety six (96) hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based. (**Passed 1/8/2013**)

12.06 PERMITS.

- 1) **FIREWORKS.** No person or group of persons shall sell or offer for sale or use, keep, discharge or explode any fireworks except toy pistol paper caps within the limits of the Village unless authorized by a permit issued by the Village President with the concurrence of the Fire Chief. Such authorization shall be issued only for public patriotic displays and shall be conducted only by competent operators with due regard for the safety of lives and property. Before issuing a permit, the Village President shall require the applicant or applicants to post an indemnity bond in the sum of two thousand dollars (\$2,000) for the payment of all claims that might arise from the discharge of fireworks under such permit.
- 2) **BRUSH AND GRASS FIRES.** No person shall start a fire for the purpose of burning brush or grass except under a written permit issued by the Fire Chief. If the Fire Chief deems it advisable, the burning shall be done only when men and equipment such as he may deem necessary are on the site.
- 3) **BOAT RACES AND EXHIBITIONS.** Permits shall be obtained from the chairman of the Harbor Commission before holding any scheduled water races or exhibitions by watercraft of any type.

12.07 ROOM TAX ORDINANCE (8/2021)

1) DEFINITIONS

In this Ordinance, the following words and phrases shall have the following meanings when used in this Contract, unless the context clearly indicates a different meaning is intended:

- a) **Commission** has the meaning defined in Sec. §66.0615(a), Wis. Stats.
- b) **Door County Tourism Zone** shall mean the Tourism Zone authorized and established in Door County, Wisconsin pursuant to the provisions of Sec. §66.0615, Wis. Stats., under the provisions of the Tourism Zone Agreement among the municipalities participating therein.
- c) **Door County Tourism Zone Commission** shall mean the Commission established hereunder for the administration of the room tax pursuant to Sec. §66.0615, Wis. Stats.

- d) **Gross Receipts** shall mean the total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a Lodging Provider as defined herein, including any Lodging Marketplace provider service fees.
- e) **Hotel and Motel** have the meaning as defined in Sec. §77.52(2)(a)1, Wis. Stats., as being a building or a group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than thirty (30) consecutive days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
- f) **Lodging Permit** shall mean the permit issued by the Commission to Lodging Providers authorizing the furnishing, at retail of rooms or lodging to Transients by hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.
- g) **Lodging Marketplace** or **Lodging Marketplace Provider** shall mean an entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.
- h) **Lodging Provider** shall mean the operator of a Hotel or Motel, as defined herein above.
- i) **Member Municipalities** shall mean the municipalities located in Door County, Wisconsin which have created and established the Door County Tourism Zone and the Door County Tourism Zone Commission to operate and administer the Tourism Zone.
- j) **Municipality** means the Village of Ephraim, Door County, Wisconsin.
- k) **Payor** means the transient lodging person or entity who owes the tax imposed by this ordinance.
- l) **Reserve Fund** means the fund established and maintained by the Commission containing funds in excess of the approved annual Tourism Entity budget to be used exclusively for such tourism promotion or tourism development projects as the Commission shall, from time to time so determine in the manner made and provided herein.
- m) **Room Tax** means the tax imposed pursuant to this ordinance for the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations, subject to the exceptions provided in Sec. §66.0615(1)(m)a, Wis. Stats.
- n) **Tourism** has the meaning as defined in Sec. §66.0615(1)(e), Wis. Stats., as being any travel for recreational, business or educational purposes.
- o) **Tourism Entity** shall mean a nonprofit organization that came into existence before January 1, 2015, spends at least fifty one percent (51%) of its revenues on tourism

promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality, except that if no such organization exists, a municipality may contract with one of the following entities:

- i. A nonprofit organization that spends at least fifty one percent (51%) of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality; or
 - ii. A nonprofit organization that was incorporated before January 1, 2015, spends one hundred percent (100%) of the room tax revenue it receives from a municipality on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality.
- p) **Tourism promotion and development** has the meaning as defined in Sec. §66.0615(1)(fm), Wis. Stats., as being any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under sub. (1m)(a) may be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:
- i. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.
 - ii. Transient tourist informational services.
 - iii. Tangible municipal development, including a convention center.
- q) **Tourism Zone** has the meaning as defined in Sec. §66.0615, Wis. Stats. as being an area made up of two or more municipalities that, those municipalities agree, is a single tourism destination as perceived by the traveling public.
- r) **Tourism Zone Agreement** shall mean an intergovernmental agreement created under the provisions of Sec. §66.0301, Wis. Stats., for the purpose provided under Sec. §66.0615(1m)(b)2, Wis. Stats.
- s) **Tourism Zone Audit** shall mean the annual Room Tax audit to be performed by the Commission and provided to the Member Municipalities.
- t) **Transient** has the meaning as defined in Sec. § 77.52(2)(a)1, Wis. Stats., as being any person residing for a continuous period of less than thirty (30) consecutive days in a Hotel, Motel, or other furnished accommodations available to the public.

2) CREATION OF TOURISM ZONE

- a) Establishment and Authorization. Pursuant to Sec. §66.0615(1m)(b)(2), Wis. Stats., the Village of Ephraim does, by the adoption of this Ordinance, re-affirm the establishment and its membership and participation in the Door County Tourism Zone for the purpose of promoting Door County, Wisconsin as a single tourism destination under and pursuant to the terms and conditions of the Tourism Zone Agreement.
- b) Tourism Zone Operation. The Tourism Zone shall be administered and operated by a commission pursuant to Sec. §66.0615(1m)(b), Wis. Stats., which shall be established

under a contract with the other Member Municipalities pursuant to Sec. §66.0301, Wis. Stats., to create a commission which shall administer and monitor the collection of room taxes from the Member Municipalities, as more particularly described in Section 6 hereof, and shall contract with one tourism entity from the municipalities in the zone to obtain staff, support services and assistance in developing and implementing programs to promote the zone to visitors.

