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## CHAPTER 4: LICENSES AND PERMITS

### 4.01 GENERAL PROCEDURES

Unless otherwise specifically provided by the laws of the State of Wisconsin or ordinances of the Town, the following provisions shall apply to the issuance, transfer and revocation of all licenses and permits issued under the provisions of this code:

- A. TOWN CLERK TO FURNISH FORMS:** All applications for licenses or permits shall be made upon regular forms approved by the Town Board and furnished by the Town Clerk to the applicant.
- B. FEES TO BE PAID IN ADVANCE:** The amount of the license or permit fees shall be first paid to the Town Clerk and his receipt therefore shall be attached to the application.
- C. APPLICATION TO BE SIGNED; WHEN NOTARIZED:** The application shall be signed by the applicant and where required, shall be sworn to before a notary public, or other public officer, authorized to administer oaths, and filed with the Town Clerk.
- D. CONSIDERATION AND HEARING:** The Town Clerk shall present such application to the Town Board at its next regular meeting held after the filing thereof, except where some town officer, board or commission is first required to examine or report upon such application, in which case the Town Clerk shall refer the application for report to such officer, board or commission and shall present the application report thereon to the Town Board as soon as reasonably possible thereafter. Opportunity shall be given, where necessary, by the Town Board to any person to be heard for or against the granting of any license or permit.
- E. ISSUANCE:** The Town Clerk shall issue such license or permit only after its issuance has been authorized by the Town Board or proper officer.
- F. ISSUANCE BY ADMINISTRATIVE AUTHORITY:** Where administrative authority to issue any license or permit is delegated to any town officer, board or commission under the terms of this code, such officer, board or commission shall grant such license or permit where proper application has been made in accordance with the provisions of this code unless the granting of same appears to be contrary to the health, safety, morals or general welfare of the public, in which case the reason for denial shall be reduced to writing and delivered or mailed to the applicant; such applicant may at any time within thirty (30) days thereafter request the Town Board or any respected appeal board to review such determination or any failure to make the same.

## **G. CONDITIONS OF ISSUANCE**

- (1) All obligations to Town to be paid and in compliance with Town Ordinances. Before any license or permit shall be issued under the provisions of this code, the Town Clerk shall check all town records to determine whether or not any applicant is in arrears for taxes or other obligations to any department of the Town, or is currently in violation of any Town Ordinances. If the Town Clerk shall find any applicant to be in arrears for taxes, forfeitures or any other obligation, the issuing officer shall withhold any and all licenses and permits for which an application has been made until such taxes or obligations have been paid in full, except the issuing officer may not refuse to issue a dog license as required by Wisconsin Statute. If the applicant is in violation of any Town ordinance, or the parcel(s) of land at issue has an outstanding violation, the issuing officer shall withhold any and all licenses until such violation is corrected, except the issuing officer may not refuse to issue a dog license as required by Wisconsin Statute. A request for waiver of this provision may be made, to grant or deny a permit or license on the merits of the application, to the Town Board. Where issuance of an after-the-fact permit or approval would have the effect of correcting a violation, it may be granted if all conditions required for issuance can be complied with.
- (2) Consent to Inspection of Premises. As a condition of the granting of any license or permit, the licensee or permittee shall agree in writing that during the period of such license or permit, a peace officer or other duly authorized officials of the Town may at all reasonable hours enter into and upon the licensed premises for the purpose of inspecting the said premises to ascertain if all Town ordinances and State laws are being obeyed, and such person shall also consent to the removal from said licenses premises without warrant, of all things and articles there had in violation of Town ordinances and State laws and to the introduction and receipt of such things and articles, in any prosecution or proceeding for violation of any provision of the Town ordinances or State law.

## **H. REPLACEMENT OF LOST OR DESTROYED LICENSE OR PERMIT:**

Whenever any license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employees, a duplicate in lieu thereof may be issued by the Town Clerk upon satisfying himself of the facts, for a fee as set forth in Section 11.05.

