

**TOWN OF MOSEL
SHEBOYGAN COUNTY, WISCONSIN**

ORDINANCE NO. 2023-08

**AN ORDINANCE AMENDING CHAPTER 5:
OFFENSES AGAINST PUBLIC PEACE, SAFETY, MORALS AND PUBLIC POLICY
OF THE MUNICIAL CODE OF THE TOWN OF MOSEL**

WHEREAS, pursuant to s. 66.0113, Wis. Stats., the Town Board may authorize the issuance of citation for violations of Town ordinances, including ordinances with statutory counterparts; and

WHEREAS, the Town Board determines that the enactment of this ordinance will protect and promote the health, safety, and general welfare of residents and landowners of the Town;

NOW, THEREFORE, the Town Board of the Town of Mosel, Sheboygan County, Wisconsin does ordain as follows:

Section 1. Section 5.02 STORAGE OF JUNK, ETC., REGULATED Is hereby created as follows:

5.02 STORAGE OF JUNK, ETC., REGULATED

- A. RESTRICTED:** No person shall store junked or discarded property, including but not limited to automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris, which substantially depreciates property values in the neighborhood, except in an enclosure which screens such property from public view.
- B. ORDER FOR COMPLIANCE:** Town Board may require by written order any premises violation of this subsection to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

Section 2. Section 5.05 B. (2) (g) **Public Nuisances Affecting Health** amended as follows:

- (g) All animals running at large. ~~All persons owning or having charge, custody, care or control of any cat, dog or other animal shall keep such animal exclusively upon their own premises and direct supervision, except as hereinafter provided.~~

Section 3. Section 5.05 B. (2) (h), (i) and (j) **Public Nuisances Affecting Health** are hereby created as follows:

- (h) Any person who owns or has charge, custody, care of control of any animal shall be responsible for the appropriate care of the structure or enclosure within which such animal is kept. Failure to daily maintain a clean structure or enclosure shall be in violation of this section.
- (i) No animal shall be upon the private property of others, except in cases where the presence of such animal is with the express consent of the owner of the premises or the parties in control of such premises.
- (j) Any person owning or having charge, control, care of custody of any animal shall clean up any feces of such animal immediately and dispose of it in a sanitary manner.

Section 4. Section 5.05 B. (2) (l) **Public Nuisances Affecting Health** amended as follows:

- (l) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes, manure, or other substances.

Section 5. Section 5.05 B. (2) (o) **Public Nuisances Affecting Health** are hereby created as follows:

- (o) Any use of property which causes any noxious or unwholesome liquid, manure, soil/mud, or other substances to flow or be tracked into or upon any road or road rights-of-way within the Town of Mosel.

Section 6. Section 5.05 B. (4) (m), (n) and (o) **Public Nuisances Affecting Peace and Safety** amended as follows:

- (m) All open and unguarded pits, wells, excavations or unused basements, abandoned manure pits, or other dangerous openings freely accessible from any public street or sidewalk. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person; and any cover shall be of such design, size and weight that the same cannot be removed by small children.
- (n) All abandoned refrigerators or ice boxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside. No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under their control in a place accessible to children, any abandoned, unattached or discarded ice box, refrigerator or other container, which has an airtight door or lid, snap lock or other locking device, which may not be released from the inside, unless such door or lid, snap lock or other locking device has been removed from such ice box, refrigerator or container, or unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.
- (o) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the street or sidewalks. An unlawful assembly is an assembly, which consist of three (3) or more persons, and which causes such a disturbance of public order that it is reasonable to believe that the assembly shall cause injury to persons or damage to property unless it is immediately dispersed. An unlawful assembly includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person or persons of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building or dwelling place or any portion therefor and which blocks or obstructs the lawful use by any other persons of such private or public thoroughfares, property or any position of access or exit to or from any private or public building or dwelling place or any portion thereof. Law enforcement and or contract law enforcement shall order all persons who are part of the unlawful assemble to disperse.

Section 7. Section 5.05 B. (4) (p) thru (v) **Public Nuisances Affecting Peace and Safety** are hereby created as follows:

- (p) No person or group shall stand, sit or engage in any sport or exercise on any public roadway, sidewalk, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress to or egress from any place of business or amusement or any church, public hall or meeting place.
- (q) No person shall throw any glass, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Town or upon any private property or upon the surface of any body of water within the Town.
- (r) No person shall resist or interfere with any officer of the Town, law enforcement, or contract law enforcement while such officer is doing any act in their official capacity and with lawful authority, nor shall any person refuse to assist an officer in carrying out their duties when so requested by the officer.
- (s) No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon the appearances of a law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object.
- (t) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use including, but not limited to, business or industrial parking lots or shopping establishments, without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about doorway, stairway, steps, or entrance of any business place or private residence without the express consent of the owner thereof, or at any time other than usual business hours. Under this subsection, business place shall include public buildings at such times that the same shall be closed for the usual and normal business conduct thereat.
- (u) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the express consent of the owner thereof, whether such motor vehicle be parked upon a public street, alley, parking lot, driveway, or private premises.
- (v) Any activity which causes soil/mud, manure, or other substances to be tracked or flow onto roads or road rights-of-way within the Town of Mosel.