3) IMPOSITION OF ROOM TAX

- a) **Tax Imposed.** Pursuant to Sec. §66.0615, Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of eight percent (8.0%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Sec. §77.52 (2)(a)(1), Wis. Stats., and may not be imposed upon sales to the Federal Government and persons listed under Sec. §77.54 (9a), Wis. Stats.
- b) **Taxation Effective Date.** The effective date of the Room Tax shall be January 1, 2022.
- c) **Room Tax Payment Frequency.** Subject to the Room Tax exemptions provided in Section 3(a) hereof, the Lodging Provider shall impose upon and collect from each Transient Lodger the Room Tax established Section 3(a) hereof and paid by the lodging property thereafter pay over the collected Room Tax to the Commission on a monthly basis. The Room Tax collected hereunder shall be paid by the end of the month following the month in which it was collected. The Room Tax is owed to the local municipality which imposed the tax, but the municipality directs that all checks be sent directly to the Commission. If the Room Tax payments for all properties in a municipality are sent directly to the Commission, the Commission will send one check by the on or before the end of each month to the municipality for thirty percent (30%) of all Room Tax collected the previous month along with a report showing the amount of Room Tax collected from each lodging property. In the latter case, the Commission does all the paperwork as part of their monitoring.
- d) **Room Tax Responsibility.** The correct amount of Room Tax shall accompany each lodging property's monthly room tax return and be made payable to the Door County Tourism Zone Commission unless any portion of that Tax is otherwise collected and paid to the Commission by a Lodging Marketplace. If any person liable for any amount of tax under this agreement sells, transfers, assigns or conveys their transient lodging business, or their lodging property, their successors or assignee shall, as a condition of receiving a new Lodging Permit under the provisions of Section 4 hereof, withhold a sufficient amount of from the purchase price to cover any and all applicable taxes, fees, interest and penalties, if any, until the former owner produces a receipt from the Commission that all such taxes, fees, interest and penalties have been paid or a certificate stating that no amount is due. If any person subject to the tax imposed by this agreement fails to withhold from the purchase price any tax, fees, interest or penalties otherwise due hereunder as required, they shall be personally liable for the payment thereof, even if such new owner of the lodging property is not continuing the transient lodging business.
- e) **Monthly Room Tax Return.**
 - i. **Filing Date.** The Monthly Room Tax Return shall be filed by the Lodging Provider by the end of the month following the month in which the room tax

reported by that Return. The Room Tax Report filed by a Lodging Marketplace Provider shall be filed by the end of the month following the month in which the room tax reported by that Return unless otherwise provided by state regulation.

ii. Required Information. The Monthly Room Tax Return filed with the room tax payment by the Lodging Provider shall contain the following information:

1. Name of the business,
2. Physical address, postal address, municipality located within,
3. Name of the designated person filling out the return,
4. Month and year the Return is for,
5. The total available rental units during the month (number of rental units in the facility multiplied by the days in the month or days they were open),
6. The total marketplace sales, the amount of room tax paid by each Lodging Marketplace Provider,
7. The number of rooms or units rented, total lodging sales for the month,
8. The room tax to be paid, (which should equal total lodging sales multiplied by the 8.0% Room Tax), and
9. The signature of the person filling out this return, attesting to the accuracy of the Return.

This information will allow the Commission to judge the accuracy of the return, and, with all returns in total, to judge the effectiveness of the tourism promotion. The Commission shall establish the form of the monthly tax return as either a paper and/or electronic document.

iii. Amended or Corrected Room Tax Return. A Lodging Provider may, within forty-eight (48) months of the original filing date file an amended or corrected Monthly Room Tax Return. Such amended or corrected Monthly Room Tax Return shall be subject to any additional tax due plus associated interest, penalties and late fees as provided herein on such additional tax due, and be subject to an administrative fee of twenty five dollars (\$25).

f) Non-Compliance and Delinquent Room Tax.

- i. Failure to Timely File Monthly Room Tax Report. The Lodging Provider's Monthly Room Tax Report shall be filed within the time specified in Section 3(e)(i) hereinabove. Any Monthly Room Tax Report filed after that date shall be subject to a Late Filing Fee of twenty five dollars (\$25), in addition to other penalties, fees and interest as may be applicable hereunder.
- ii. Failure to Timely Pay Room Tax. The tax imposed pursuant to this ordinance shall become delinquent if not paid by Lodging Provider by the due date of the return as established in Section 3(e)(i) hereof. A forfeiture of twenty-five percent (25%) of the room tax due or five thousand dollars (\$5,000.00) whichever is less, of the tax imposed, but not less than twenty five dollars (\$25), is hereby established and due and owing in the event that the room tax is not paid within thirty (30) days after the due date of the return. In addition to this forfeiture, all unpaid taxes under this ordinance shall bear interest at the rate of

twelve percent (12%) per annum from the due date of the Return until the payment is received and deposited by the Commission.

- iii. Inspection and Audit. Whenever the Commission has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, or that the tax has not been paid, the Commission is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or another person. Any Lodging Provider who fails to comply with a request from the Commission shall be subject to a penalty of five (5%) of the room tax determined to be due.
- iv. Room Tax Estimate. Whenever a Lodging Provider fails, neglects or otherwise refuses to file a Monthly Room Tax Return within the time, manner or form required by the Commission, the Commission may, using its best judgment, estimate the room tax due. The room tax estimated hereunder shall be subject to a penalty of twenty (20%) percent of the estimated tax due, plus all associated interest, penalties and late fees as provided hereunder. No refund or modification of the tax determined to be due and owing shall be made until the Lodging Provider files a correct room tax return and permits the Commission to inspect and audit the Lodging Provider's financial records to verify compliance.
- v. False or Fraudulent Return. A Lodging Provider who files a false or fraudulent return with the intent to defeat, delay or evade the tax imposed by this ordinance, shall be subject to a penalty of fifty (50%) percent of the tax determined to be due; twenty-five (25%) percent of the room tax due from the previous year or five thousand dollars (\$5,000), whichever is less, plus interest and other penalties as provided under Sec. §66.0615(2m), Wis. Stats.
- vi. Separate Violations. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue violation of this ordinance.
- vii. Prosecutions. Any Lodging Provider or Lodging Marketplace Provider determined to have violated any of the provisions of this ordinance shall be obligated to pay the costs of enforcement and prosecution, in addition to actual attorney's fees and audit fees expended in the course of said enforcement and prosecution.
- viii. Room Tax Rate Adjustment. Any person or business otherwise required to file a return and make a payment, will be allowed an exemption from the requirement to collect and pay the increased Room Tax at the new rate of eight percent (8.0%) for any signed contract dated prior to the adoption of this Ordinance in which the contract guarantees the lodging rates and the applicable taxes as of that date. This also applies to any gift certificate purchase before the adoption of this Ordinance, which is not for a fixed dollar amount, but, instead, for the amount paid, guarantees a particular lodging rate and the applicable taxes. This exemption does not apply to reservations made before the adoption of this Ordinance, which are not binding contracts.
- ix. Confidentiality of Reports. All Room Tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Commission and the

municipality are deemed confidential pursuant to Sec. §66.0615(3), Wis. Stats., except they may divulge their contents to the following, and no others:

1. The person who filed the return.
2. Officers, employees or agents of the (City, Village or Town) Treasurer and the Commission or its duly authorized agents and representatives.
3. Other persons for the use in the discharge of duties imposed by law, or in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of a Court.