**I. REVOCATION OF LICENSE OR PERMIT:** Any license or permit issued by the Town Board or any officer or department of the Town may be revoked by the Town Board at any regular or special meeting by a majority vote in favor of such revocation, provided that no license or permit shall be revoked until the holder thereof has been given an opportunity to be heard by the Town Board. The Town Board shall summon and notify such licensee to appear before it at the time specified in the summons and notice, which shall not be less than three (3) days after the date of service thereof, to show cause why his license should not be revoked. Notice of such hearing shall be given to said permit or license holder either personally or by registered mail by the Town Clerk in the time and manner as directed by the Town Board. Any license or permit issued by the Town Board, any town officer or department shall be and remain the property of the Town and upon revocation thereof, the same shall be returned to the Clerk's office, and if not so returned, after demand, the Town reserves the right to institute suit against the holder or anyone having possession of such license or permit for the return of same. Any person failing to return any such license or permit after revocation thereof and demand having been made as herein provided, shall be deemed to have violated the provisions of Chapter 11.04.

**J. REBATE FEE:** No rebate or refund of any license fee or any part thereof shall be made for any reason.

**K. DUTIES OF LICENSEE:**

- (1) General Standards of Conduct. Every licensee under this ordinance shall:
  - (a) **Comply with Governing Law.** Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
  - (b) **Operate Properly.** Avoid all forbidden, improper, or unnecessary practices or conditions which do or may affect the public health, morals, or welfare.
  - (c) **Cease Business.** Refrain from operating the licensed businesses on premises after expiration of his license and during the period his license is revoked or suspended.
  - (d) **Display License.** Every licensee shall post and maintain such license upon the licensed premises, vehicles, or machines in a place where it may be seen at all times.
  - (e) **Inoperative License.** No person shall allow any license or permit to remain posted, or displayed or used after the period for which it was issued has expired; or when it has been suspended or revoked, or for any other reason become ineffective.

**L. AUTHORITY OF INSPECTORS:** All persons authorized herein to inspect licensees and businesses shall have the authority to enter, with or without search warrant, at all reasonable times, the following premises:

- (1) Those for which a license is required.
- (2) Those for which a license was issued and which, at the time of inspection, are operating under such license.
- (3) Those for which the license has been revoked or suspended.

- (a) **Reports by Inspectors.** Persons inspecting licensees, their businesses, or premises as herein authorized shall report all violations of this code or of state laws to the Town Board and shall submit such other reports as the Town Board shall order.
- (b) **Provisional Order.** When an inspector has reported the violation of this code or of state laws, the Town Board shall issue to the affected person a provisional order to comply.
  - (i) **Nature of Notice.** The provisional order, and all other notices issued in compliance with this ordinance, shall be in writing, shall be personally served, and shall apprise the person affected of his specific violations. In the absence of the person affected or his agent or employee a copy of such notice shall be affixed to some structure on the premises. Depositing such notice in the United States mail shall constitute service thereof.
  - (ii) **Period for Compliance.** The provisional order shall require compliance within 10 days of personal service on the affected person.
  - (iii) **Hearing.** Upon written application by the person affected before the expiration of the 10 day period for compliance, the Town Board shall order a hearing. Notice of such hearing shall be given the affected person in the manner prescribed herein.

**M. CORRECTIONAL ORDER:** When an Inspector has reported a violation of this code or of state law, the Town Board shall issue to the affected person a correctional order to comply.

- (1) **Nature of Notice.** The correctional order, and all other notices issued in compliance with this ordinance, shall be in writing, shall be personally served and shall apprise the person affected of his specific violations. In the absence of the person affected or his agent or employee a copy of such notice shall be affixed to some structure on the premises. Depositing such notice in the United States mail shall constitute service thereof.
- (2) **Period for Compliance.** The correctional order shall require compliance within ten (10) days of personal service on the affected person.
- (3) **Hearing.** Upon written application by the person affected before the expiration of the ten (10) day period for compliance, the Town Board shall order a hearing. Notice of such hearing shall be given the affected person in the manner prescribed herein.

## **4.02 JUNK AND JUNKED MOTOR VEHICLE DEALERS**

**A. LICENSE REQUIRED:** No person or persons, association, partnership, firm or corporation shall hereafter in the Town, without first obtaining a license as herein provided:

- (1) Keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually, or for the buying or selling at retail or wholesale or dealing in any old, used, or second hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper, or other metal (ferous or non-ferous) furniture, used motor vehicles or the parts thereof, or other articles which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk.
- (2) Keep, conduct, or maintain any building, structure, yard, or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually, any scrap metal (ferous or non-ferous) where same is processed by either being cut, dismantled, or compressed in bales, which business is more commonly known as metal processing.
- (3) Keep, conduct, or maintain any building, structure, yard, or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually, or for buying or selling at retail or wholesale used motor vehicles for use of their parts or as scrap.

