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## 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) AGRICULTURE PRODUCTS**

Includes but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); aquaponics products; horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.

**(3) AGRICULTURE PRODUCTS, VALUE-ADDED**

The enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to, marketing, agricultural processing, transforming, packaging; and educational presentation, activities, and tours that relate to agriculture or agricultural products.

**(4) AGRICULTURALLY RELATED PRODUCTS**

Items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farm and agriculture in Wisconsin, and value-added agricultural products and on-site production.

**(5) NON-AGRICULTURALLY RELATED PRODUCTS**

Those items not connected to farming or the farm operation, such as novelty T-shirts or other clothing, crafts and knick-knacks imported from other states. Such items are not allowed for retail sale within the A-E District.

**(6) AGRICULTURALLY RELATED STRUCTURES**

Those structures that predominantly store or support agricultural products, uses, or equipment, such as barns, silos, coops, cribs, sheds, cellars, granaries, stables, mills, farmhouses, etc.

**(7) AGRITOURISM**

The visiting of an agribusiness, horticultural, or agricultural operation for recreational or educational purposes related to the activities and/or products of the operation.

**(8) AGRITOURISM RELATED ACTIVITIES**

Those activities that predominantly use agricultural products, structures, or equipment, such as pony rides, horseback riding, petting zoos, fishing ponds, ornamental gardens, corn mazes, straw mountains, pumpkin patches/rolling, barn dances, sleigh/hay/wagon rides, bonfires, and educational events, such as farming and food preserving classes, etc.

**(9) NON-AGRITOURISM RELATED ACTIVITIES**

Activities that are part of an agricultural tourism operation's total offerings but not tied to farming. Such non-agriculturally related activities include small carnivals for children; musical, artistic, or similar performance, weddings, reunions, celebrations, meetings, retreats, etc.; and must be held within an event barn, similar facility, or designated area for which a conditional use has been granted.

- (10) **NOT USED**
- (11) **NOT USED**
- (12) **NOT USED**
- (13) **NOT USED**

(14) **APARTMENT HOUSE**  
Refer to Section 7.02B(37) Dwelling, Multi-Family.

(15) **AUTOMOBILE WRECKING YARD**  
Refer to Section 7.02B(86) Salvage Yard.

(16) **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.

(17) **BED AND BREAKFAST BUSINESS**  
A building other than a hotel or motel in which accommodations, with or without meals, is offered to transient guests for compensation and in which there are no more than four (4) sleeping rooms providing accommodations for no more than eight (8) adults and four (4) children total, with no cooking facilities in any guest room or common guest space. The building is also the residence of the owner of the business.

(18) **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.

(19) **BREWERY, MICRO- / NANO- / PICO**  
The manufacturing premises of an alcoholic beverage permittee regulated by the Wisconsin Department of Revenue that brews no more than 10,000 U.S. beer barrels (310,000 gallons) in one calendar year. May include retail/wholesale of beverage and related products, as well as a tasting room.

(20) **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.

(21) **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.



**(22) CABIN, RENTAL**

A small house or cottage, usually of simple design and construction, for the temporary (maximum stay of 21 days) occupancy by guests. Cabins may contain a full kitchen and bath but may not exceed 2,000 square feet of floor space.

**(22a) CAMPING UNIT**

Structure including a tent, camping cabin, yurt, recreational vehicle, motor home, bus, van, or pickup truck. Unit as defined in Wisconsin State Stats Chapter ATCP 79.

**(23) CIDAR MILL**

The manufacturing premises of an alcohol beverage permittee regulated by the Wisconsin Department of Revenue where apples are processed into cider, and the produces no more than 10,000 gallons of cider in one calendar year. May include retail/wholesale of beverage and related products, as well as a tasting room.

**(24) NOT USED**

**(25) COMMERCIAL KITCHEN**

A small-scale food processing and/or sales facility licensed by the Wisconsin Department of Agriculture, Trade and Consumer Protection.

**(26) COMMON OWNERSHIP**

Ownership of land by the same individual, married couple, joint tenants, or tenants in common. For example, a parcel owned by John Smith is considered to be in common ownership with a parcel owned by John & Mary Smith, husband and wife. A parcel owned by John Smith is not considered to be in common ownership with a corporation, LLC, partnership, estate, or trust in which John Smith has an interest.

**(27) NOT USED**

**(28) COMMUNITY SUPPORTED AGRICULTURE (CSA)**

A farm supported in full or in part by individuals from the surrounding region who pledge their monetary and/or physical assistance to the farm operation in exchange for shares of the harvest.

**(29) 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.

- (30) CONSISTENT WITH AGRICULTURAL USE**  
Furthers or does not contradict any of the following activities conducted for the purpose of producing an income or livelihood: crop or forage production; keeping livestock; beekeeping; nursery, sod, or Christmas tree production; floriculture; aquaculture; fur farming; forest management; enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program; any other use that DATCP, by rule, identifies as an agricultural use.
- (31) CONTIGUOUS**  
Parcels that adjoin and are not divided by a public road. (Parcels are not contiguous if they meet only at a single point.)
- (32) DISTILLERY (MICRO-)**  
The manufacturing premises of an alcohol beverage permittee regulated by the Wisconsin Department of Revenue that produces no more than 10,000 gallons of distilled spirits in one calendar year. Also known as “Farm-to-Flask” or “Grain to Glass.” May include retail/wholesale of beverage and related products, as well as a tasting room.
- (33) 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.
- (34) DRIVEWAY**  
Any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public road or highway, and will provide service to a residence, business, recreational site, field, or other similarly appropriate use.
- (35) 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.
- (36) DWELLING, SINGLE-FAMILY**  
A detached dwelling unit.
- (37) 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.
- (38) DWELLING, TWO-FAMILY**  
A detached or semi-detached building with two (2) dwelling units.

**(39) 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.

**(40) EVENT BARN**

A barn or barn-like building used for the occasional hosting of agriculturally related and non-agriculturally related activities.

**(41) FAA**

Federal Aviation Administration.

**(42) FCC**

Federal Communications Commission.

**(43) 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.

**(44) FARM**

All contiguous land under common ownership that is primarily devoted to agricultural use.

**(45) FARMLAND PRESERVATION ZONING (FPZ) DISTRICT**

An area consisting of lands zoned A-1 Prime Agricultural District, A-1-S Prime Agricultural District (small-scale), and/or A-PR Prime Agricultural Parcel Remnants District in the Town of Mosel, Sheboygan County, Wisconsin.

**(46) FARMER'S MARKET**

A market (e.g., group of stalls and/or booths) where vendors sell agricultural products, value-added agricultural products, and agriculturally related products directly to consumer

**(47) FARM MARKET / ON-FARM MARKETING / FARM DIRECT MARKETING**

The sale of agricultural products or value-added agricultural products, at least fifty percent (50%) of which was produced on-site, directly to the consumer.

**(48) FARM RESIDENCE**

Any of the following structures that is located on a farm:

- (a) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
  - (i) An owner or operator of the farm.
  - (ii) A parent or child of an owner or operator of the farm.
  - (iii) An individual who earns more than 50% of his or her gross income from the farm.
- (b) A migrant labor camp that is certified under § 103.92.

**(49) 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.

**(50) FLOOR AREA, GROSS**

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.

**(51) FRONTAGE**

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

**(52) GARAGE, PRIVATE**

An accessory building for private storage.

**(53) 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.

**(54) 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.

**(55) 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.

**(56) HAZARDOUS MATERIALS**

Any materials, products, substances, etc. that are capable of posing a significant risk to health, safety, property, or the environment when transported, used, or stored.

**(57) HOOP STYLE BUILDINGS (aka arch and clear span buildings)**

An arch style building characterized by combustible, prefabricated, wood-post, or tubular-steel, semicircular (hoop – Quonset shape), framed roofs that curve to a short wooden or block pony wall or to the ground. The roofs and walls are generally covered with canvas, woven vinyl, PVC, or an equivalent material tarp. This definition is not intended to include portable carports, since these are considered structures and subject to zonings in Chapter 7.

**(58) HOME OCCUPATION**

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

**(59) 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.

**(60) INTERIOR SPACE**

Any roof covered part of a building or structure, regardless of the presence of side walls. This includes a roof covered patio or deck, a lean-to, a pavilion, a bandshell, event tent, and similar structures.

**(61) JUNK YARD**

Refer to Section 7.02B(86) Salvage Yard.

**(62) LODGE**

A building other than a hotel or motel in which accommodations, with or without meals, is offered to transient guests for compensation and in which there are no more than eight (8) sleeping rooms providing accommodations for no more than sixteen (16) adults and eight (8) children total, with no cooking facilities in any guest room or common guest space.

**(63) 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.

**(64) 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°.

- (65) **LOT, DEPTH OF**  
The mean horizontal distance between the front and rear lot lines measured within the lot boundary.
- (66) **LOT, INTERIOR**  
A lot other than a corner lot.
- (67) **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.
- (68) **LOT, THROUGH**  
An interior lot having frontage on two (2) non-intersecting streets.
- (69) **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.
- (70) **LOT LINE, FRONT**  
The boundary of a lot which is along an existing or dedicated public street.
- (71) **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.
- (72) **MEADERY**  
The manufacturing premises of an alcoholic beverage permittee regulated by the Wisconsin Department of Revenue that brews no more than 1,000 U.S. beer barrels (31,000 gallons) of mead in one calendar year. May include retail/wholesale of beverage and related products, as well as a tasting room.
- (73) **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.
- (74) **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.

- (75) **MOBILE HOME SALES LOT**  
An area for display and inspection of mobile homes which are not at that time used for dwelling purposes.
- (76) **MOTEL**  
Refer to Section 7.02B(59) Hotel or Motel.
- (77) **PADDOCK**  
A small field or enclosure near a stable in which horses are exercised.
- (78) **PARCEL**  
A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.
- (79) **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.
- (80) **NOT USED**
- (81) **PRIVATE DRIVE**  
Any private way that will not connect with any public road or highway.
- (82) **PROFESSIONAL OFFICE**  
The office of an architect, engineer, doctor, dentist, attorney, or other similarly licensed professional person.
- (83) **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.
- (84) **RENT-A-TREE OPERATION**  
An orchard that sells in advance the potential yield of a specific tree(s) to an individual(s) or group who harvests the fruit of their tree at the end of the growing season. The orchard operators are typically responsible for the care of the tree, such as pruning and watering.
- (85) **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.

- (86) RURAL CHARACTER**  
Rural character consists of a pleasant, quiet landscape of open spaces, natural areas, farms, wildlife, historic features, and small-scale development with low densities and traffic levels, unobtrusive signage, and limited lighting.
- (87) 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.
- (88) SANITARY LANDFILL**  
As defined in the Wisconsin Administrative Code, Chapter NR 500, Solid Waste Management, or any successor provisions thereof.
- (89) SEASONAL**  
A recurrent period characterized by certain occurrences, festivities, or crops; harvest, when crops are ready; not all year round.
- (90) SEASONAL SIGN**  
A sign erected for a limited period of time during the year when retailing activities for a particular farm product is available to the public.
- (91) 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.
- (92) SHIPPING CONTAINERS**  
A standardized reusable steel box used for the storage and movement of materials and products within a freight transport system, which was specifically designed or used to store goods or merchandise during shipping or hauling by container upon ships, rail, or other types of transportation and are usually eight (8) feet wide by eight (8) feet six (6) inches high by either twenty (20) feet or forty (40) feet in length. Moving Pods and pod type containers, and storage/transport portion of a truck removed from the truck frame fall under this definition.
- (93) SEMI-TRAILERS**  
A trailer without a front axle and with wheels only at the trailing end, designed to be pulled via a pivoting arrangement which also partially supports its weight. This definition is not intended to include fifth wheel or bumper pull trailers.



**(94) 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.

**(95A) SOLAR ENERGY SYSTEM (SES)**

A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)

**(95) STABLE**

An accessory building in which horses or livestock are kept.