4) LODGING ESTABLISHMENTS TO BE LICENSED

- a) License Required. Any party supplying transient lodging in the Village shall obtain and maintain a Lodging Permit from the Commission permitting the rental of accommodations. No accommodations shall be rented or available for rental for a period of less than thirty (30) days by any party not possessing a lodging permit issued by the Commission.
- b) Permit Application. Any party furnishing lodging accommodations to transient guests in the Village shall apply to and file with the Commission, on forms provided by the Commission, an application to operate each place of business subject to this ordinance. There shall be no cost for the filing of the application for the Lodging Permit. The application form shall include, at minimum, the following information:
 - i. The name of the business under which the person, partnership or corporation transacts business or intends to transact business, which name shall agree with that used for Sales Tax Permits and Property Tax Records.
 - ii. The name of the agent for the business or other person designated as responsible to remit the Room Tax, and means to contact this person, including email address, postal address, telephone number, fax number and cell phone number.
 - iii. The physical and mailing address of the business.
 - iv. Number of rental units at the location for each month of the year during which the business is operating.
 - v. The driver's license number and or Federal Employer Identification Number of the owner of the lodging business.
 - vi. The signature of the person designated in item b. above.
 - vii. Operating months indicated on the permit application must match all advertised availability.
 - viii. The Lodging Marketplace Provider online listing ID or ID's for all advertising in any form or format.
- c) Permit Review and Issuance. The Commission may accept the application, review it for accuracy and issue the Lodging Permit. The Permit shall not be assignable. The Permit shall only be valid for the person named on the application as being responsible to remit the Room Tax. In cases where that person should change or the ownership should change during the life of the permit, the application and issuance of a new permit shall be necessary.

- d) Records Retention. As a condition of issuance of a Lodging Permit hereunder, the Lodging Provider agrees to retain all records related to short term lodging services hereunder for a period of not less than seven (7) years.
- e) Lodging Permit Deactivation. A permitted Lodging Provider who ceases lodging operations may apply to the Commission for the de-activation of their Lodging Permit. De-activation of a Lodging Permit is subject to the following conditions:
 - i. All advertising in any form or format, including print and online, social media and web sites for the rental unit or units must be removed, discontinued and taken down.
 - ii. The Lodging Provider must be current on all filings and tax payments.

5) LODGING MARKETPLACE PROVIDERS TO BE LICENSED.

- a) License Required. Any Lodging Marketplace Provider that provides a platform through which a Lodging Provider offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant shall obtain and maintain a Marketplace Provider Permit from the Commission.
- b) Permit Application. Any Lodging Marketplace Provider providing a platform through which a Lodging Provider can offer short term rentals and lodging accommodations to transient guests in the Village shall apply to and file with the Commission, on forms provided by the Commission, an application to provide such services within the Village. There shall be no cost for the filing of the application for the Lodging Marketplace Provider Permit. The application form prepared and supplied by the Commission shall include, at minimum, the following information:
 - i. The name and tradename of Lodging Marketplace Provider under which it transacts business or intends to transact business.
 - ii. The physical and mailing address of the Lodging Marketplace Provider.
 - iii. The Federal Employer Identification Number (FEIN) of the Lodging Marketplace Provider.
 - iv. The email address for the primary contact person at the Lodging Marketplace Provider.
 - v. The contact name and physical and electronic contact information of and for the person at the Lodging Marketplace Provider who will be submitting the Lodging Marketplace Provider reporting.
- c) Permit Review and Issuance. The Commission may accept the Lodging Marketplace Provider application, review it for accuracy and issue the Lodging Marketplace Provider in the form determined by the Commission. The Lodging Marketplace Provider Permit shall not be assignable. The Lodging Marketplace Provider Permit shall only be valid for the Lodging Marketplace Provider identified on the application. In the event of an ownership or name change, Lodging Marketplace Provider shall apply for a new Lodging Marketplace Provider Permit.
- d) Records Retention. As a condition of issuance of a Lodging Marketplace Provider Permit hereunder, the Lodging Marketplace Provider agrees to retain all records related to lodging marketplace provider services to Lodging Providers hereunder for a period of not less than seven (7) years.
- e) Lodging Marketplace Provider Permit Deactivation. A permitted Lodging Marketplace Provider who ceases operations within Door County, Wisconsin may apply to the

Commission for the de-activation of their Lodging Marketplace Provider Permit. De-activation of a Lodging Permit is subject to the following conditions:

- i. All lodging marketplace platform services in any form or format in Door County, Wisconsin must cease, be discontinued and otherwise terminated.
- i. The Lodging Marketplace Provider must be current on all filings and tax payments.

6) CREATION OF A COMMISSION.

- a) Commission Purpose. The municipalities shall enter into a contract under Wis. Stats. §66.0615 to create a Commission under the Intergovernmental Cooperation provisions of Sec. §66.0301(2), Wis. Stats. The Commission shall contract with a Tourism Entity, as defined under Sec. §66.0615(1)(f), Stats., for the promotion of the destination with a minimum of Seventy (70%) percent of the room taxes collected.
- b) Commission Membership. The Commission created by a Tourism Zone Agreement under Wis. Stats. §66.0615 shall consist of the following members:
 - i. Two (2) members from each municipality in which annual tax collections exceed three hundred thousand dollars (\$300,000).
 - ii. One (1) member from each municipality in which annual tax collections are three hundred thousand dollars (\$300,000) or less.
 - iii. Two (2) additional members, who represent the Wisconsin hotel and motel industry, shall be appointed to the Commission by the Chairperson of the Commission. Those individuals shall serve for a one (1) year term at the pleasure of the Chairperson, and may be reappointed. These members shall not be members of the Board of Directors or employees of the Tourism Entity.
- c) Commission Member Appointment Process and Terms of Office. Members of the Commission shall be appointed by the principal elected official in the municipality and shall be confirmed by a majority vote of the members of the municipality's governing body who are present when the vote is taken. Commissioners shall serve a one-year term, at the pleasure of the appointing official and may be reappointed. If a member of the Commission resigns or is removed for cause, the municipal body that appointed the member may appoint another person to fulfill the unexpired term. If the subject member was appointed by the Chairperson, they may appoint another person to fill the unexpired term. Members of the Commission shall receive no pay, but may be reimbursed for their travel expense. While membership on the Commission is provided for each municipality in the Tourism Zone, all membership positions need not be filled if a municipality does not see a need. A member community that does not appoint a representative shall not count towards the determination of a quorum.
- d) Applicability of State Open Meetings Law. The Commission shall be subject to the provisions of the Wisconsin Open Meetings and Open Records laws as amended.
- e) Tourism Zone Commission. Authority is hereby delegated to the Door County Tourism Zone Commission to act as agent of this municipality in the enforcement of this ordinance as amended, for violation of the requirement of obtaining and maintaining a lodging permit when such lodging permit is required. The Door County Tourism Zone Commission shall have and may exercise the full authority which would otherwise be available to this municipality in the enforcement of this ordinance, including the ability to seek enforcement and penalties for failure to comply with the section requiring a lodging permit.