Section 8. Section 5.05 C. (1) **ABATEMENT OF PUBLIC NUISANCES** amended as follows:

- (1) **Inspection of Premises.** Whenever complaint is made to the Town Board that a public nuisance exists within the Town, the complainant will promptly notify ~~the Town Chair, health officer, building inspector~~ a member of the Town Board, constable or contract law enforcement who will inspect or cause to be inspected the premises and will make a written report of his/her findings to the Town Board. Whenever practicable, the inspecting officer will photograph the premises and will file the photograph with the Town Clerk-Treasurer.

Section 9. Section 5.05 C. (2) (b) **Abatement by Town** amended as follows:

- (b) **Abatement by Town.** If the nuisance is not abated within the time provided, or if the owner, occupant or person causing the nuisance cannot be found, ~~the health officer, in case of health nuisances,~~ the constable, sheriff's department, Town Chair or ~~contract law enforcement,~~ in other cases, will cause the abatement or removal of such public nuisance.

Section 10. Section 5.05 D. **COST OF ABATEMENT** amended as follows:

- D. COST OF ABATEMENT:** In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town will be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost will be assessed against the real estate, as a special charge, or other special taxes.

Section 11. Section 5.09 G. (4) **CAMP PLAN** amended as follows:

- (4) No trailer ~~unit~~ shall be parked in a camp outside of a designated space.

Section 12. Section 5.15 **DAMAGE TO TOWN RIGHTS OF WAY** is hereby created as follows:

5.15 DAMAGE TO TOWN RIGHTS OF WAY

- A. Section 66.0627 of the Wisconsin Statutes permits the Town Board to impose a special charge in accordance with the terms of such Section against real property for current services rendered by allocation all or part of the cost of the services to the property served. No persons, business, or corporation shall damage Town roads or road rights-of-way during construction or demolition.
- (1) If the Town of Mosel incurs costs or expenses for repairs to any road or road rights-of-way for which the Town is responsible for its maintenance, and such repairs arise out of or relate to any private construction or demolition project in the Town of Mosel then, in that event, the Town Clerk-Treasurer shall, charge the costs and expenses incurred by the Town to the property owner of such construction or demolition site regardless of whether or not a building permit is required for such construction or demolition.
 - (2) The Town Clerk-Treasurer shall give each property owner billed for current services as provided for herein notice that they shall have a specified period of time, of not less than thirty (30) days, to pay. Said notice shall state that within 15 days of the date of the notice, the property owner may request a hearing before the Town Board regarding the charges against the property. Said notice shall include an itemized statement of the costs and expenses to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described the following subsection 5.15 A. (3). If a hearing is not requested within the required time period, if that charge remains unpaid, the Town Clerk-Treasurer shall automatically charge the same as a delinquent tax against the property as provided by law. In event that statement rendered to the property owner or the time given for the property owner to pay or following a hearing if the Town Board approves all or part of the charge it is too late in the current year for the charge, when it becomes delinquent, to be extended on the year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.
 - (3) Upon receipt of a timely request for hearing, the Town Board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice via first class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the Town Board to approve the charges against the tax roll in whole or in part. If approved only in part, only that part of the charges that are approved may be charged against the tax roll.

B. Subsection 4.13 E. 2. of the Town of Mosel Municipal Code allows the Town Board to recover costs of damages to Town rights-of-way resulting from the failure to following the approved manure transportation and handling plan, use of alternative field access points, use of alternative frac tank locations, management of equipment not consistent with general practice of manure transportation and application, and general acts of negligence. This subsection of code also allows for the recovery of costs for damages caused from a manure hauling/application event that does not have an approved permit under Section 4.13 of the Town Municipal Code.

- (1) If the Town of Mosel incurs costs or expenses for repairs to any road or road rights-of-way for which the Town is responsible for its maintenance, and such repairs arise out of or relate to any manure hauling/application event in the Town of Mosel then, in that event, the Town Clerk-Treasurer shall, charge the costs and expenses incurred by the Town to the owner of the manure source and/or the contract hauler/applicator [party(s)] regardless of whether or not a permit was approved under Section 4.13 of the Town of Mosel Municipal Code.
- (2) The Town Clerk-Treasurer shall give each party(s) billed for current services as provided for herein notice that they shall have a specified period of time, of not less than thirty (30) days, to pay. Said notice shall state that within 15 days of the date of the notice, the party(s) may request a hearing before the Town Board regarding the charges. Said notice shall include an itemized statement of the costs and expenses to be charged. Thereafter, if the party(s) requests a hearing within the proper time period, the matter shall proceed as described the following subsection 5.15 B. (3). If a hearing is not requested within the required time period, if that charge remains unpaid, or a payment plan has not been established, the Town will pursue recovery of all costs including legal through the State of Wisconsin Judicial System.
- (3) Upon receipt of a timely request for hearing, the Town Board shall hold a hearing regarding the charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice via first class mail, to the party(s). In the event a hearing is requested, no legal action will be pursued unless and until such hearing has been held and a decision has been rendered by the Town Board to approve the charges in whole or in part. If approved only in part, only that part of the charges that are approved may be charged.

Section 13. Severability. Should any portion of this Ordinance or the affected municipal code sections be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 14. This ordinance shall become effective the date after posting.

Adopted this 15th day of November, 2023.

TOWN OF MOSEL, WISCONSIN

Aaron Anger, Town Chair

ATTEST: Todd Grunwald, Deputy Clerk-Treasurer

MOTION: _____

VOTE: Ayes Noes Abstentions

EFFECTIVE DATE: _____