**(96) 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.

**(97) STORY, HALF**

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

**(98) STREET**

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

**(99) STREET LINE**

The dividing line between a lot and a contiguous street.

**(100) STRUCTURAL ALTERATIONS**

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

**(101) 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, signs, swimming pools, containers, yard improvements including concrete, brick, and asphalt, supports, permanent decorations, or machinery and equipment with exception of flagpoles, seasonal decorations, and birdhouses.

**(102) 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.

**(103) STRUCTURE, TEMPORARY**

Any structure not meeting the definition of permanent structure above.

**(104) SUBSTANDARD LOT**

Refer to Section 7.02B(67) Lot, Substandard.

**(105) SUPER-MAJORITY VOTE OF APPROVAL**

Either of the following:

- (a) Upon a recommendation to approve by the Town Plan Commission, a vote of approval by at least two of the three members of the Town Board;
- (b) Absent a recommendation to approve by the Town Plan Commission, a vote of approval by all three members of the Town Board.

Subsequent to either of the above instances, whenever there is a conflict of interest and one member of the Town Board abstains from voting, an approving vote from both of the remaining members is required.

**(106) TENT**

A portable shelter made of canvas, cloth or similar material, supported by one or more poles, and stretched tight cords or loops attached to stakes driven into the ground, lacking a basement, for temporary use by guests.

**(107) TRACT**

All contiguous land under a common ownership and within the same zoning district.

- (108) **TRANSFER STATION**  
Area to be used for the collection, temporary storage and periodic removal of solid waste and/or recycling.
- (109) **U-PICK OPERATION**  
A fruit or vegetable-growing farm that provides the opportunity for customers to pick their own fruits or vegetables directly from the plant.
- (110) **USE, CONDITIONAL**  
Use of such special nature as to make impractical its predetermination as a permitted use in a district.
- (111) **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.
- (112) **USE, PERMITTED**  
A use which may be lawfully established in a particular district.
- (113) **USE, PRINCIPAL**  
The main or dominant use of the land, a building or other structure as distinguished from a subordinate or accessory use.
- (114) **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.
- (115) **WAREHOUSE**  
A building where raw materials, manufactured goods, merchandise or similar material is stored temporarily.
- (116) **WINERY, BOUTIQUE**  
The retail and/or manufacturing premises of an alcoholic beverage permittee regulated by the Wisconsin Department of Revenue that produces no more than 10,000 cases (23,780 gallons) in one calendar year. May include retail/wholesale of beverage and related products, as well as a tasting room.
- (117) **YARD**  
Open space which is unoccupied or unobstructed from its lower level to the sky, except for the permitted obstructions.

**(118) 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.

**(119) 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.

**(120) 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.

**(121) YURT**

A small, typically circular tent of skins, felt, or similar material stretched over a framework of poles, lacking a basement, for the temporary use by guests.

**(122) YARD, STREET**

Refer to Section 7.02B(118) 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 Elected Officials or Sheriff's Department, or Contracted Law Enforcement, shall be to investigate all complaints, give notice of violations, and enforce the provisions of this ordinance. The Building Permit Official, Town Elected Officials, Contracted Law Enforcement 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.

- (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.
- (10) **Traffic Visibility and Street Access Siting**
  - (a) A minimum vision triangle at each intersection shall have two (2) sides which measures at least seventy-five (75) feet on the controlled side of an intersection and one hundred and eighty (180) feet on the uncontrolled side of the intersection. Federal, state, or county highway restrictions shall take precedence where greater. The vision triangle is a clear area measured from the intersection centerlines and a line joining points at the end of such lines.
  - (b) No vegetation or structure that may constitute a visual obstruction may be placed in the vision triangle. The clear area extends from three (3) feet to ten (10) feet above the average height of the centerline elevation of the adjoining streets. Private drives are allowed in the vision triangle, but no obstruction can remain parked in the clear area.
  - (c) Siting of street access points:
    - (i) Six hundred (600) feet of unobstructed street visibility in both directions of the access point. If this is not achievable, reasonable judgement by the Town will need to be applied.
    - (ii) Access points shall be limited to two (2) per parcel. More than two (2) access points shall be reviewed and approved by the Plan Commission.
    - (iii) Access points shall not be built within the vision triangle unless the lot depth is insufficient, or terrain makes this unreasonable. Access points should at no time be closer than sixty (60) feet to the nearest right-of-way line. Access points are encouraged to be located as far from an intersection as the lot permits.

- (iv) Temporary access points may be granted by the highway agencies having jurisdiction. Such access permit granted by the Town, shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.
- (v) Refer to Chapter 3 of the Town Municipal Code for the design and construction of driveways and culverts.

#### **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.
- (8) Dwelling unit minimum gross floor area and foundation requirement; for units constructed after June 21, 2023
  - (a) The minimum gross floor area for a single-family dwelling is 900 square feet. The calculation of floor area shall not include any unfinished basement or attic, garage, deck, patio, balcony, breezeway, or similar space, or any detached structure.
  - (b) The minimum gross floor area for a two-family or multi-family dwelling is 900 square feet per unit. The calculation of floor area shall not include any unfinished basement or attic, garage, deck, patio, balcony, breezeway, or similar space. or any detached structure.

- (c) All dwelling units must be placed on a permanent foundation. A foundation is considered to be permanent if it is supported below the anticipated frost level, 48 inches below grade. If the foundation is not supported below the anticipated frost level, a recognized method of frost proofing may be utilized.

## **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 7.09SIGNS.
- (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.
- (12) Rental storage in existing permanent agricultural structures in all Agricultural Districts shall be considered a home occupation provided it meets all applicable standards as set forth in this ordinance. Hoop style buildings and shipping containers are not to be used as rental structures.
- (13) All home occupations are required to have their own removal of commercial waste and recycling.



## **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 7.03I. 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
A-1-S	Prime Agricultural District (Small-Scale)
A-PR	Prime Agricultural Parcel Remnants District
A-2	General Agricultural District
A-T	Agricultural Transition District
A-E	Agriculture Enterprises
C-1	Conservancy District
R-1	Single-Family Residential District
R-2	Two-Family Residential District
R-3	Multi-Family Residential District
RH-1	Rural Hamlet District
B-1	Business 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 July 19, 2016, 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/Treasurer. 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.

## C. FARMLAND PRESERVATION ZONING (FPZ)

Farmland Preservation Zoning in the Town of Mosel includes the A-1, A-1-S, and A-PR Districts.

- (1) **Purpose.** The purposes of the FPZ are to preserve productive agricultural land for food and fiber production; preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services; maintain a viable agricultural base to support agricultural processing and service industries; prevent conflicts between incompatible uses; reduce costs of providing services to scattered, nonfarm uses; pace and shape urban growth; implement the policies of the Sheboygan County Farmland Preservation Plan; and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Ch. 91, Wis. Stats. To comply with the Farmland Preservation Law, only agricultural uses and uses consistent with agricultural use (either permitted or conditional uses) are allowed. All structures and improvements shall be consistent with agricultural use.
- (2) **Density.** Residential density under the Town's Farmland Preservation Zoning is 1 residence allowed for every 35 acres of contiguous A-1 land under common ownership. A landowner with 70 vacant, contiguous A-1 acres, for example, can manage the property in a variety of ways (see the "yield" table below), but there could not be more than two residences in any development scenario for the 70 acres. This is ensured by the proper use of the non-developable A-PR designation for property remnants.

To determine the allowable residential yield for a particular tract of A-1 land, start with the total A-1 acreage of the tract, divide by 35, round down to the nearest whole number, and subtract 1 for each existing residential footprint (a duplex/two-family counts as 1 footprint). Whenever a new residence and/or a land division is proposed, all or part of any remaining land shall be simultaneously rezoned to A-PR to prevent exceeding the density in the future. (The landowner also has the option of voluntarily making the A-PR larger than required, if desired, to lower the density.)

POTENTIAL RESIDENTIAL YIELD OF VARIOUS A-1 TRACTS			
SIZE / TYPE OF A-1 TRACT	EXAMPLE A	EXAMPLE B	EXAMPLE C
70 contiguous acres with an existing residence	No division = 1 residence	Divide into 15-acre <b>A-1-S</b> with existing residence, 35-acre <b>A-1</b> and 20-acre <b>A-PR</b> = 1-2 residences	Divide into 35-acre <b>A-1</b> with existing residence, and 35-acre <b>A-1</b> = 1-2 residences
Vacant, contiguous 70 acres	No division = 0-1 residence	Divide into 35-acre <b>A-1</b> , 5-acre <b>A-1-S</b> and 30-acre <b>A-PR</b> = 0-2 residences	Divide into two 10-acre <b>A-1-S</b> , and 50-acre <b>A-PR</b> = 0-2 residences
Vacant, contiguous 148 acres	No division = 0-1 residence	Divide into four 35-acre <b>A-1</b> and 8-acre <b>A-PR</b> = 0-4 residences	Divide into two 10-acre <b>A-1-S</b> , 70-acre <b>A-1</b> , and 58-acre <b>A-PR</b> = 0-4 residences

**Note 1:** The table does not show all possible options.

**Note 2:** Although one residence can be built on a vacant A-1-S lot, a lot can remain undeveloped. Nevertheless, once an A-1-S lot is created, one residence is subtracted from the yield calculation.

**Note 3:** The date a residence was built, as well as farm or non-farm status of a residence, is irrelevant to the calculation of yield.

- (3) **Reporting.** By March 1st of each year, the Town shall report to DATCP and Sheboygan County the total acres rezoned out of the Town's Farmland Preservation Zoning during the preceding year and a map that clearly shows the location of those acres.

## **7.05 DISTRICT REGULATIONS**

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

The purposes of the A-1 Prime Agricultural District are to preserve substantial areas of productive agricultural land for food and fiber production; preserve productive farms by preventing land use conflicts between incompatible uses; maintain a viable agricultural base to support agricultural processing and service industries; and reduce costs of providing services to scattered, nonfarm uses. No building or use shall hereafter be established or enlarged within the A-1 District unless it conforms to the following regulations.

(1) Permitted Uses

(a) Accessory uses, meaning any of the following land uses on a farm:

- (i) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. However, any building, structure, or improvement associated with an agritourism use and/or listed in Section 7.06 S. (2) of this ordinance is only allowed in the A-E District.
- (ii) An activity or business operation that is an integral part of, or incidental to, an agricultural use. Such activities or operations include but are not limited to the following:
  - 1. Christmas tree farms
  - 2. Commercial kitchens
  - 3. Community Support Agriculture (CSAs)
  - 4. Farm direct marketing
  - 5. Greenhouses
  - 6. Paddocks and stables
  - 7. Roadside stands, not to exceed one (1) per tract
  - 8. U-pick operationsHowever, uses that meet the definition of agritourism as defined in this ordinance and/or are listed in Section 7.06 S. (2) of this ordinance are only allowed in the A-E District.
- (iii) A business, activity, or enterprise, whether or not associated with an agricultural use, that meets the standards of a home occupation in Section 7.03 of this ordinance.

(b) Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:

- (i) Apiculture (beekeeping)
- (ii) Aquaponics
- (iii) Dairying
- (iv) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (v) Forest and game management
- (vi) Grazing
- (vii) Horticulture (outdoor cultivation of fruits, vegetables, flowers, ornamental plants)

- (viii) Livestock raising
  - (ix) Orchards
  - (x) Plant nurseries
  - (xi) Poultry raising
  - (xii) Raising of grain, grass, mint, herb and seed crops
  - (xiii) Raising of fruits, nuts and berries
  - (xiv) Sod farming
  - (xv) Viticulture
  - (xvi) Other uses as interpreted by the Town Board and generally understood to be “agricultural uses”
- (c) Residence existing before January 1, 2014, regardless of occupancy.  
(Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt as a permitted use, provided that the rebuilt residence occupies the same general footprint or an alternate site that does not impair agricultural uses to any greater degree than the original residence.) (Refer to Section 7.06 J Conditional Uses in A-1/A-1-S Agricultural Districts for additional residential buildings.) (Refer to Section 7.07 Accessory Uses for restrictions related to residential accessory uses or structures.)
- (d) Undeveloped natural resource open space areas, including equestrian trails, and nature trails and walks.
- (e) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.
- (f) Gas and electric utility uses not requiring authorization under Chapter 196.49, Wisconsin Statutes (2001-2002).
- (g) Ponds, lagoons, and structures designed for the storage of manure in excess of two hundred (200) feet from any lot line.
- (h) Solar energy systems small-scale
- (2) Conditional Uses - Refer to Section 7.06CONDITIONAL 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.