- f) Role of Commission. The Commission shall perform such tasks as are specified in the Tourism Zone Agreement.
- g) Commission Operational Funding. The administrative and operating expenses of the Commission, shall be paid by the Member Municipalities based upon and subject to the following:
 - i. Commission Administrative and Operating Expenses. The Commission's administrative and operating expenses subject to contribution hereunder shall include, but are not limited to, the cost of: issuing permits; monitoring, enforcing and prosecuting the collection of Room Tax; reviewing the progress of the contracted Tourism Entity; approving the Tourism Entity's budget; approving the payment of monthly expenses; and, preparing monthly, quarterly and annual reports to the participating municipalities Member Municipalities, plus any and all tasks and costs necessary in the operation of the Commission.
 - ii. Additional Commission Administrative Expenses. The Commission's administrative expenses shall also include, but not be limited to, reimbursement of Commissioners for actual expenses and mileage while attending meetings or on official business for the Commission, wages paid to staff, mileage paid to staff when necessary for work related travel, rental of office space, accounting fees for the annual audit and other Commission related accounting services, insurance costs for coverages approved by the Commission, office equipment, office supplies, postage, telephone, internet, utilities and any legal expenses, including litigation and any other expenses associated with the collection of unpaid Room Tax. The rate paid for the mileage reimbursement hereunder shall be the same as the standard Internal Revenue Service rate for business mileage adjusted periodically
 - iii. Calculation of Municipal Contribution. The contribution amount owed by each Member Municipality shall be determined by its percentage share of the room tax collected, as shown on the previous year's Tourism Zone Audit, multiplied by the adopted budget of the Commission. The amount determined hereunder shall be paid by each Member Municipality on or before February 1 of each year. In the event that a Member Municipality fails to pay its annual contribution payment when due, the Commission may withhold that Member Municipality's Municipal room tax allocation payment until such contribution payment is made.

7) DISTRIBUTION OF ROOM TAXES COLLECTED.

- a) Allocation of Collected Room Tax. Upon receipt of the room taxes that are collected from Lodging Providers providing transient lodging in the Village the Commission shall, pursuant to Section §66.0615(1m)(d), Wis. Stats.:
 - i. Tourism Promotion and Development. Allocate seventy (70%) percent of the amount collected to be spent on tourism promotion and tourism development within the Tourism Zone in the following manner:
 - 1. Forward an amount previously budgeted to be allocated to the Tourism Entity to the Tourism Entity.
 - 2. Deposit the excess amount of the amount budget for the Tourism Entity to the Tourism Reserve Fund to be used and allocated by the Commission for tourism promotion and tourism development within the Tourism Zone to help promote local or special tourism promotion and tourism development within the Tourism Zone through the Tourism Entity. The tourism entity may from time-to-time present special non-

budgeted promotions that may require the use of the reserve funds. The expenditure of funds from the Reserve Funds account, for any reason, shall require an approval by a two-thirds (2/3rds) vote by the full Commission membership present at a meeting, properly noticed and at which a quorum is present.

- ii. Municipal Allocation. Distribute thirty (30%) percent of the room taxes to the Village for such uses and purposes as the Village Board shall determine.

8) TOURISM ENTITY.

- a) Contracted Services. The Commission shall, pursuant to Sec. §66.0615(1m)(b)(4), Wis. Stats., contract with a Tourism Entity to obtain staff, support services and assistance in developing and implementing programs to promote the Tourism Zone to visitors and spend room taxes revenues on tourism promotion and development within the Tourism Zone. The Tourism Entity shall not use any of the room tax revenue to construct or develop a lodging facility.
- b) Tourism Revenue and Expenditure Tracking. The Tourism Entity shall track the use of Room Tax revenues and expenditures and state its impact on generating paid overnight stays in the Member Municipalities.
- c) Annual Report. The Tourism Entity shall provide a written report as determined by the Tourism Commission, no less than annually, and such report shall be available to the municipality and public upon request.
- d) Record Inspection. The Tourism Entity shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the Tourism Commission at reasonable times.

9) EFFECTIVE DATE.

This Ordinance shall be effective on its passage and publication.

12.08 SHORT-TERM RENTAL LICENSE AND REGULATIONS

1) DEFINITIONS.

- a) **Residential Dwelling**. Any building, structure, or part of the building or structure, that is primarily used as a home, residence, or sleeping place by one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others.
- b) **Short-Term Rental (STR)**. A residential dwelling that is offered for rent for a fee for periods of fewer than thirty (30) consecutive days. Short-Term Rental does not include private boarding houses or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under Wis. Ad. Code Chapter ATCP 73.
This type of residential dwelling is issued a Tourist Rooming House License by the State of Wisconsin Department of Agriculture, Trade, and Consumer Protection "DATCP".
- c) **Designated Agent**. A person or entity who is not the property owner and is authorized to act as the agent of the owner as a local contact person regarding compliance with this ordinance during periods of operation.
- d) **Owner**. The person or entity who owns the Residential Dwelling being used as an STR.

- e) **STR License.** The annual license issued by the Village to operate an STR. The term of an STR license shall be from January 1 to December 31 of each year.
 - f) **Occupant.** Any person, over one (1) year of age, living, sleeping, cooking, or having actual possession of an STR.
 - g) **Remote Seller.** An out-of-state seller that has no physical presence or activities in Wisconsin other than making sales. Examples include VRBO and Airbnb.
- 2) **LICENSE REQUIRED.** No Owner shall allow property under their ownership or control to be used as an STR without obtaining and maintaining a license under this ordinance.
- a) Application. Prior to issuance or renewal of an STR license, the Owner intending to operate an STR shall complete an application form provided by the Village which shall include:
 - i. The Owner's name, mailing address, parcel number, and phone number; and the Designated Agent's (if any) name, address, and phone number if different than from the Property Owner.
 - ii. A sketch of the current Floor Plan and Site Plan for the Short-Term Rental to include the following information:
 - 1. A current floor plan showing all floors with information on square footage and rooms labeled with a bedroom count; and
 - 2. A Site Plan showing: Onsite parking spots, designated fire pit area (if any), and trash storage areas.
 - iii. For properties served by a septic system, a copy of the sanitary permit showing proof of design capacity for the Private Onsite Wastewater Treatment System (POWTS) from the Door County Sanitarian.
 - iv. A State of Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) License dated within one (1) year of the date of issuance or renewal.
 - v. Seller's Permit issued by the Wisconsin Department of Revenue unless all rentals of the property are exempt from such permit requirements per state statute.
 - vi. A Door County lodging permit issued by the Door County Tourism Zone Commission (DCTZC) unless the Owner is exempt from such permit by state law.
 - vii. An administrative fee payment set by Village Board by resolution, to cover the costs to the Village of administering the above including inspections and enforcement deemed necessary by the Village to enforce this provision.
 - viii. Registration with the Wisconsin Department of Revenue for the collection of Premier Resort Area Tax (PRAT) unless rentals of the property are exempt from such taxation requirements per state law.
 - ix. Where the Owner exclusively uses a Remote Seller to facilitate STR rentals, the name of the Remote Seller and online listing ID#. The Village of Ephraim permit number shall be posted on the marketing page.
 - x. Stated maximum occupancy for the property as advertised.
 - b) Issuance. An STR License shall only be issued upon the completion of the application and satisfaction of all requirements specified above.