One carrying on any of the aforesaid businesses shall be referred to herein as a “Junk Dealer.”

**B. APPLICATION:** Application for a license to engage in the business of a junk dealer shall be filed with the Building Inspector upon a form provided by the town, and shall be signed by the applicant or applicants. Said application shall state:

- (1) The names and residences of the applicants, if an individual partnership, or firm, or the names of the principal officers and their residence, if the application is an association or corporation.
  - (a) The length of time such applicant or applicants, if an individual, firm or partnership, or the manager or person in charge if the applicant is a firm or corporation, has or have resided in the Town of Mosel, his or their places of previous employment, whether married or single, whether he or they or any of them have been convicted of a felony or misdemeanor and, if so, what offense, when and in what court.
  - (b) Whether the applicant or applicants or officers or manager of the applicant have been employed by a junk dealer or have been a junk dealer.
  - (c) The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold, or otherwise handled.
  - (d) The exact legal description and street address of the premise used, or to be used as a junk yard, and zoning thereof.

**C. NOTARIZATION:** Every application for a license to engage in the business of junk dealer shall be executed and acknowledged before a notary public or other officer authorized to administer oaths in the County of Sheboygan.

**D. APPROVAL OF APPLICATION:**

- (1) Before the application is forwarded in the Town Board, the Building Inspector shall examine and check the description of the application with the premises used or to be used as a junk yard, and shall sign the statement attached to the application as to the correctness of the description. The applicant, if required by the Building Inspector or the Town Board, shall also submit the application to the Plumbing Inspector, Fire Chief and Health Officer, who shall inspect the premises and sign the statements attached to the application, stating whether the premises comply with all ordinances, laws, rules and regulations.
  - (a) The premises and all structures thereon shall be so situated and constructed that the business of junk dealers may be carried on in a sanitary manner, shall contain no fire hazard and shall be arranged so that thorough inspection may be made at any time by the building, plumbing, fire, police and health authorities. Upon proper execution of the application and the payment of the required license fee to the Town Clerk; the application shall be filed with said Clerk. The Clerk shall forward the application to the Town Board at a regular or special meeting called for that purpose. A majority vote of the members present shall authorize the issuance or denial of a license. No such permit shall be issued by the Clerk until favorable action upon the application thereof is first had by the Town Board.
  - (b) No building shall be used for the business of junk dealing unless it shall be of fireproof construction or constructed of non-combustible materials except that this subsection shall not apply to buildings which are being used on or before June 14, 1946, in the business of junk dealing.

**E. ISSUING OF LICENSES**

- (1) All licenses shall be numbered in the order in which they are issued, and shall state clearly the location of the junk business, the date of issuance and the expiration of the license, and the name and address of the licensee.
- (2) No license as a junk dealer shall be granted to any person, firm or corporation, who shall have been convicted within one (1) year prior to the date of the application of a violation of this section.

**F. FEES:** Each junk dealer shall pay an annual license fee as set forth in Section 11.05. All licenses shall be issued as of July 1<sup>st</sup> and shall continue in force until June 30<sup>th</sup> next succeeding the day of issuance thereof, unless sooner revoked as provided by law.



- G. POSTING OF LICENSE:** Every holder of a junk dealer's license shall at all times keep the license posted in a conspicuous place on the premises described in the application for such license. No person shall post such license or permit it to be posted upon any premises other than those mentioned in the application, or knowingly or deface or destroy the license.
- H. LICENSE LOST OR DESTROYED:** Whenever a license shall be lost or destroyed, without fault on the part of the holder or his agent, or employee, a duplicate license shall be issued by the Town Clerk upon the filing of an affidavit setting forth the circumstances of the loss or destruction and upon the payment as set forth in Section 11.05.
- I. CHANGE OF LOCATION:** Every junk dealer's license shall designate the place of business in or from which the junk dealer received such license shall be authorized to carry on such business. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the town and the same shall have been endorsed upon the license. All licenses affected by such change shall be altered to contain the new address.
- J. HEALTH REGULATIONS:** The Building Inspector may formulate reasonable rules and regulations relating to the conduct of the business of junk dealing which shall be designed to protect the health of the community. No junk dealer shall violate any such rule or regulation.
- K. INFORMATION TO PEACE OFFICER:** Each licensed junk dealer shall furnish to any peace officer of the Town, County of Sheboygan, or State of Wisconsin, such information as he may require to ascertain the names of the seller or sellers of any junk or articles which have been purchased by the junk dealer.
- L. REGULATION CONCERNING PREMISES**
- (1) The contents of the premises of every junk dealer shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every junk dealer shall be subject to inspection by the town or other proper authorities at any time.
    - (a) All paper that is stored shall be baled and all rags kept shall be baled or bagged and both shall be kept within a building on the premises.
    - (b) The wrecking or storage yard shall be fenced by a painted tight board fence or other structure at least seven (7) feet high, constructed so that no dust or other materials may pass through. Said enclosure shall be maintained in good condition at all times and no articles or materials shall be piled so as to protrude above the enclosure.
    - (c) No premises shall be used for carrying on the business of a junk dealer unless said premises are located more than three hundred (300) feet from any residential building, school building or other public building.