- (4) Rezoning A-1 Land out of Farmland Preservation Zoning (FPZ)
  - (a) The Town may not rezone land out of FPZ unless prior to the rezoning the Town finds all of the following in writing, after a public hearing, as part of the official record of rezoning:
    - (i) The rezoned land is better suited for a use not allowed in the FPZ.
    - (ii) The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
    - (iii) The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91, Wisconsin Statutes, which is in effect at the time of rezoning.
    - (iv) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

**B. A-1-S PRIME AGRICULTURAL DISTRICT (SMALL-SCALE)**

The purposes of the A-1-S Prime Agricultural District (Small-Scale) are to provide for plots of land to enable smaller scale agricultural pursuits such as truck farming, horse farming, hobby farming, orchards, niche farming, organics, and similar agricultural-related farming activities; and to allow for an existing residence to separate from a farm while minimizing the amount of agricultural land removed from the farm. No building or use shall hereafter be established or enlarged within the A-1-S District unless it conforms to the following regulations.

- (1) Permitted Uses - All uses permitted in the A-1 Prime Agricultural District.
  - (a) Keeping of riding horses, ponies, or donkeys in private stables, and livestock and poultry in suitable enclosed buildings, with maximum of five (5) head of livestock and/or twenty (20) fowl per acre.
- (2) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.
- (3) Area, Yard, and Building Bulk Requirements
  - (a) **Minimum lot area:** Five (5) acres. However, a lot may be as small as one-and a half (1.5) acres if created for the purpose of separating a farm residence built before January 1, 2014 from the rest of the farm. In such a case, the new lot must be large enough to also include any surrounding outbuildings and meet all yard setbacks.
  - (b) **Maximum lot area:** 34.99 acres.
  - (c) **Minimum lot width:** Two hundred and fifty (250) feet for lots five (5) acre or larger; or one hundred and fifty (150) feet for lots smaller than five (5) acres created under subsection 7.05 (B)(3)(a).
  - (d) **Residence limits:** Only one residence is allowed on an A-1-S lot and any residence shall be located so as to preserve agricultural land.
  - (e) **Maximum residential area:** No more than five (5) acres shall be removed from agricultural use for a residence.
  - (f) **Front yard setbacks:** Not less than seventy-five (75) feet from the centerline of the adjacent road.
  - (g) **Side and rear yard setbacks:** Not less than twenty-five (25) feet each.
  - (h) **Maximum building height:** No building used for dwelling purposes shall be more than thirty-five (35) feet in height.

- (i) **Maximum lots allowed:** An A-1-S lot may not be divided, except to create A-PR land that is merged to adjacent land.
- (4) Rezoning A-1-S Land out of Farmland Preservation Zoning (FPZ)
  - (a) The Town may not rezone land out of FPZ unless prior to the rezoning the Town finds all of the following in writing, after a public hearing, as part of the official record of rezoning:
    - (i) The rezoned land is better suited for a use not allowed in the FPZ.
    - (ii) The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
    - (iii) The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91, Wisconsin Statutes, which is in effect at the time of rezoning.
    - (iv) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (5) Pre-existing Lots Smaller Than Five (5) Acres
  - (a) Any parcel or lot smaller than five (5) acres existing prior to the amendment of this ordinance on July 20, 2016 and rezoned to A-1-S as part of said amendment, shall be considered a conforming parcel or lot.

#### C. A-PR PRIME AGRICULTURAL PARCEL REMNANTS DISTRICT

The purpose of the A-PR Prime Agricultural Parcel Remnants District is to accommodate parcel remnants that remain worthy of farmland or open space preservation. Lands in this district are not intended to be rezoned for development, except in rare cases.

- (1) Permitted Uses – Same as A-1, except that no residences are allowed.
- (2) Conditional Uses – Same as A-1, except that no residences are allowed.
- (3) Area, Yard, and Building Bulk Requirements
  - (a) **Minimum lot area:** No minimum.
  - (b) **Minimum lot width:** Sixty-six (66) feet.
  - (c) **Residence limits:** No residence is allowed on A-PR land.
  - (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 more than thirty-five (35) feet.
- (4) Delineating A-PR Land on a Property
  - (a) A landowner may locate A-PR on his/her property wherever the landowner wishes, subject to the restrictions of this Chapter. The Town Plan Commission may require a plat of survey to accurately locate the district boundaries on the Town Zoning Map.
  - (b) Subject to the restrictions of this Chapter, the landowner reserves the right to relocate the boundary of any A-PR on the landowner's A-1 and/or A-1-S property at any time by submitting an application and fee payment for rezoning with the Town Clerk/Treasurer. The Town Plan Commission may require a plat of survey to accurately locate the revised district boundary on the Town Zoning Map.
- (5) Rezoning A-PR Land: Super-Majority Vote of Approval Required

- (a) A-PR land may not be rezoned to any other district unless the rezoning meets the minimum standards of the proposed district and is approved by separate super-majority votes of the Plan Commission and Town Board.
- (6) Rezoning A-PR Land out of Farmland Preservation Zoning (FPZ)
  - (a) The Town may not rezone land out of FPZ unless prior to the rezoning the Town finds all of the following in writing, after a public hearing, as part of the official record of rezoning:
    - (i) The rezoned land is better suited for a use not allowed in the FPZ.
    - (ii) The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
    - (iii) The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91, Wisconsin Statutes, which is in effect at the time of rezoning.
    - (iv) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
    - (v) The rezoning meets the requirements of sub. (5)(a).

#### **D. 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. (Note: The A-2 District is not part of the Town's Farmland Preservation Zoning (FPZ).) 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 7.05D(3) Area, Yard, and Building Bulk Requirements. The dwelling must be located so as to preserve productive farmland.
  - (c) Horticulture,
  - (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.
  - (f) Solar energy systems small-scale.
- (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.

#### **E. A-T AGRICULTURAL TRANSITION DISTRICT**

The primary purposes of the A-T District are to: (1) provide for the orderly transition of agricultural land in areas planned for eventual urban expansion into other non-agricultural uses, if so desired by the landowner; (2) defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost; (3) insure that urban development is compatible with local land use plans and policies; (4) provide periodic review to determine whether all or part of the land should be transferred to another zoning district.

- (1) **Permitted Uses** - All uses permitted in the A-1 Prime Agricultural District, as well as single-family residences, regardless of when constructed.
- (2) **Conditional Uses** – All uses listed in Section 7.06 CONDITIONAL USES for the A-1 and A-2 Districts, except for single-family residences, which are permitted uses in the A-T District.
- (3) **Area, Yard, and Building Bulk Requirements**
  - (a) **Minimum lot area:** Three (3) acres.
  - (b) **Minimum lot width:** Two hundred (250) feet.
  - (c) **Residence limits:** There shall be no more than one residence for every thirty-five (35) acres of contiguous land under common ownership.
  - (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.

## F. A-E AGRICULTURAL ENTERPRISE DISTRICT

The purpose of this district is to allow agritourism and farm-based entrepreneurial uses while maintaining rural character, preserving farmland, and protecting the health, safety, and welfare of citizens. Further, this district was created to enable increased contributions to the local economy and tax base; to provide standard definitions related to agritourism and farm-based business operations; to provide a list of activities that are eligible for conditional use permit consideration; and to provide a clear understanding of the expectations for these uses for operators, landowners and residents, and local officials.

(Note: The A-E District is not part of the Town's Farmland Preservation Zoning.)

No building or use shall hereafter be established or enlarged within the A-E Agricultural Enterprise 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 allowed 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-E, except as provided in subsections (b) through (e) below.
- (b) Single-family dwellings.
- (c) Horticulture
- (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.
- (f) Solar energy systems small-scale.

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

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

- (a) **Minimum lot and/or A-E area:** Five (5) acres, unless otherwise specified for particular conditional uses. Note: An entire property does not need to be zoned A-E; only the part that encompasses the agritourism use is required to be A-E.
- (b) **Minimum lot width:** Two hundred fifty (250) 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 each.
- (e) **Maximum building height:** No building used for dwelling purposes shall be more than thirty-five (35) feet in height.
- (f) **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.

## G. 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
  - (f) Solar energy systems small-scale.
- (2) Conditional Uses - Refer to Section 7.06 CONDITIONAL 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.

## H. 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
  - (c) Solar energy systems small-scale.
- (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 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.

## I. 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
  - (g) Solar energy systems small-scale.
- (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 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.

## J. 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
  - (d) Solar energy systems small-scale.
- (2) Conditional Uses - Refer to Section 7.06 CONDITIONAL 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 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:**

- (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.

#### K. 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:

- (1) encourage commercial and office uses that do not attract large volumes of traffic and continuous customer turnover.
- (2) limit and discourage development of strip-type, highway-oriented commercial uses that create traffic hazards and congestion.
- (3) 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.
- (4) minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
- (5) 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 7.07ACCESSORY USES.

- (6) 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 7.02B(17) 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
  - (h) Solar energy systems small-scale.
- (7) Conditional Uses - Refer to Section 7.06 CONDITIONAL USES.
- (8) 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.
- (9) **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 7.05K(6) RH-1 Rural Hamlet District – Permitted Uses and Section 7.06P 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.

- (10) **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 7.05K(10)(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 7.05K(10)(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.
- (11) **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.
- (12) 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.
- (13) 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.
- (14) 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/Treasurer. 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.



#### **L. 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.
  - (e) Solar energy systems small-scale.
- (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.
- (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.

#### **M. 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.
- (e) Solar energy systems small-scale.
- (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.

## 7.06 CONDITIONAL USES

### 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 7.06C Application.

### B. NOT USED

### 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/Treasurer. 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, if applicable.
- (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) For proposed lots and residences within Farmland Preservation Zoning, submittals of the following:
- (a) Color aerial photo, no more than two years old, and of sufficient size and resolution to determine whether lands have been under agricultural use.
  - (b) Brief written statement describing how the proposed lot and/or residence will not convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a lot or residence; and will not significantly impair or limit the current or future agricultural use of other protected farmland.
- (6) Fee receipt from the Town Treasurer in the amount set by the Town Board for Conditional Use Permit applications.
- (7) 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, wildlife habitat, and the impact on agriculture, 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 two times 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/Treasurer 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, protected farmland, 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.
- (4) All businesses that operate under a conditional or special land use permit are required to have their own removal of commercial waste and recycling.

## **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.
- (2) Cemeteries, except in the A-1, A-1-S, and A-PR Districts:
  - (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.
  - (c) Must meet all the applicable requirements of Wisconsin Statutes related to a new or expanded cemetery,

## **J. CONDITIONAL USES IN A-1 AND A-1-S AGRICULTURAL DISTRICTS**

- (1) General Requirements

All conditional uses in the A-1 and A-1-S Districts shall be consistent with agricultural use as allowed by this ordinance and meet the conditions defined by Section 91.46, Wisconsin Statutes (2015).
- (2) Conditional Uses in A-1 and A-1-S
  - (a) Any lot created after January 1, 2014 and/or single-family or two-family residences built after January 1, 2014.
    - (i) Standards:
      1. 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 location and size of any proposed lot, and, for a new residence, the location of the residence on the property, will not do any of the following:
    - (i) Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a residential lot or a residence.
    - (ii) Significantly impair or limit the current or future agricultural use of other protected farmland.

Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt without a renewal of the conditional use permit, provided that the rebuilt residence occupies the same general footprint. A new conditional use permit will be required if an alternate site is desired; the alternate site must not impair agricultural uses to any greater degree than the original residence.

- (c) Agricultural related uses, meaning any of the following:
  - (i) Agricultural equipment dealership
  - (ii) Facility providing agricultural supplies
  - (iii) Facility for storing, selling, or processing agricultural products
  - (iv) Facility for processing agricultural wastes
  - (v) Facility providing commodity trucking services.

- (d) 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.
- (e) Fish or fur farming
- (f) Ponds, lagoons, or structures designed for the storage of manure within two hundred (200) feet of any lot line.
- (g) Rental of gardening plots to others, only with off-road parking for all users to minimize safety hazards.
- (h) Transportation, communications, pipeline, electric transmission, utility, or drainage use; governmental, institutional, religious, or nonprofit community use. Such uses qualify if the Town determines that all of the following apply:
  - (i) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - (ii) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - (iii) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
  - (iv) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - (v) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (i) Nonmetallic mineral extraction, if the Town determines that all of the following apply:
  - (i) The operation complies with subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of the local ordinance under 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.
  - (ii) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - (iii) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.

- (iv) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- (v) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (vi) The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.
- (j) Agricultural Events:
  - (i) An Agricultural Event requires a conditional use permit if it takes place over two or more days and/or one or more of the following apply: advertised, open to the public, set hours of operation, or recurring. A one-day agricultural event such as an estate auction, crop walk, or operational meeting is not required to obtain a conditional use permit but must follow Town Ordinances including but not limited to parking and setbacks requirements.
  - (ii) The requirements listed in this subsection are the recommended standards and will be followed unless the applicant provides a written *Plan of Operation* that adequately makes the case for an alternative standard and, if applicable, describe the steps they would take to sufficiently protect the public health, safety, and welfare, and further, preserve the general solitude and rural character of the Town. Such *Plan of Operation* must be approved by the Town Board prior to the final submittal of a conditional use permit application or any amendment to a conditional use permit.
    1. Federal, State, County Approvals – Any uses and/or structures requiring licenses, permits, or other approvals from any entity other than the Town of Mosel shall be obtained 60 days prior to event.
    2. Hours of availability to the public are limited to 9:00 a.m. to 10:00 p.m.
    3. Events shall be limited to three (3) consecutive days.
    4. Events shall be limited to two (2) events per calendar year.
    5. On property camping shall be limited to event staff, exhibitors and vendors and must comply with 7.15 D of the Town of Mosel municipal code.
    6. Lighting is regulated per Section 7.06 S. (1) (i) of the Town of Mosel Zoning Ordinance.
    7. Campfires are regulated per Section 7.06 S. (1) (k) of the Town of Mosel Zoning Ordinance.
    8. Parking is regulated per Section 7.06 S. (1) (g) of the Town of Mosel Zoning Ordinance.
    9. All signs are regulated per section 7.10 of the Town of Mosel municipal code

10. Property boundaries should be clearly marked to avoid guests trespassing on neighboring properties.
11. Event activities shall abide by the limitations specified in Section 5.14 of the Town of Mosel Municipal Code regarding noise regulations.
12. Transient Merchants are regulated per Section 4.09 of the Town of Mosel Municipal Code.
13. An individual Conditional Use Permit must be obtained by every property owner participating in the event.
14. Event activities must meet all setback requirements.

(k) Camping. All camping events must comply with Section 7.15 of the Town of Mosel Municipal Code.

(l) Solar energy systems mid-scale.

(m) Solar energy systems large-scale.

Note: all solar energy systems must comply with Section 7.16 of the Town of Mosel Municipal Code.

#### **K. CONDITIONAL USES IN A-PR AGRICULTURAL DISTRICT**

All of the conditional uses and requirements for the A-1 District specified in sub. J apply to the A-PR Prime Agricultural Parcel Remnants District, except that no residences are allowed in the A-PR District.

#### **L. CONDITIONAL USES IN A-2 AGRICULTURAL DISTRICT**

##### **(1) 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 D(1)(d) through 7.05 D(1)€.
- (b) Antennas
- (c) Communication towers or Instrument Landing System facilities
- (d) Dog kennels and stables
- (e) Fish or fur farming
- (f) Golf courses
- (g) Governmental and cultural uses, such as fire and police stations, community centers, libraries, parks, playgrounds, and museums
- (h) 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.
- (i) Municipal Sanitary landfill
- (j) Ponds, lagoons, or structures designed for the storage of manure within two hundred (200) feet of any lot line.
- (k) Facility for storing, selling, or processing agricultural products
- (l) Rental of gardening plots to others, only with off-road parking for all users to minimize safety hazards.



- (m) Sportsmen's clubs and shooting ranges
  - (n) Camping. All camping events must comply with Section 7.15 of the Town of Mosel Municipal Code.
  - (o) Solar energy systems mid-scale
  - (p) Solar energy systems large-scale.
- Note: all solar energy systems must comply with Section 7.16 of the Town of Mosel Municipal Code.

#### **M. CONDITIONAL USES IN A-T TRANSITIONAL DISTRICT**

Excepting residences, which are permitted uses in the A-T Agricultural Transition District, all of the conditional uses listed in the A-1 District specified in sub. J and in the A-2 District specified in sub. L, except solar energy systems-large scale, shall be conditional uses in the A-T District. Consistency with agricultural use is not required for conditional uses in the A-T District. Note: Solar energy systems large-scale are not an allowed use in the A-T District.

#### **N. CONDITIONAL USES IN C-1 CONSERVANCY DISTRICT**

- (1) Boat launching areas and boat liveryes
- (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

#### **O. 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 7.06C 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
    - 1. Open spaces and plazas

2. Use of existing landscape
3. Pedestrian-way treatment
4. Recreational areas
- (ii) **Siting**
  1. Visual focal points
  2. Use of existing physical features (topography, etc.)
  3. View
  4. Sun and wind orientation
  5. Circulation pattern
  6. Physical environment
  7. Variation in building setbacks
  8. Building groups (clusters, etc.)
- (iii) **Design features**
  1. Street sections
  2. Architectural styles
  3. Harmonious use of materials
  4. Parking areas broken by landscape features
  5. 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**
    1. **Area:** minimum of 2/3 of the minimum lot area for the district in which located.
    2. **Width:** minimum of 2/3 of the minimum lot width for the district in which located.
  - (iii) **Building**
    1. **Area:** Minimum building area for the district in which located.
    2. **Height:** maximum of thirty-five (35) feet.
    3. **Rooms:** all living rooms shall have windows opening onto a yard.
  - (iv) **Yards**
    1. **Front:** not less than eighty (80) feet from the centerline of the adjacent street.
    2. **Rear:** not less than twenty-five (25) feet in depth.
    3. **Side:** not less than twenty-five (25) feet on each side of lot.
  - (v) **Streets and Sidewalks**

1. **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.
2. **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.

**P. 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 7.05K(8) 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

**Q. 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
- (26) Camping. All camping events must comply with Section 7.15 of the Town of Mosel Municipal Code.
- (27) Solar energy systems mid-scale.
- (28) Solar energy systems large-scale.

Note: all solar energy systems must comply with Section 7.16 of the Town of Mosel Municipal Code.

**R. 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
  - (24) Camping. All camping events must comply with Section 7.15 of the Town of Mosel Municipal Code.
  - (25) Solar energy systems mid-scale.
  - (26) Solar energy systems large-scale.
- Note: all solar energy systems must comply with Section 7.16 of the Town of Mosel Municipal Code.

## **S. CONDITIONAL USES IN A-E AGRICULTURAL ENTERPRISE DISTRICT**

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

The following requirements shall apply to all agritourism uses unless additional or more stringent requirements are listed for a particular use elsewhere in this Section, in which case the more restrictive shall apply.

The requirements listed in this subsection are the recommended standards and will be followed unless the applicant provides a Plan of Operation that adequately makes the case for an alternative standard and, if applicable, describes the steps they would take to sufficiently protect the public health, safety, and welfare, and, further, preserve the general solitude and rural character of the Town. Such Plan of Operation must be approved by both the Planning and Zoning Commission and Town Board prior to the final submittal of a conditional use permit application or any amendment to a conditional use permit.

- (a) Federal, State, County Approvals – Any uses and/or structures requiring licenses, permits, or other approvals from any entity other than the Town of Mosel shall have obtained said approval(s) prior to applying for a conditional use permit.
- (b) Road Weight Restrictions – All vehicles related to the agritourism use shall comply with applicable road weight restrictions.
- (c) Lot Size – If part of a lot is sold, and the remaining lot is less than the minimum required size for a particular conditional use(s), the conditional use permit shall automatically be revoked.
- (d) Number of Conditional Use Permits – In addition to any conditional use permit required for the property owner, a separate conditional use permit will be required for each use or group of uses that is operated by someone other than the property owner.
- (e) Hours – Unless stated otherwise in subsection (2) Conditional Uses, the hours that conditional uses in the A-E District are available to the public are limited to 9:00 a.m. to 7:00 p.m.
- (f) Structures – All structures intended for a use listed in subsection (2) Conditional Uses shall meet the following criteria:
  - (i) The uses listed in subsection (2) that require interior space shall only use interior space that is housed in the following:
    - 1. Agriculturally related structures and/or expansions completed prior to July 1, 2017;
    - 2. Structures and/or expansions completed after July 1, 2017 on vacant lots or lots with existing agriculturally related structures, if said structures and/or expansions support a use listed in the A-E District, and if the total square footage of said new structures and/or expansions does not exceed 3,000 square feet; unless additional square footage is explicitly granted by the conditional use permit after approval of a Plan of Operation as indicated in subsection S.(1).

- (ii) Conditional uses that use an area of a structure not considered interior space shall only use such areas if they are agriculturally related structures and/or expansions completed prior to July 1, 2017; or new structures that are needed to support a use listed in the A-E District, but only if the total square footage of said structures does not exceed 2,000 square feet—unless additional square footage is explicitly granted by the conditional use permit after approval of a Plan of Operation as indicated in subsection S.(1).
  - (iii) The exterior and interior style, design, and décor of any new or renovated structure shall be consistent with the Town’s rural character.
  - (iv) The location and operation of any new or expanded structure shall avoid, if possible, interfering with normal agricultural practices on and off site or converting prime agricultural lands to a non-agricultural use.
- (g) Parking – All structures, uses, and activities dependent on vehicular access shall meet the following criteria, in addition to any other applicable requirements in Section 7.03F.(10) of this ordinance:
- (i) Safe vehicular access and customer parking shall be provided on-site or on an adjacent property on the same side of the road if a written agreement is reached between the applicant and the adjacent landowner.
  - (ii) Parking shall be designed in such a way that vehicles do not need to back off of or onto a public road.
  - (iii) Parking areas that are accessed by driveways or lanes inside the property are recommended. Entries and exits to parking areas that directly access a public roadway shall require a driveway permit from the Town of Mosel or Sheboygan County, whichever applies.
  - (iv) Parking areas shall be defined by cut grass or other visible marking.
  - (v) Parked vehicles shall be located outside public rights-of-way and at a minimum distance of fifteen (15) feet from the road pavement edge abutting the property.
  - (vi) Parked vehicles shall be located at least twenty (20) feet from side and rear property lines.
  - (vii) Conditional use applicants shall include a parking plan, drawn to scale, with their application materials that shows the following:
    1. Extents of parking areas and vehicle capacity.
    2. Estimate of the peak number of vehicles for normal business operations.
    3. A plan for overflow parking for events expected to exceed the normal peak number of vehicles.
    4. Landscaping, screening, or fencing to buffer neighboring properties, if necessary.
- (h) Signs