- c) License Duration. The initial license shall be valid from the date of issuance until midnight of December 31 of the year of application. Thereafter renewed licenses shall be valid for 1 year commencing January 1 of each year.
- d) Property Management Requirements: Each Short-Term Rental shall be managed consistent with the following requirements:
- i. Sanitary Infrastructure:
 1. For properties served by a septic system, the maximum number of occupants shall not exceed the greater of two (2) per bedroom or the design maximum of any Private Onsite Wastewater Treatment System (POWTS) permitted by the Door County Sanitarian Office.
 2. Properties served by the Village of Ephraim sanitary sewer could be subject to a Residential Equivalency Unit (REU) review.
 3. Properties served by an existing holding tank may continue to discharge domestic wastewater and operate with the appropriate use of a holding tank system under Ch. 383 Wisconsin Department of Safety and Professional Services (DSPS) regulations and Chapter 21 of the Door County Code.
 - A Short-Term Rental operating with a holding tank must have an alarm system indicating when the tank requires pumping occupants should be directed to contact the Owner or Designated Agent to arrange for a pump out.
 - ii. The Owner or Designated Agent shall be responsible for ensuring that day to day operations of the STR are in full compliance with this ordinance.
 1. The Owner's and Designated Agent's names, addresses, and twenty-four (24) hour phone numbers shall be provided in the Village of Ephraim's Short-Term Rental Application and shall be updated within twenty-four (24) hours upon any change in contact information.
 2. The Owner or Designated Agent must reside within, or have their residence located within Door County.
 3. Either the Owner or Designated Agent must be available by phone twenty-four (24) hours per day, seven (7) days a week, during the period of STR operation.
- e) Property Operational Requirements. Each Short-Term Rental shall be operated per the following requirements:
- i. The following items must always be posted in a conspicuous area within the property:
 1. Village Short-Term Rental License;
 2. State of Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) License;
 3. Property occupancy maximums;
 4. List of Village requirements as outlined in the Good Neighbor Best Practices;

5. Emergency contact information including Property Owner and/or Designated Agent must always be posted in a conspicuous area within the property; and
 6. A Site Plan for the residential dwelling unit and the lot it is in, clearly depicting guest parking spaces, designated fire pit area (if any), and trash storage area.
- ii. Refuse Collection Requirements:
 1. Properties shall provide information on who will be responsible for refuse and recycling disposal.
 - iii. Occupants and their guests may only park their vehicles and trailers on-site.
 - iv. Site Appearance Requirements.
 1. Outdoor signage will be limited to two (2) sq. feet subject to Chapter 17 of the Ephraim Code of Ordinances.
 2. No outdoor storage related to the Short-Term Rental land use is permitted, except for typical residential recreational equipment, seating, and outdoor cooking facilities.
 3. No recreational vehicle, camper, tent, or other temporary lodging arrangements shall be used to accommodate guests.
 - v. Neighborhood Impact Requirements.
 1. The Owner and/or Designated Agent must provide the following information to neighboring property owners located in residentially zoned areas in the Village within a three hundred-feet (300 ft) radius of the Short-Term Rental property in all directions no later than thirty (30) days from the date the Short-Term Rental License is issued or any time the Property Owner/Designated Agent contact information changes:
 - a. Telephone and email address to enable neighboring property owners in residentially zoned areas in the Village or Village personnel to contact the Property Owner or Designated agent twenty-four (24) hours a day, seven (7) days a week regarding disturbances or issues arising in connection with the rental of a Residential Dwelling.
 - b. Provide a copy of property rules/Good Neighbor policy that is provided to renters.
 - c. Provide their State of Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) License number.
 - d. Stated maximum occupancy for the property as advertised.
 2. Quiet hours must be respected from 10:00 p.m. to 7:00 a.m. as outlined in Chapter 9 Nuisances and Chapter 10 Peace and Order of the Ephraim Code of Ordinances.
 3. At all times, no noise, lighting, odor, or other impacts from the subject property shall be detectable at the property line at levels exceeding the requirements of Chapters 9 and 10 of the Ephraim Code of Ordinances.

4. Outdoor fires are allowed outside only in a fire pit area shown on the site plan for the subject property. Owners, occupants, and guests at the STR are prohibited from bringing firewood from locations further than ten (10) miles away per NR 45.045 (2)(a).
5. Fireworks are strictly prohibited.
6. The discharge of firearms is prohibited in the Village of Ephraim as outlined in Chapter 10.04 of the Ephraim Code of Ordinances.

f) Access and Inspections.

- i. The Village Administrator or designee shall be authorized at all times upon notice to the Owner deemed reasonable at the discretion of the Administrator or designee, or with either the owner's consent, to enter and examine any building, structure, or premises used for the STR, for the purpose of inspecting the property for compliance with public health and safety and this ordinance. If the Owner declines to consent to an inspection without a warrant, the Village may not conduct an inspection under this section without first obtaining a special inspection warrant under Sec. §66.0119, Wis. Stats., and as provided in Sec. §66.0119(2), Wis. Stats. An unreasonable refusal of the Owner Agent or STR renter shall be a violation of this section.
- ii. A Knox Box may be installed and maintained with keys that will allow access to the Short-Term Rental in emergency situations.