- (i) All signs related to this district shall conform with the applicable standards listed in Section 7.10 Signs of the Town of Mosel Zoning Ordinance.
  - (ii) Property boundaries should be clearly marked to avoid guests trespassing on neighboring properties.
- (i) Lighting
  - (i) Any exterior lighting installed related to an agritourism use or activity shall be appropriately shielded and directed generally downwards to minimize light pollution.
  - (ii) Any exterior lighting that is on during non-operating hours shall automatically be regulated by either on/off or level-1/level-2 lighting to minimize lighting impacts during non-operating hours.
- (j) Noise
  - (i) All agritourism uses shall abide by the limitations specified in Section 5.13 of the Town of Mosel Municipal Code regarding noise regulations.
- (k) Fires
  - (i) Fires shall be confined to designated fire pits, which shall be no more than three (3) feet in diameter.
  - (ii) The ground surface surrounding fire pits shall be covered by non-combustible materials for a minimum distance of five (5) feet.
  - (iii) No more than two (2) fire pits shall be allowed per five (5) acres.
  - (iv) Fires shall have flames no more than three (3) feet in height.
  - (v) Fires shall be attended at all times unless completely extinguished.
  - (vi) Property management shall confirm all fires and ashes have been extinguished before midnight on each day that fires occur.
  - (vii) Fire extinguishing devices and materials shall be located within 50 feet of each fire pit.
  - (viii) A notice of fire restrictions shall be posted near each fire pit.
  - (ix) Fire restrictions issued by the Wisconsin DNR shall be monitored and fires shall be prohibited when the local Fire Danger level is rated "Extreme." See [dnr.wi.gov/topic/ForestFire/restrictions.html](http://dnr.wi.gov/topic/ForestFire/restrictions.html)
- (l) Alcohol beverages
  - (i) The manufacture of alcohol beverages requires the appropriate Alcohol Beverage Permits from the Wisconsin Department of Revenue per Ch. 125, Wis. Stats.
  - (ii) The sale of alcohol beverages requires the appropriate licenses from the Town of Mosel per Town Code.



**(2) Conditional Uses**

All uses listed in this section require a conditional use permit prior to applying for a building permit and/or beginning operations. All conditional uses shall go with the property, but the owner of the property is required to notify the Planning and Zoning Commission of any change in ownership within 30 days of such change. The conditional use permit shall require a review by the Planning and Zoning Commission at the time of the ownership transfer to assess the need for any changes to the conditional use permit.

The requirements listed in this subsection are recommended standards and will be followed unless the applicant provides a Plan of Operation that adequately makes the case for an alternative standard and, if applicable, describes the steps they would take to sufficiently protect the public health, safety, and welfare, and, further, preserve the general solitude and rural character of the Town. The burden of proof shall be upon the applicant. Such Plan of Operation must be approved by both the Planning and Zoning Commission and the Town Board prior to submittal of a conditional use permit application or any amendment to a conditional use permit.

- (a) Agritourism related activities not specifically listed in (b) through (p) below, as well as non-agritourism related activities held outside an event barn.
  - (i) The frequency of events that include activities using sound amplification that is audible beyond the property boundaries shall be limited to one (1) Friday or Saturday evening every other weekend.
  - (ii) Dates, times, durations, and descriptions of upcoming events shall be provided in a timely and convenient manner to nearby residents and Town officials when requested. An up-to-date website is recommended.
  - (iii) Event hours are limited to 7:00 a.m. to 7:00 p.m. Monday through Thursday, 10:00 a.m. to 10:00 p.m. Friday and Saturday, and 10:00 a.m. to 6:00 p.m. Sunday.
  - (iv) The owner/operator/manager shall be on-site or available by phone and able to respond in a timely manner to any issues that arise.
  - (v) Minimum setback for any of these activities is one hundred (100) feet from any adjacent landowner's property line.
  - (vi) Minimum tract size is ten (10) acres.
- (b) Bed and Breakfast Businesses
  - (i) The only meal served shall be breakfast, and food service shall be limited to overnight guests. There shall be no cooking facilities in any guest room or common guest space.
  - (ii) Up to four (4) sleeping rooms and provide accommodations for up to eight (8) adults and four (4) children.
  - (iii) Hours of operation: unlimited.
- (c) Breweries, micro- / nano- / pico-

- (i) Maximum interior visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.
- (d) Cabins
  - (i) Sleeping capacity for all units in total not to exceed 1 person per 100 square feet. Plans detailing the sleeping areas and capacity shall accompany the conditional use application.
  - (ii) Maximum cabin size is two thousand (2,000) square feet and one-and-a-half (1½) stories.
  - (iii) Maximum stay of 21 consecutive days.
  - (iv) Hours of operation: unlimited.
  - (v) The owner/operator/manager shall be on-site or available by phone and able to respond in a timely manner to any issues that arise.
- (e) Cafés, Delicatessens, Diners, Eateries
  - (i) At least fifty percent (50%) of the menu items must be derived from ingredients grown, raised, or produced within Wisconsin.
  - (ii) Maximum interior visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.
- (f) Cider mills
  - (i) Maximum visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.
- (g) Distilleries, micro-
  - (i) Maximum interior visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.
- (h) Event barns
  - (i) The frequency of events that include activities using sound amplification shall be limited to one Friday or Saturday evening every other weekend.
  - (ii) Dates, times, durations, and descriptions of upcoming events shall be provided in a timely and convenient manner to nearby residents and Town officials when requested.
  - (iii) Event hours are limited to 7:00 a.m. to 7:00 p.m. Monday through Thursday, 10:00 a.m. to 10:00 p.m. Friday and Saturday, and 10:00 a.m. to 6:00 p.m. Sunday.
  - (iv) Total attendance is limited to two hundred and fifty (250) persons at any one time.
  - (v) Existing barns may be renovated for this use, but not expanded. No barns built after July 1, 2017 may be used for this purpose.
  - (vi) Minimum setback for an event barn is one hundred (100) feet from any adjacent landowner's property line.
  - (vii) Minimum tract size is ten (10) acres.
- (i) Farmer's markets
  - (i) Such markets shall be limited to two (2) days within a single week.

- (ii) Dates, times, durations, and descriptions of upcoming markets shall be provided in a timely and convenient manner to nearby residents and Town officials when requested.
- (iii) Markets are limited to 8:00 a.m. to 7:00 p.m. Monday through Friday, 8:00 a.m. to 5:00 p.m. Saturday, and 9:00 a.m. to 3:00 p.m. Sunday.
- (iv) Each stall and/or booth is limited in size to one hundred and forty-four (144) square feet of ground floor space.
- (v) Minimum setback for any stall or booth is one hundred (100) feet from any adjacent landowner's property line.
- (vi) Minimum tract size is ten (10) acres.
- (j) Livestock shows, Livestock handling shows, Horse shows and Riding Events
  - (i) Shows shall be limited to three (3) days within a single week.
  - (ii) Dates, times, durations, and descriptions of upcoming shows shall be provided in a timely and convenient manner to nearby residents and Town officials when requested.
  - (iii) Shows are limited to 7:00 a.m. to 7:00 p.m. Monday through Thursday, 10:00 a.m. to 9:00 p.m. Friday and Saturday, and 10:00 a.m. to 6:00 p.m. Sunday.
  - (iv) Capacity is limited to two hundred and fifty (250) persons at any one time.
  - (v) Minimum setback is one hundred (100) feet from any adjacent landowner's property line.
  - (vi) Minimum tract size is ten (10) acres.
- (k) Lodges
  - (i) Up to eight (8) sleeping rooms and provide accommodations for up to sixteen (16) adults and eight (8) children.
  - (ii) Hours of operation: unlimited.
  - (iii) The owner/operator/manager shall be on-site or available by phone and able to respond in a timely manner to any issues that arise.
  - (iv) Minimum tract size is ten (10) acres.
- (l) Meaderies
  - (i) Maximum interior visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.
- (m) Museums
  - (i) At least fifty percent (50%) of the exhibits must be related to agriculture, horticulture, or agribusiness.
- (n) Nature trails
  - (i) Hours of operation: sunrise to sunset.
- (o) Rent-a-tree operations
- (p) Tents, Yurts
  - (i) If used for display or some other agritourism related use, the minimum setback shall be one hundred (100) feet from any adjacent landowner's property line.

- (ii) If used for lodging, the following requirements must be met:
  - 1. All domestic wastewater and water from kitchen or bathroom sinks, showers, tubs, and washing machines shall be disposed of by any combination of the following: connection to a county approved onsite wastewater disposal system; use of a county approved holding tank; use of a portable toilet with disposal at an approved sanitary dump station; use of a Wisconsin product approved composting, chemical, or incineration toilet if completely within a camping unit.
  - 2. All garbage is to be adequately contained during each stay and properly disposed of after each stay. Disposal of waste and recycling materials shall be in compliance with 7.06 F. (4).
  - 3. The number of camping units shall not exceed one (1) per acre, per tract, with a maximum of ten (10) at any one time.
  - 4. The maximum stay shall not exceed twenty-one (21) consecutive days.
  - 5. The total number of days camping occurs on the property shall not exceed twenty-one (21) in a calendar year.
  - 6. Camping units shall meet all setback requirements for the A-E District.
  - 7. Platforms shall be engineered and comply with local building codes.
  - 8. A rural address number shall be posted at the access driveway to the camping area. If the camping area uses the same access driveway as another structure on the property that already has a rural address number, that number is sufficient. Said access driveway must have a direct connection to a public road or other officially approved right-of-way.
  - 9. Off-road parking is required for any non-camping vehicles on-site; such locations must meet all A-E setback requirements.
  - 10. Generators used for camping shall not be operated between the hours of ten (10) p.m. and seven (7) a.m. unless the generator is an inverter generator or there is no residence within two hundred (200) feet of the generator location.
  - 11. Music audible beyond the property is not allowed.
  - 12. Fireworks are prohibited.
  - 13. Fires shall meet the requirements of subsection T.(1)(k).
- (q) Wineries, boutique
  - (i) Maximum interior visitor capacity is 50 persons at any one time or the maximum allowed capacity of the structure per the state building code, whichever is less.

## **T. 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.

## **7.07 ACCESSORY USES**

### **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 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 District, the A-1-S District, the A-PR District, the A-2 District, A-E District or the A-T 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 7.07B General Permitted Uses.

- (1) Area, height, number, and total aggregate square footage of accessory structures for residential use shall be regulated by the following table: *Side and Rear Yard Accessory Structures for Residential Purposes*:

Parcel Size (square feet)	Maximum Individual Building Area (square feet)	Maximum Aggregate of Buildings (square feet)	Maximum Number of Accessory Structures Greater than 200 ft² with Side walls higher than 8 feet	Maximum Building Height (feet)
Less than 60,000	2,000	3,000	2	25
60,000 to less than 90,000	3,000	4,000	3	25
90,000 to less than 120,000	4,000	5,000	4	35
Greater than 120,000	5,000	6,000	5	35

- (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) Construction of an accessory structure shall not be commenced on any lot prior to the time that a building permit is approved and issued for the principal structure 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 7.05K(9)(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 7.07D Bulk Regulations. One accessory structure in whole or in part 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.
  - (d) Area, height, number, and total aggregate square footage of accessory structures for residential use shall be regulated by the following table:  
*Front Yard Accessory Structures for Residential Purposes:*

Parcel Size (square feet)	Maximum Individual Building Area (square feet)	Maximum Aggregate of Building Area (square feet)	Maximum Number of Accessory Structures	Maximum Building Height (feet)
All Parcels	1,040	1,040	1	25

- (4) Small storage shed which do not exceed two hundred (200) square feet and sidewall height of eight (8) feet or less shall be excluded from the calculation of the maximum aggregate building square footage.