3) **RENEWAL AND REVOCATION PROCESS AND PENALTIES.**

- a) Renewal. The Licensee may renew a license issued under this ordinance by applying for renewal on or before November 30 of each year.
 - i. The renewal fee shall be set by Village Board resolution. The renewed license shall be valid from January 1 (or the date of issuance if later) to December 31 unless revoked or suspended.
 - ii. The application shall be the same as the original application except that the Owner may reference the original application if there have been no changes in the materials submitted with the first application. If the Owner references information in prior applications, the Owner shall certify current compliance with this ordinance.
 - iii. The Owner shall make the premises available upon reasonable notice for a renewal inspection.
 - iv. If the Village believes the licensed premises are out of compliance with this ordinance or applicable building and health codes, the Village may issue orders for compliance. If the licensee disagrees with the order, they may request in writing a hearing as provided in (d) below. The request for a hearing must include the order objected to and the reasons the order is not valid.
 - v. If the renewal for the license is not applied for on or before November 30; if the licensee fails to allow the Village to inspect the premises upon reasonable notice, such that the renewal process is not completed; or if there are outstanding orders or taxes payable to the village at the time of expiration the prior license, the

license shall lapse until the renewal process is completed. STR rentals shall not be permitted until a current, valid license is issued.

- b) A Short-Term Rental License, as issued, is subject to revocation or nonrenewal if the Owner, Designated Agent or STR Renter(s) (on a repeated basis) fails to comply with the requirements of this ordinance.
- c) The Village Board has the authority to suspend, revoke, reject, or non-renew an STR License if the Village Board determines that the licensee, Designated Agent or STR Renter(s):
 - i. Failed to comply with or allowed the STR premises to fall out of compliance with any of the requirements of this ordinance.
 - ii. Failed to adhere to Village and/or County ordinances.
 - iii. Has three (3) or more excessive noise or calls for police or building inspection service complaints within a twelve (12) month period.
 - iv. Has been convicted or whose Designated Agent or STR renters have been convicted of engaging in illegal activity while on STR premises.
 - v. Has outstanding fees, taxes, or forfeitures owed to the Village.
 - vi. Whose Tourist Rooming House License has been revoked by the Department of Agriculture, Trade and Consumer Protection (DATCP) or other permit or license required by this ordinance.
 - vii. Has violated local, county, or state laws which, based upon their number, frequency, and/or severity that substantially harms or adversely impacts the public peace, use, and nature in the surrounding neighborhood.
- d) Revocation Process:
 - i. The Administrator or designee shall notify the Owner of non-compliance and issue a letter requiring compliance within a time designated by the Administrator at their discretion.
 - ii. If the Owner has remedied the violation (where possible) the Administrator may decline to take the revocation process any further.
 - iii. If the violation has not been remedied, or the non-compliance is of a nature that in the discretion of the Administrator merits revocation even after compliance, the Administrator shall serve upon the Owner and file a copy with the Village Clerk, a complaint requesting that the STR license be revoked or non-renewed together with a notice scheduling the matter for a Village Board meeting to set the date for a hearing before the Village Board to consider the revocation or nonrenewal.
 - iv. The Village Board meeting shall be scheduled not less than ten (10) business days from the date of the complaint.
 - v. At the hearing, the Owner shall have the right to be represented by legal counsel of their choice at their cost and to call and cross-examine witnesses under oath.
 - vi. the Village Board shall provide notification to property owners within three hundred (300) feet of the property of any revocation or non-renewal hearing.
 - vii. The Administrator shall have the burden of showing the license should be revoked or non-renewed to a preponderance of the evidence.

- viii. The Administrator and Owner or their representatives shall have the right to present evidence and to subpoena and call witnesses at the hearing before the Village Board.
 - ix. After receiving testimony and argument the Village Board shall determine whether the Short-Term Rental Licenses shall be revoked or nonrenewed and may attach conditions to any renewal.
 - x. The decision of the Village Board may be made after deliberation in closed session and such decision shall be pronounced in open session. The Village Board shall direct the Administrator to provide notice of any decision in writing to the Owner.
- e) Penalties. The Owner, that fails to comply with provisions of this ordinance shall, upon conviction or admission, pay a forfeiture as provided in Section §25.04 of this code.
- f) Enforcement. The provision of this ordinance shall be administered and enforced by the Village Administrator or designee. It shall be the duty of the Village Administrator or designee to process applications, conduct inspections, and investigate complaints of violations of this ordinance and/or the existence of a nuisance. Actions to compel compliance with this ordinance may be commenced at the direction of the Administrator by Village Attorney.
- 4) **TRANSFER**. A license issued under this section is not transferable to another Owner or location.

12.09 MOBILE FOOD ESTABLISHMENTS

1) DEFINITIONS.

- a) **“Mobile Food Vendor”** means the owner, owner’s agent, or employee of a Mobile Food Establishment within the Village of Ephraim. A Mobile Food Vendor or Vendor shall expressly not include Transient Merchants as defined in Section §12.05 of Chapter 12 of the Ephraim Code of Ordinances.
- b) **“Mobile Food Establishment”** means a restaurant or retail food establishment as the term defined in Wis. Stats. §97.30(1)(c) where food is cooked, wrapped, packaged, processed, served, or sold as ready-to-eat from a vehicle, car, truck, trailer, cart, or similar portable device which shall be capable of periodically changing locations. The ordinance does not intend to regulate the home delivery of food and beverage items.
- c) **“Food”** means all articles used for food, non-alcoholic drink, or condiment including ice or water for human consumption whether simple, mixed, or compound articles used or intended for use as ingredients in the composition or preparation thereof.
- d) **“Sell”** means the act of exchanging a good for monetary consideration.
- e) **“Vehicle”** means any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71). A vehicle shall not include any bicycle or other self-propelled device.
- f) **“Vend”** means to sell or to transfer the ownership of an article to another for monetary consideration.
- g) **“Service base”** means an establishment operated under the permit or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned, or packaged, or any combination of these, where such food is intended for consumption at another establishment or place, and where such units are serviced,

cleaned, supplied, maintained, and where the equipment, utensils, and facilities are serviced, cleaned, and sanitized.

2) PERMIT REQUIRED.

- a) It shall be unlawful for a person to operate as a Mobile Food Establishment, serve, sell, or distribute food from a Mobile Food Establishment in the Village of Ephraim without first having obtained a valid Mobile Food Establishment permit from the Village of Ephraim Board of Trustees as provided for by this chapter.

3) EXEMPTIONS FROM PERMIT REQUIREMENT.

Mobile Food Establishments participating in any of the festivals, organizations, activities, or events listed below are exempt from obtaining a Mobile Food Establishment permit and location and general operation restrictions required by this chapter:

- a) Any Mobile Food Establishment on-premises and controlled, regulated, or permitted through Chapter 12, §12.05 Transient Merchants of the Ephraim Code of Ordinances.
- b) Any Mobile Food Vendor or Mobile Food Establishment working under a permitted event as a caterer, who does not receive direct payment from persons receiving food items, goods, or services from the Mobile Food Establishment.
- c) Any Mobile Food Vendor or Mobile Food Establishment working under festival/organization/activity/event that has been permitted by the Village of Ephraim.
- d) Any Mobile Food Establishment commissioned or paid directly by a private land owner and who does not receive direct payment from persons receiving food items, goods, or services from the Mobile Food Establishment.

4) APPLICATION

Any person desiring to operate as a Mobile Food Establishment shall make a written application for a Mobile Food Establishment permit to the Village Clerk. The application shall be on the form provided by the Village Clerk's office and shall include the following:

- a) A completed mobile food vendor application with signature and payment of fees.
- b) The full legal name, signature, address, and phone number of each applicant, each member or officer of a corporate applicant, and the onsite point of contact name and cell phone number.
- c) A description of the Mobile Food Establishment, including the make, model, VIN, weight of the vehicle, vehicle length and width, permit plate, and lighting layout with fixture and wattage information. Mobile Food Establishments must have valid license plates and registration as provided by Chapter 341, Wisconsin Statutes.
- d) A valid copy of all necessary permits for the operation of the Mobile Food Establishment, including, but not limited to, permits or certificates required by the state of Wisconsin, or any subsidiary enforcement agencies or departments thereof.
- e) Proof of inspection by the Village of Ephraim Fire Department.
- f) Valid Wisconsin Department of Revenue Seller's Permit and PRAT tax registration.
- g) The applicant shall provide a Mobile Food Vendor business plan narrative addressing:
 - i) The proposed location of the Mobile Food Establishment;

- ii) Whether the operations are open air, enclosed limited service, or enclosed full service;
 - iii) Hours and days of operation;
 - iv) Employee information: number of employees and where they will park;
 - v) Proposed signage;
 - vi) Proposed seating area;
 - vii) Restroom plan for both customers and personnel;
 - viii) Wastewater disposal plan;
 - ix) Pedestrian and traffic safety;
 - x) and any other information which may be requested by the Village in order to make a full and comprehensive evaluation of the application.
- h) A detailed site plan. The proposed location including a detailed site plan of the Mobile Food Establishment located on private property within a Commercial Zone. The site plan shall depict the location of the Mobile Food Establishment, dimensions, statement of surface material that the vehicle will sit on, and associated seating (if any) in relation to all on-site improvements including buildings, drive aisles, parking places, pedestrian facilities, etc. The site plan shall depict all property boundaries and related dimensions as applicable. The basis for the site plan can be a scaled aerial photo downloaded from the internet.
- i) All applicants shall include in their application current photographs of the proposed Mobile Food Establishment showing at a minimum the front and rear and both side views along with the service window closed and open which shall be used for identity verification.
- j) Written permission from the private property owner within a Commercial Zone.
- k) The operator of a Mobile Food Establishment shall arrange for use by personnel and customers of the Mobile Food Establishment private, onsite toilet facilities during all hours the Mobile Food Establishment is in operation. Portable toilets are prohibited. The applicant must obtain permission in writing from the private property owner as a part of the application for the use of private toilet facilities.
- l) A signed statement that the vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, its officers, and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. The vendor shall furnish and maintain such public liability insurance coverage not less the \$2,000,000.00 and name the Village of Ephraim as an additional insured. A declaration of coverage shall be provided to the Village of Ephraim.
- m) The Village reserves the right to conduct a background check of the applicant or agents.
- n) Any information deemed necessary by the Village Board to determine the issuance of a Mobile Food Establishment Permit to a particular applicant that would be in the best interest of the public.

5) **REVIEW.**

All applications shall be subject to review by the Historic Preservation Committee, if in the Historic District, and the Ephraim Plan Committee which will make a recommendation to the

Village Board based on the following guidelines and/or standards as determined by the Village Board of Trustees.

- a) The proposed Mobile Food Establishment will not create any significant adverse traffic impacts, pedestrian or traffic safety hazards, pedestrian/vehicle conflicts, or impede building ingress/egress.
- b) The proposed Mobile Food Establishment will not create a significant adverse impact with regard to public health, safety, or general welfare within the Village as a result of:
 - i. The accumulation of garbage, trash, or other waste.
 - ii. Noise created by the operation of the equipment.
 - iii. Light or glare.
 - iv. Odors and noxious fumes.
 - v. Smoke emitted from Mobile Food Establishment operations
- c) The scale of the Mobile Food Establishment and the suitability for the site and neighborhood.
- d) Appropriateness of seating in relation to location and general operations.
- e) Parking considerations.
 - i. Possible impact of off-street parking.
 - ii. Preservation of parking spots for the primary business on a parcel.
 - iii. Impervious surface requirements.

6) GENERAL REQUIREMENTS.

- a) Mobile Food Establishments shall comply with NFPA-1 Fire Code and Wisconsin Administrative Code SPS 314.50.
- b) All state and Village permits shall be conspicuously displayed on the Mobile Food Establishment while in operation.
- c) Except as provided herein, permitted Mobile Food Establishments shall not operate upon or in public properties or ways.
- d) Mobile food establishments may operate on private property in Commercial Zones where permitted by the property owner by written permission and which does not otherwise create a traffic hazard provided the zoning regulations applicable to the property do not limit the property to residential and related incidental or accessory uses. No Mobile Food Establishment shall operate on a public street or any Village property unless operating as part of a Special Event permitted under Chapter §22 of the Ephraim Code of Ordinances and if on a public street, only if the area of the public street is closed for the special event.
- e) No more than one (1) Mobile Food Establishment shall be permitted per parking lot or per property.
- f) Distance Requirements:
 - i. Mobile Food Establishments shall be two hundred feet (200') from any existing restaurant or another Mobile Food Establishment.
 - ii. Mobile Food Establishments shall be two hundred feet (200') from a residential zoned district.
- g) No Mobile Food Establishment shall use or maintain any outside sound-amplifying

equipment or noisemakers of any kind.

- h) No Mobile Food Establishment shall use or maintain moving or flashing lights.
- i) Mobile Food Establishments shall take every precaution to ensure that their operation does not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare as determined by the Ephraim Village Board of Trustees.

7) PARKING RESTRICTIONS.

- a) The host parking lot must remain in compliance with the Village Zoning Ordinance including off-street parking requirements for the host lot, and Mobile Food Establishments shall not block required drive aisles.
- b) A Mobile Food Establishment shall be located on an impervious surface at all times as defined in Chapter 17 of the Ephraim Code of Ordinances.
- c) The number of parking spaces available must support the existing developed use of the property. Parking calculations may be reviewed as part of the site plan by the Plan Committee and the Village Board.