#### 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.

#### G. SHIPPING CONTAINERS, HOOP STYLE BUILDINGS, AND SEMI TRAILERS

- (1) **Shipping Containers (Storage):** Shipping containers are allowed in all zoning districts on parcels that are three (3) acres or greater where a primary residence or business structure exists provided the shipping container and number of containers meets items (a) through (k) as follows:
  - (a) An administrative building permit is required before placing any shipping container on any parcel;
  - (b) Shipping containers shall not be used to store hazardous materials or human habitation;
  - (c) Shipping containers shall be deemed accessory structures subject to all requirements of Section 7.07 of the Town of Mosel Zoning Ordinance;

- (d) Shipping containers shall not be stacked on each other or on any other structure or building;
- (e) No storage on the top of shipping containers;
- (f) Shipping containers must be placed on either eight (8) inches of well compacted gravel, asphalt, or concrete surface;
- (g) The maximum number, size, and location of shipping containers shall follow the requirements in the following table:

Parcel Size (acres)	Maximum Number of Shipping Containers	Maximum Size of Containers	Allowed Lot Location of Containers
Less than 3	0	----	----
3 but less than 5	1	8 ft by 20 ft	Rear only
5 but less than 10	2	8 ft by 40 ft	Side and Rear
10 but less than 15	4	8 ft by 40 ft	Side and Rear
Greater than 15	6	8 ft by 40 ft	Side and Rear

- (h) One shipping container may be located in agricultural zoned districts with no primary structures when used for property maintenance, hunting, or logging purposes;
  - (i) Shipping containers shall not contain any labels, advertising, designs, or graffiti;
  - (j) Shipping containers shall not be rented or used as a mini-warehouse; and
  - (k) Shipping containers shall meet all setback requirements for the district in which they are located.
- (2) **Hoop Style Buildings.** Hoop style building are not to be used for storage of hazardous materials or use for human habitation and are allowed in all districts provided they meet the following:
- (a) Residential, Rural Hamlet, and Conservancy Districts:
    - (i) Hoop buildings shall be deemed accessory structures subject to all requirements of Section 7.07 of the Town of Mosel Zoning Ordinance;
    - (ii) Hoop buildings require an administrative building permit;
    - (iii) Hoop buildings shall only be located in the side or rear yards;
    - (iv) Hoop buildings shall only be used for greenhouse purposes, including if part of a *Home Occupation* as defined in Section 7.03 H of the Town of Mosel Zoning Ordinance. In which case, State of Wisconsin approved engineered drawings and construction inspections may be required as part of the administrative building permit;
    - (v) Hoop buildings anchoring must meet manufacture's specifications and State of Wisconsin requirements;
    - (vi) Hoop buildings shall meet all setback requirements; and
    - (vii) Hoop buildings must be dismantled if greenhouse uses cease for more than 12 months.
  - (b) Agriculture Districts:
    - (i) Hoop buildings require an administrative building permit;

- (ii) Hoop buildings for agricultural use are subject to all requirements in those districts;
  - (iii) Hoop building anchoring must meet manufacturer's specifications and State of Wisconsin requirements;
  - (iv) Hoop buildings use for nonagricultural purposes shall be deemed accessory structures subject to all requirements of Section 7.07 of the Town of Mosel Zoning Ordinance;
  - (v) Hoop buildings used for an approved use other than general agriculture may require State of Wisconsin approved engineering plans and inspections as part of the administrative building permit;
  - (vi) Hoop buildings shall meet all setback requirements;
  - (vii) Hoop buildings cannot be rented or used as a mini-warehouse; and
  - (viii) Hoop buildings must be dismantled if use ceases for more than 12 months.
- (c) Business and Industrial Districts:
- (i) Hoop buildings uses include greenhouse, commodity storage, and general equipment storage;
  - (ii) Hoop buildings can be the primary structure on a parcel if it is used as a remote greenhouse growing operation, but not for storage purposes;
  - (iii) Hoop buildings require an administrative building permit;
  - (iv) Hoop buildings shall only be located in the side or rear yards;
  - (v) Hoop buildings are deemed a commercial structure. State of Wisconsin approved engineering drawings and construction inspections are required as part of the administrative building permit;
  - (vi) Hoop buildings used for greenhouse purposes require a conditional use permit;
  - (vii) Hoop buildings shall meet all setback requirements; and
  - (viii) Hoop buildings must be dismantled if uses cease for more than 12 months.
- (3) **Semi-Trailers (Storage):** Semi-Trailers for storage purposes are permitted in Agricultural (for agricultural uses only, no residential uses) and Industrial Districts provided they meet the following:
- (a) Semi-Trailers cannot be used for storage of hazardous material or human habitation;
  - (b) Semi-Trailers shall be kept road worthy as defined by WisDOT;
  - (c) Semi-Trailers can only be placed on properties where the primary business/agricultural structures are located;
  - (d) Semi-Trailers must be placed on either (8) inches of well compacted gravel, asphalt, or concrete surfaces;
  - (e) Semi-Trailers shall only be located in the side and rear yards;
  - (f) Semi-Trailers shall be used only for agricultural or business/industrial related activities and shall not be rented or used as a mini-warehouse;
  - (g) If semi-trailers are not moved over a period of one-year, a conditional use permit may be required for continued use; and

- (h) Trailers shall meet all setback requirements.
- (4) Any shipping container, hoop style building, or semi-trailer (unit) that appears to have been abandoned and receives written notice from the Town ordering its removal shall be permanently removed by the owner within 30 days of receiving said notice. An owner may challenge the determination of abandonment by appealing to the Town Board within 60 days of receiving said notice. If denied, the abandoned unit shall be removed within 30 days of the Town Board's decision. Any abandoned unit that is not removed within the applicable time period may be removed by the Town at the owner's expense.
- (5) **Shipping Containers and Semi-Trailers (Temporary Use):** Shipping Containers and Semi-Trailers are allowed by administrative building permit in all zoning districts for temporary storage of business and personal property in the event of catastrophic loss of business or residence and relocation projects. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least fifteen (15) feet from the nearest road pavement edge. The period they can remain on the property is 90 days. After this period expires the permit will be reviewed to determine one of the following: 1) an extension can be granted for an additional 90 days, 2) the container or trailer can remain on-site if located in one of the zoning districts and locations specified in section 7.07 G. (1) and (3) of this ordinance; or 3) container or trailer must be removed within 30 days of notice.
- (6) **Pre-existing Shipping Containers, Hoop Style Buildings, and Semi-Trailers.** Any pre-existing shipping containers, hoop style buildings, and semi-trailers in use prior to the creation of this section of ordinance (date) are considered grandfathered and its current use can continue although the use, size, or location does not conform to the provisions of this ordinance. However, it shall be deemed a nonconforming use or structure, and the provisions of Chapter 7 shall apply. Pre-existing conditions will be determined by historical aerial images and other verifiable evidence.
- (7) The regulations listed in this section shall not apply to temporary structures that are:
- (a) Placed for construction purposes and in conjunction with active administrative or other building permits. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least fifteen (15) feet from the nearest road pavement edge. Any units shall be removed within 30 days of the conclusion of the project: or
- (b) Placed during any period of declared emergency by federal, state, or local official action. Following a period of 90 days of placement, "temporary structures" use will be reviewed to determine if a conditional use permit (CUP), administrative building permit, or removal is appropriate.

## **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) Restoration of certain nonconforming structures:
  - (a) The restoration of a nonconforming structure is allowed if the structure is restored to the size, subject to par. (b), location, and use that it had immediately before the damage or destruction occurred. There are no limits on the costs of the repair, reconstruction, or improvement if all of the following apply:
    - (i) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
    - (ii) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
  - (b) Structures restored pursuant to the preceding paragraph may be increased in size from what they were immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- (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.

### **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 MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES**

#### **A. PURPOSE**

In addition to promoting the public health, safety, and general welfare of the citizens of the Town of Mosel, the purposes of this Section include 1) minimizing any adverse visual effects of communication facilities, 2) allowing a non-discriminatory, competitive, and broad range of communication services consistent with the Federal Telecommunications Act of 1996, 3) achieving consistency with the mobile service support structure and facility regulations of 2013 Wisconsin Act 20, and 4) encouraging the use of alternative support structures and the co-location of new antennas primarily on existing telecommunication towers or secondarily on new towers with the capacity to locate three or more providers.

This Section is not intended to regulate commercial television or radio towers.

#### **B. DEFINITIONS SPECIFIC TO THIS SECTION**

**(1) ALTERNATIVE MOBILE SERVICE SUPPORT STRUCTURE**

Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities and/or antennas.

**(2) ANTENNA**

Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

**(3) ANTENNA, BUILDING MOUNTED**

Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

**(4) ANTENNA, GROUND MOUNTED**

Any antenna with its base placed directly on the ground.

**(5) APPLICATION**

An application for a permit under this section to engage in an activity specified in 64.0404 (2) (a) or a Class 2 collocation.

- (6) CAMOUFLAGED TOWER**  
Any telecommunication tower that due to design or appearance hides, obscures or conceals the presence of the tower and/or its antennas.
- (7) CLASS 1 COLLOCATION**  
The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
- (8) CLASS 2 COLLOCATION**  
The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
- (9) COLLOCATION**  
Class 1 or Class 2 collocation or both.
- (10) COLLOCATOR**  
The second and all subsequent providers of wireless telecommunication services to be located at a telecommunication facility.
- (11) DISTRIBUTED ANTENNA SYSTEM**  
A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
- (12) EQUIPMENT COMPOUND**  
An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
- (13) EXISTING STRUCTURE**  
A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Town of Mosel.
- (14) FALL ZONE**  
The area over which a mobile support structure is designed to collapse.
- (15) GUYED TOWER**  
A telecommunication tower that is supported in whole or in part by devices other than the superstructure of the support tower, such as guy wires or ground anchors.

- (16) **HEIGHT, TELECOMMUNICATION FACILITY**  
The distance measured from the original grade at the base of the tower to the highest point of the telecommunication facility, including the tower and any attached antennas, protection devices such as lightning rods, and lighting. In the case of “crank-up” or other height-adjustable towers, height shall be determined by the maximum height to which it is capable of being raised. The height of building mounted antennas shall be determined by adding the height of the building above the lowest adjacent grade to the highest point of the telecommunication facility.
- (17) **LATTICE TOWER**  
A self-supporting telecommunication tower that consists of vertical, horizontal and/or diagonal supports and braces.
- (18) **MOBILE SERVICE**  
Has the meaning given in U.S. Code 47 USC 153 (33).
- (19) **MOBILE SERVICE FACILITY**  
The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.
- (20) **MOBILE SERVICE PROVIDER**  
A person who provides mobile service.
- (21) **MOBILE SERVICE SUPPORT STRUCTURE**  
A freestanding structure, such as a tower, that is designed to support a mobile service facility.
- (22) **MONOPOLE**  
A self-supporting telecommunication tower of a single pole design.
- (23) **NAVIGABLE STREAM OR LAKE**  
A waterway designated as navigable by the Wisconsin Department of Natural Resources (DNR), or as designated on a United States Geological Survey (USGS) map, or by the Town of Mosel Board utilizing DNR or USGS standards.
- (24) **NON-CONFORMING MOBILE SERVICE SUPPORT STRUCTURE OR FACILITY**  
In existence and operation prior to the enactment of this ordinance, and for which all applicable permits were issued at the time of construction.
- (25) **OPERATION**  
A mobile service support structure or facility is in operation when it is fully and regularly functioning for its intended purpose as a component of a telecommunication system.



**(26) PLATFORM**

A support system used to connect antennas and antenna arrays to mobile service support structures or alternative mobile service support structures, generally designed to facilitate maintenance access to the antennas.

**(27) POLITICAL SUBDIVISION**

A city, village, town, or county.

**(28) PREFERRED TOWER AREA (PTA )**

Preferred Tower Areas consist of:

- (a) The areas specifically delineated as such on the attached map, which is incorporated by reference; and
- (b) All parcels owned on the date of enactment of this ordinance section by the Town of Mosel.

**(29) PUBLIC UTILITY**

Has the meaning given in 196.01 (5), Wis. Stats.

**(30) SATELLITE DISH**

A device incorporating a reflective surface that may be solid, open mesh, or bar configured and that may be shallow dish, cone, horn, or cornucopia shaped and that is used to transmit and/or receive electromagnetic signals. Examples include but are not limited to satellite earth stations, TVROs and satellite microwave antennas.

**(31) SEARCH RING**

A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

**(32) SUBSTANTIAL MODIFICATION**

The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

- (a) For structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet.
- (b) For structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by (ten) 10 percent or more.
- (c) Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by twenty (20) feet or more, unless a larger area is necessary for collocation.
- (d) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

**(33) SUPPORT STRUCTURE**

An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

**(34) MOBILE SERVICE SUPPORT STRUCTURE/FACILITY PERMIT**

Written authorization from the Town of Mosel to an applicant to construct a mobile service support structure or facility or to connect to, expand, modify, or otherwise utilize an existing mobile service support structure or facility.

**(35) UTILITY POLE**

A structure owned or operated by an alternative telecommunications utility, as defined in 196.01 (1d), Wis. Stats.; public utility, as defined in 196.01 (5), Wis. Stats.; telecommunications utility, as defined in 196.01 (10), Wis. Stats.; political subdivision; or cooperative association organized under ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in 182.017 (1g) (cq), Wis. Stats.; for video service, as defined in 66.0420 (2) (y), Wis. Stats.; for electricity; or to provide light.

**(36) UTILITY POLE MOUNTED ANTENNA**

An antenna attached to or mounted upon electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure.

**C. WHEN MOBILE SERVICE SUPPORT STRUCTURE/FACILITY PERMIT  
NOT REQUIRED**

The following shall be permitted without the need to apply for a Mobile Service Support Structure/Facility permit under subsection 7.09 D., provided that the primary use of the property is not a mobile service support structure or facility, that the antenna use is accessory to the primary use of the property, and that a building permit and all other permits that may be needed under Town, county, state or federal law shall have been obtained:

- (1) Provided the height does not exceed seventy (70) feet, wireless Internet antennas, receive-only television antennas and satellite dishes, and all other satellite dishes or antennas whose regulation is prohibited by state law or preempted by Federal law.
- (2) Antennas for federally licensed amateur radio operators and/or receive-only radio antennas.
- (3) Mobile services providing public information coverage of news events of a temporary or emergency nature.
- (4) Ground mounted antennas and their support towers, poles or masts if the height of the mobile service support structure or facility does not exceed fifty (50) feet above the original grade at the site of the installation.

- (5) Building mounted antennas or antennas on alternative mobile service support structures if the height of the mobile service support structure or facility does not exceed twenty-five (25) feet above the highest part of the building or alternative mobile service support structure to which they are attached.
- (6) Utility pole mounted antennas if the height of the mobile service support structure or facility does not exceed twenty-five (25) feet above the highest part of the utility pole.

#### **D. WHEN MOBILE SERVICE SUPPORT STRUCTURE/FACILITY PERMIT REQUIRED**

Any mobile service support structure or facility not exempted by subsection 7.09 C. from the permit obligation may be permitted only upon issuance of a Mobile Service Support Structure/Facility Permit under this subsection.

All proposed mobile service support structures and facilities shall comply with the provisions set forth herein. A Mobile Service Support Structure/Facility Permit and a building permit from the Town of Mosel are required before the new construction or substantial modification may begin on any mobile service support structure or facility. Applications for a Mobile Service Support Structure/Facility Permit shall be made in accordance with the following:

- (1) New construction or substantial modification of facilities and support structures.
  - (a) Subject to the provisions and limitations of this section, the Town shall regulate the following activities:
    - (i) The siting and construction of a new mobile service support structure and facilities.
    - (ii) With regard to class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
  - (b) The application for an activity described under sub. (1) a. shall be in writing and shall contain all of the following:
    - (i) The name and business address of, and contact individual for, the applicant.
    - (ii) The location of the proposed or affected support structure.
    - (iii) The location of the proposed mobile service facility.
    - (iv) If the application is to substantially modify an existing support structure, a construction plan that describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
    - (v) If the application is to construct a new mobile service support structure, a construction plan that describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

- (vi) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (c) If an applicant submits an application for a permit to engage in an activity described under sub. (1) a., which contains all of the information required under sub. (1) b., the Town shall consider the application complete. If the Town does not believe the application is complete, the Town shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (d) Within ninety (90) days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety (90) day period:
  - (i) Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this article, the Town's zoning ordinance.
  - (ii) Make a final decision whether to approve or disapprove the application.
  - (iii) Notify the applicant, in writing, of its final decision.
  - (iv) If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.
- (e) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under sub. (1) b. 6.
- (f) A party who is aggrieved by the final decision of the Town under sub. (1) d. 2. may bring an action in Sheboygan County circuit court.
- (g) If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in subsection 9.07 J., then 907 J. does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- (h) The Town may regulate the activities described under sub. (1) a. only as provided in this section.
- (2) Collocation on existing support structures.
  - (a)
    - (i) A class 2 collocation is a permitted use under 59.69, 60.61, and 62.23, Wis. Stats.

- (ii) The Town may regulate a class 2 collocation only as provided in this section.
  - (iii) A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
- (b) If an applicant submits to the Town an application for a Mobile Service Support Structure/Facility Permit to engage in a class 2 collocation, the application shall contain all of the information required under sub. (1) b. 1. to 3., in which case the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (c) Within forty-five (45) days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the forty-five (45) day period:
  - (i) Make a final decision whether to approve or disapprove the application.
  - (ii) Notify the applicant, in writing, of its final decision.
  - (iii) If the application is approved, issue the applicant the relevant permit.
  - (iv) If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.
- (d) A party who is aggrieved by the final decision of the Town under sub. (2) c. 1. may bring an action in Sheboygan County circuit court.
- (3) The recipient of a Mobile Service Support Structure/Facility Permit shall notify the Town Clerk within fifteen (15) days of any change in facility ownership, and shall provide contact information for said new ownership.
- (4) Fences, Signs, Security
  - (a) An eight-foot high fence with locked gate shall be provided around the tower and related equipment.
  - (b) Advertising signs of any type shall not be permitted in connection with tower sites. An identification sign, measuring no more than six feet square, indicating the owner's name and a 24-hour emergency number, shall be affixed to the facility in such a way that it is visible from outside the fence.
- (5) Lighting: unless required by the Federal Aviation Administration, there shall be no continuous artificial lighting attached to mobile service support structures or facilities. Security lighting shall be "cut off lighting" fixtures.

## **E. TECHNICAL REVIEW**

The Town may employ one or more technical experts in engineering, law, municipal planning, or related fields to review materials submitted by applicants, to request additional information from applicants, to advise Town officials whether the application fully complies with all applicable requirements, and to make further recommendations to Town officials as the technical experts deem to be relevant and appropriate. The applicant shall pay all the costs of said reviews, except that the applicant cannot be charged for any travel costs incurred by said technical experts. The payment to the Town shall be due upon receipt of the invoices. All invoices, fees, and charges accumulated for the technical reviews must be paid in full prior to the issuance of the Mobile Service Support Structure/Facility permit. A decision by the Town Board to decline to issue a Mobile Service Support Structure/Facility Permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection.

## **F. REMOVAL AND SITE RESTORATION**

- (1) The removal of mobile service support structures or facilities no longer in operation or abandoned, and site restoration shall comply with the following:
  - (a) The recipient for a Mobile Service Support Structure/Facility Permit shall notify the Town Clerk within forty-five (45) days of the permanent cessation of operations of the structure or facility. If no notice is received for a structure or facility that has not been in operation for a continuous period of twelve (12) months, the structure or facility shall be considered abandoned.
  - (b) The owner of a mobile service support structure or facility shall be responsible for the removal of the structure or facility within ninety (90) days and the restoration of the site to a condition acceptable to the Town Plan Commission within one hundred eighty (180) days following the date the Town Clerk receives notice the facility is no longer in operation. Note: Tower-based antennas that are no longer operational shall be removed; however, site restoration is not required.
    - (i) Site restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five feet below the ground surface. The structure owner shall provide a signed and notarized document in recordable form to the Town of Mosel stating the existence, description, and precise location of any subsurface structure remaining.

- (ii) A surety bond, letter of credit, cash, or other surety, as determined by the Town of Mosel, shall be provided by the applicant prior to the issuance of a Mobile Service Support Structure/Facility Permit to cover the costs of complete removal of an abandoned facility, along with landscape remediation, landscaping, and removal of any on-site hazardous materials, if necessary. The Town of Mosel shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company. The Town may require an increase in the surety amount at five-year intervals to reflect increases in the costs in the aforementioned removal, remediation, and landscaping expenses. The amount of the increased surety shall be determined by the Town of Mosel consistent with actual anticipated costs as provided by appropriate experts. The applicant shall provide any increase in surety within sixty (60) days after the Town's request. In no case shall the bond, letter of credit, cash, or surety exceed \$20,000.
- (c) Any cost not covered by the surety bond furnished shall be provided by the existing landowner or become a lien on the real estate.

#### **G. PREEXISTING MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES**

Except for routine maintenance and repair, the owners of mobile service support structures and facilities in existence on the date of enactment of this ordinance may not rebuild the structure, or add, move or replace facilities, without first obtaining a Mobile Service Support Structure/Facility Permit.

#### **H. COMPLIANCE**

- (1) Revocation. Grounds for revocation of the Mobile Service Support Structure/Facility permit shall include:
  - (a) The owner of such site, service provider, and/or tower owner fails to comply with the requirements of this section.
  - (b) The permittee fails to comply with the conditions imposed by the permit.
  - (c) The permittee is adjudged in violation of a rule, regulation, and/or decision promulgated by a state or federal agency with jurisdictional oversight of mobile service support structures or facilities, or a court of competent jurisdiction, and has not cured the deficiency within the time period designated by the agency or court, or if no time period was designated, within a reasonable time.
- (2) Revocation Process.
  - (a) The owner of such site, service provider, and/or tower owner shall be notified by certified mail of noncompliance and warning of intent to revoke by the Town Clerk upon direction of the Town Board.
  - (b) The owner shall have thirty (30) days after receipt of the noncompliance notice to either correct the deficiencies or to file a written request for a hearing with the Town Clerk.

- (c) If a written request for a hearing is received within thirty (30) days, the Town Board shall schedule a due process hearing and shall provide at least seven days advance notice to the owner. The Town Board shall consider all relevant evidence at the due process hearing. The Town Board of Zoning Appeals may decide to revoke the permit, to suspend the permit with or without conditions, or to dismiss the matter, as it deems appropriate under the circumstances. If the Town Board revokes or suspends the permit, or imposes any other penalty, it shall prepare a written decision incorporating its findings of fact and reasoning.
- (d) If no request for a hearing has been received and compliance is not obtained within thirty (30) days after receipt of the noncompliance notice, the Town Board may summarily revoke or suspend the permit with or without conditions, as it deems appropriate under the circumstances.

## **I. STRUCTURAL, DESIGN, AND ENVIRONMENTAL STANDARDS**

- (1) Mobile Service Support Structure and Facilities Requirements. Unless exempted by subsection 7.09 C. of this ordinance or precluded by the limitations of 64.0404 (4), all structures and facilities shall be designed to reduce negative impact on the surrounding environment by implementing the measures set forth below:
  - (a) Mobile service support structures shall be constructed of metal or other nonflammable material and have exterior surface finishes that minimize reflectivity, unless otherwise specified by the Town Board.
  - (b) Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.
  - (c) Mobile service facilities shall be no taller than fifteen (15) feet in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility from nearby roads and neighboring properties. Mobile service facilities for all mobile service support structure users at one site shall not exceed a total of 1,600 square feet of floor area.
  - (d) The maximum height of an antenna platform located on a rooftop shall be twenty (20) feet above the roof.
  - (e) Mobile service facilities shall not interfere with or obstruct existing or proposed public safety, fire protection, Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities, or the private television, radio, or communication devices of businesses or residences. Any actual interference and/or obstruction shall be corrected by the Mobile Service Support Structure/Facility Permit holder as soon as reasonably possible and at no cost to the Town or public.
- (2) Height. The maximum height of a mobile service support structure or facility shall be one hundred ninety-nine (199) feet.