8) OPERATION STANDARDS.

Mobile Food Establishments operating within the Village of Ephraim shall comply with the following:

- a) Size. A Mobile Food Establishment unibody vehicle shall not exceed a length of thirty feet (30') or a width of ten feet (10'). A trailer-style Mobile Food Establishment shall not exceed a length of twenty feet (20') not including the tongue, or a width of ten feet (10'). Mobile Food Establishments shall not occupy required parking but can be used in excess parking areas of a business.
 - i. In the Historic District, a Mobile Food Establishment unibody vehicle shall not exceed a length of thirty feet (30') or a width of ten feet (10'). A trailer-style Mobile Food Establishment shall not exceed a length of twenty feet (20') not including the tongue, or a width of ten feet (10'). Mobile Food Establishments will be subject to design review standards.
- b) All Mobile Food Establishments must have signage posted, in lettering not less than three inches (3") in height, in plain view to all patrons that provides the name of the operator and a valid telephone number.
- c) Permitted Mobile Food Establishments may operate between 7:00 AM and no later than 10:00 PM.
- d) Permitted Mobile Food Establishments shall not operate outside of May 1 through October 31 and must be moved from the location of operation outside the designated operating months.
- e) Mobile Food Establishment shall not obstruct any public street, sidewalk, trail access or visibility of crosswalks, street corners, driveways or intersections and operators shall take affirmative steps to direct unit customers waiting for service to refrain from causing any such obstructions.
- f) Any power required for the Mobile Food Establishment shall not use utilities drawn from the public right-of-way. No power cable or equipment shall be extended over any Village street, alley, or sidewalk. Generators must comply with noise regulations in §10.06 of the Ephraim Code of Ordinances.

- g) Mobile Food Establishments shall provide leakproof containers adequate for the deposit of waste. Mobile Food Establishment vendors are required to remove or otherwise properly dispose of all waste, litter, or garbage generated by their operations and patrons during and after daily operations including that which may be reasonably seen from the location of operation on the ground or otherwise not in a proper disposal container. The use of Village refuse containers is prohibited for Mobile Food Establishment operations. Dumpsters are prohibited.
- h) Mobile food establishments are to ensure responsible disposal of oil and grease, wastewater, and cooking water in accordance with applicable ordinances and statutes.
- i) No Mobile Food Establishments shall have food service prepared, sold, or displayed outside of the Mobile Food Establishment.
- j) Seating and tables, if approved by the Village Board, shall not block ingress, egress or fire exits from or to the Mobile Food Establishment or any other structure on the property.
- k) Signage may only be permitted when placed on the Mobile Food Establishment. No separate free-standing signs are permitted. Signage is subject to review as outlined in Chapter 17 of the Ephraim Code of Ordinances by the Historic Preservation Committee, if in the Historic District, and the Plan Committee.
- l) Any lighting associated with the Mobile Food Establishment shall use a hood and lens so light is cast downward and onto the property so as not to disturb the night sky or adjacent properties per §17.25(c)(6).

9) PERMIT FEE, DURATION, AND CONDITIONS.

- a) The fee for a Mobile Food Establishment Permit shall be as set forth by the Village Board.
- b) Permits shall commence on May 1 and end on October 31 of each calendar year; Permit fees shall not be pro-rated. Permits shall be submitted at least two (2) months before the commencement of business. Meeting dates for the Board and the committees that participate in the review process shall be considered by the applicant concerning the timing of the application submission. The Village Board meets on the second Tuesday of each month and the Historic Preservation Committee and Plan Committee meet on the fourth Tuesday of each month.
- c) New applications will be accepted on an annual basis, beginning the first business day of January.
- d) The permit is not transferrable from person to person or mobile vending vehicle or cart to mobile vending vehicle or cart.
- e) Each Mobile Food Establishment shall be separately permitted. The permit is non-transferable.
- f) The total number of permits issued by the Village shall be limited to five (5). The Village Board reserves the right to change this limitation.

10) ENFORCEMENT.

The enforcement of this article shall be under the jurisdiction of the Building Inspector, Fire Department, Village staff, and/or other agents as deemed necessary by the Village Board, who shall have the power to inspect to determine compliance with this article.

11) RENEWAL.

- a) No renewal shall be automatic.
- b) Any current permit holder shall, on an annual basis, file a renewal form required by the Village Board, renewal fee as established by the Village Board, and any new permitting documentation upon the permit renewal before the expiration of the permit, and such renewal shall be processed in the same manner as the initial application.

12) SUSPENSION, REVOCATION, OR NON-RENEWAL OF PERMIT.

- a) A Mobile Food Establishment permit may be suspended, revoked, or not renewed by the Village Board if the applicant or permittee:
 - i) Made any material omission or materially inaccurate statement in the permit application; or
 - ii) Made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in mobile food vending; or
 - iii) Violated any provision of this Chapter; or
 - iv) Was convicted of any offense which is directly related to the permittee's fitness to engage in mobile vending.
 - v) Mobile Food Establishment materially affects the peace and welfare of the general public and causes any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare.
 - vi) The Village Board determines that issuing permits for Mobile Food Establishments has proven to be contrary to the health safety and welfare of the general public, in which case all permits issued under this provision shall be revoked without further process except that the Village Board shall hold a public hearing, notifying all permit holders of the consideration of revocation or sunset of Mobile Food Establishment Permits before acting on the matter.
- b) If the Building Inspector, Fire Department, or an authorized representative of the Village recommends that the Village Board suspend, revoke, or not renew a mobile food establishment permit, or, if the Village Board indicates an intention to suspend, revoke, or not renew the Mobile Food Establishment permit, the Village Clerk shall, in writing inform the applicant of the intended non-renewal, the reasons, and of the opportunity to request a hearing before the Village Board. Such notice shall be sent by certified and regular mail or personally served upon, the permittee at least ten (10) days prior to the hearing.
- c) A permit is a privilege, the issuance of which is a right granted solely to the Village Board. The Village Board shall consider the circumstances, severity, and facts of an offense, and offense or patterns of behavior when making the determination to grant, deny, suspend, revoke, or not renew.

13) SUNSET PROVISION.

In order to prompt a timely re-examination of the effects and community impact of allowing Mobile Food Establishments in the Village of Ephraim, the Village Board of Trustees finds it appropriate to enact a "sunset" provision after which the amendments enacted by this ordinance will automatically expire on October 31, 2025, unless the Village Board of Trustees takes further action to extend it.

12.10 PENALTY. Except as otherwise provided, in addition to the revocation, suspension or non-renewal of any license or permit issued under this chapter, any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in §**25.04** of this Code of Ordinances.