- (3) Site Development, Roads, and Parking. A leased parcel intended for the location of new mobile service support structures or facilities shall be located so as to permit expansion for all potential colocators. A parcel owned by a mobile service carrier and/or provider and intended for the location of new mobile service support structures and facilities shall meet the minimum size requirement of the zoning district. All sites must be served by an easement sufficient to provide a turnaround and access for emergency vehicles. Sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Town of Mosel Plan Commission.
- (4) Fire Prevention. All mobile service support structures and facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
- (5) Noise and Traffic. All mobile service support structures and facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. Noise producing construction activities shall take place only on days other than Sundays or holidays between the hours of 7:00 a.m. and 7:00 p.m., except in times of emergency repair, and backup generators shall be operated only during power outages and for testing and maintenance purposes.

#### **J. SETBACK REQUIREMENTS**

All setbacks shall be measured from the base of the tower or structure and are the same as the setbacks for other commercial structures, as listed in subsection 7.05 M. of this ordinance. Nevertheless, to protect public safety, the following minimum setbacks are strongly recommended:

- (1) Setbacks from all habitable residential buildings. All new mobile service support structures are recommended to be set back from all habitable residential buildings on the host property or on adjoining properties a distance of at least one hundred twenty-five (125) percent of the height of the tower, or two hundred forty-nine (249) feet, whichever is greater. In addition, mobile service support structures should strive to avoid being placed closer to a residence on neighboring properties than the distance of the tower from the residence or principal structure on the host property.
- (2) Setbacks from streets. All new mobile service support structures are recommended to be set back from the traveled portion of all streets the greater of the distance established in the zoning code, one hundred (100) percent of the height of the tower, or one hundred ninety-nine (199) feet.
- (3) Setbacks from property lines. All new mobile service support structures are recommended to be set back from all property lines a minimum of one hundred (100) percent of the height of the mobile service support structure, or one hundred ninety-nine (199) feet, whichever is greater.
- (4) Guy wire anchor setback. All guy wire anchors are recommended to be at least twenty-five (25) feet from all property lines.

#### **K. TOWN ROAD RIGHTS-OF-WAY**

The construction, operation, and decommissioning of a Mobile Service Support Structure/Facility shall not adversely impact transportation infrastructure within road rights-of-way in the Town of Mosel or nearby municipalities. Prior to the issuance of any permits for a Mobile Service Support Structure/Facility a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Mosel, shall be conducted by an independent, qualified entity, at the expense of the applicant. A second survey must be completed following project completion. The Town of Mosel and any other affected municipality shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Sheboygan County Transportation Department.

#### **L. BUILDING PERMIT**

A Town of Mosel building permit is required for the location of all mobile service support structures and facilities. The applicant shall submit such information as may be required by the Building Inspector.

#### **M. FEES**

- (1) The fee charged for a Mobile Service Support Structure/Facility Permit required under this Section shall be determined from time to time by the Town Board and printed in a schedule to be maintained by the Town Clerk. Additional fees may be due under other sections of the Town of Mosel code.
- (2) In no instance, however, shall any fee exceed one of the following amounts:
  - (a) For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by the Town of Mosel for a building permit for any other type of commercial development or land use development.
  - (b) For a permit for an activity described under subsection 7.09 D. (1) a., \$3,000.
  - (c) Charge a mobile service provider any recurring fee for an activity described in subsection 7.09 D. (1) a. or a class 2 collocation.

### **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/Treasurer and permits for applications which conform with this ordinance shall be issued by the Clerk/Treasurer 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 7.09 **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 7.10C 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 7.08NONCONFORMING 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/Treasurer 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/Treasurer; 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/Treasurer. 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/Treasurer. 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, proceeded by a class 2 notice under ch. 985, Wis, Stats., which includes 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 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.

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/Treasurer. 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/Treasurer 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/Treasurer.
  - (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

Zoning	Size of Parent Property to be Divided	Lots (Units) Allowed: Standard Zoning	Lots (Units) Allowed: BLPP Overlay Zoning	Total Number of Bonus Lots
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.

## **7.15 CAMPING ON PRIVATE LAND**

### **A. APPLICABILITY**

The standards in this Section apply to camping on a private property by persons other than the landowner or the landowner's extended family. A "property" is considered to be all contiguous parcels under a common owner.

### **B. PURPOSE**

The purpose of this Section is to assure the rights of private property owners while ensuring that camping is conducted in a manner that protects public health, safety, and welfare, as well as establishing minimum standards of space for human occupancy and adequate levels of maintenance to protect the character and stability of the community.

### **C. ADOPTION OF ADMINISTRATIVE CODE SECTION**

Section ATCP 79.03 - Definitions of the Wisconsin Administrative Code is hereby adopted by the Town of Mosel in its entirety.

### **D. CONDITIONAL USE PERMIT REQUIRED**

- (1) The following camping events are allowed in all zoning districts and are considered exempt from the requirement of obtaining a conditional use permit, but must comply with all conditions set forth in this subsection:
  - (a) Camping on private land by the landowner or the landowner's extended family.
  - (b) One (1) camping unit for the maximum of twenty-one (21) consecutive days. Camping unit must be located on a parcel with an occupied residence.
  - (c) Five (5) or less camping units for a maximum of three (3) consecutive nights. Camping units must be located on a parcel with an occupied residence.
- (2) Prior to any other camping occurring, landowners must obtain a conditional use permit from the Town following the process described in 7.06 CONDITIONAL USES and meeting the conditions set forth in subsection D. (3). Camping as a conditional use is allowed in all districts except R-1, R-2, R-3, and RH-1.
- (3) Conditions
  - (a) An owner of record of any property being used for camping shall either reside at the property or have provided written permission to those persons actually camping.
  - (b) All domestic wastewater and water from kitchen or bathroom sinks, showers, tubs, and washing machines shall be disposed of by any combination of the following:
    - (i) Connection to a county approved onsite wastewater disposal system.
    - (ii) Use of a county approved holding tank.

- (iii) Use of a portable toilet with disposal at an approved sanitary dump station.
- (iv) Use of a Wisconsin product approved composting, chemical, or incineration toilet if completely within a camping unit.
- (c) All garbage is to be adequately contained during each stay and properly disposed of after each stay. It is the responsibility of the property owner to provide their own removal of waste and recycling. Waste and recycling materials shall not be disposed at the Town Recycling Center.
- (d) The number of camping units shall not exceed one (1) per acre, per tract, with a maximum of ten (10) at any one time.
- (e) The maximum stay for a camping unit shall not exceed (fourteen) 14 consecutive days.
- (f) The total number of days in which camping occurs on the property shall not exceed twenty-one (21) in a calendar year.
- (g) Only one conditional use permit will be issued per year per property owner.
- (h) Camping units shall meet all setback requirements for the zoning district in which they are located, as well as any Sheboygan County shoreland setbacks that may apply.
- (i) Platforms shall be engineered and comply with local building codes.
- (j) A rural address number shall be posted at the access driveway to the camping area. If the camping area uses the same access driveway as another building on the property that already has a rural address number, that number is sufficient. Said access driveway must have a direct connection to a public road or other officially approved right-of-way.
- (k) Off-road parking is required for any non-camping vehicles on-site; such locations must meet all setback requirements.
- (l) Generators used for camping shall not be operated between the hours of ten (10) p.m. and seven (7) a.m. unless one of the following exist:
  - (i) The generator used is an inverter generator.
  - (ii) There is no residence within 200 feet of the generator location.
- (m) Music audible beyond the property is not allowed.
- (n) Fireworks are prohibited.
- (o) Fires shall be confined to designated fire pits, which shall be no more than three (3) feet in diameter and meet the following requirements:
  - (i) The ground surface surrounding fire pits shall be covered by non-combustible materials for a minimum distance of five (5) feet.
  - (ii) No more than two (2) fire pits shall be allowed per five (5) acres.
  - (iii) Fires shall have flames no more than three (3) feet in height.
  - (iv) Fires shall be attended at all times unless completely extinguished.
  - (v) Fire extinguishing materials and devices shall be located on-site.
  - (vi) A notice of fire restrictions shall be posted near each fire pit.
  - (vii) Fire restrictions issued by the Wisconsin DNR shall be monitored and fires shall be prohibited when the local Fire Danger is rated "Extreme."

- (p) Any signage must meet the standards of the Town of Mosel Sign Ordinance.
- (q) Conditional use permits shall expire December 31 of each year.

## **7.16 SOLAR ENERGY SYSTEMS (SES)**

### **A. APPLICABILITY**

The standards in this Section apply only to mid-scale solar energy systems as described in subsection C.

### **B. PURPOSE**

There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.

### **C. TYPES OF SOLAR ENERGY SYSTEMS AND PERMITS REQUIRED**

- (1) **Large-scale SES (100 MW or more):** Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-1-S, A-PR, A-2, B-1, and I-1 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
- (2) **Mid-scale SES (less than 100 MW but greater than 30 kW):** Are subject to the conditional use permit conditions set forth in Section 7.06 of this Ordinance and the requirements set forth in subsection D below, the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed only in the A-1, A-1-S, A-PR, A-2, A-T, B-1, and I-1 districts.
- (3) **Small-scale SES (30 kW or less):** Are considered to be accessory uses and are permitted uses in all districts. Such systems are allowed whether or not a principal structure exists on the parcel. A building permit from the Town is required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.

### **D. REQUIREMENTS FOR MID-SCALE SOLAR ENERGY SYSTEMS**

- (1) Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.

- (a) **Location:** No portion of a large- or mid-scale SES shall occupy any parcel that lies within one-quarter mile of the corporate boundary of the villages of Howards Grove or Cleveland or City of Sheboygan existing at the time of application for said SES, unless approved by the Town Board after receiving convincing evidence that said SES will not impede the planned growth of said municipalities.
- (b) **Setbacks:** Any portion of the SES shall not encroach within twenty-five (25) feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, or septic field. Setbacks from roadways are seventy-five (75) feet from the center line of the adjacent road. The project design shall be such that aboveground project components (excluding fences and access roads) shall not be closer than two hundred (200) feet to any nonparticipating landowner residential structure.
- (c) **Height restrictions:** Ground mounted components of a SES shall not exceed fifteen (15) feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district's height limit by more than five (5) feet.
- (d) **Glare:** The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
- (e) **Sound:** The SES project's inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.
- (f) **Construction hours:** Hours of construction shall be between 6:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
- (g) **Installer:** All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
- (h) **Foundation:** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate.
- (i) **Screening:** A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.

- (j) **Town road rights-of-way:** The construction, operation, and decommissioning of a SES shall not adversely impact transportation infrastructure within road rights-of-way in the Town of Mosel or nearby municipalities. Prior to the issuance of any permits for an SES project a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Mosel, shall be conducted by an independent, qualified entity, at the expense of the applicant. A second survey must be completed following project completion. The Town of Mosel and any other affected municipalities shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Sheboygan County Transportation Department.
  - (k) **Code compliance:** A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
  - (l) **Power and communication lines:** Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
  - (m) **Orderly development:** Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
  - (n) **Decommissioning:** When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning. The Town of Mosel shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company.
- (2) In addition to the application submittal requirements of Section 7.06 CONDITIONAL USES of this Ordinance, the application for a SES conditional use permit shall include the following:
- (a) Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.
  - (b) Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
  - (c) Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
  - (d) Surrounding property uses, including distances to any adjacent nonparticipating landowner residential structures.
  - (e) Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.

- (f) A decommissioning plan that outlines the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for twelve (12) consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Mosel to have suitable expertise or experience. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and properties within the Town. The plan shall provide that decommissioning will begin within one hundred eighty (180) days from the end of the SES useful life or if the SES is not in use for twelve (12) consecutive months. Decommissioning shall be completed within nine (9) months from the start of decommissioning activities.