## **M. REVOCATION**

- (1) Upon complaint being made in writing by any town official or resident of the Town that any licensee has violated any of the provisions of this ordinance, such complaint shall be turned over to the Town Board who shall summon such licensee to appear before it at the time specified in the summons which shall not be less than three (3) days after the date of the service thereof, to show cause why his license should not be revoked. The Town Board shall proceed to hear the matter and a majority vote of the members present shall determine whether such junk dealer's license should be revoked or not.
- (2) Whenever any license shall be so revoked, no refund of any unearned portion of the fee therefore shall be made and no license shall be granted to any person, firm, partnership, association or corporation whose license has been so revoked within a period of one (1) year from the date of such revocation. Notice of such revocation and the reason or reasons therefore in writing shall be served by the Town Clerk upon the person, firm, partnership, association or corporation named in the application by mailing the same to the address given in the application and upon filing a copy of same in the office of the Town Clerk.

**N. PENALTY:** Any person, firm, or corporation, who by himself, or itself, or by his or its clerk, agent, or employee shall conduct the business of junk dealer as herein defined without the license required by this ordinance, or shall violate any of the provisions of this ordinance, or who, having had his, its, or their license revoked, shall continue as a junk dealer, shall be subject to a penalty as provided in section 11.04(1) of this code. A separate violation shall be deemed committed on each day on which a violation of any provision of this section occurs or continues. In addition to the penalties imposed, the license of the person, persons, firm, association, partnership, or corporation violating the same shall be cancelled or revoked.

## **4.03 ALCOHOL BEVERAGE LICENSING & REGULATION**

- A. PURPOSE.** The purpose of this ordinance is to provide for the licensing and regulation of the sale of alcohol beverages in the Town of Mosel in conformance with Wisconsin Statutes in order to provide for uniform statewide regulation of said beverages.
- B. STATUTES INCORPORATED.** The provisions of Chapter 125, Wisconsin Statutes (2001-2002) and any future revisions or additions thereto, are adopted by reference in this section as if fully set forth herein.

**C. LICENSE REQUIRED.** No person, firm or corporation shall manufacture, rectify, brew, sell, deal, traffic in or give away, or have in their possession with the intent to manufacture, rectify, brew, sell, deal, traffic in or give away, any intoxicating liquor or fermented malt beverage (hereafter collectively referred to as alcohol beverages) in any quantity, or cause the same to be done, or engage in any other activity for which this ordinance or Chapter 125 of the Wisconsin Statutes requires a license, permit or other authorization, without having been issued the appropriate license, permit or authorization.

**D. CLASSES OF LICENSES.**

- (1) Class A Licenses
  - (a) Retail Class “A” Fermented Malt Beverage License.
  - (b) Retail “Class A” Intoxicating Liquor License.
  - (c) Six-month Retail “Class A” Intoxicating Liquor License.
- (2) Class B Licenses
  - (a) Retail Class “B” Fermented Malt Beverage License.
  - (b) Retail “Class B” Intoxicating Liquor License.
  - (c) Reserve Retail “Class B” Intoxicating Liquor License.
  - (d) Six-month Class “B” Fermented Malt Beverage License.
  - (e) Six-month “Class B” Intoxicating Liquor License.
  - (f) Temporary Class “B” Fermented Malt Beverage License.
  - (g) Temporary “Class B” Wine License.
- (3) Retail “Class C” Wine License.
- (4) Provisional Retail Licenses, as allowed by state law.
- (5) Wholesalers Fermented Malt Beverage License.
- (6) Operator’s Licenses, including Temporary and Provisional Licenses.

**E. APPLICATION FOR LICENSE.**

- (1) **Contents.** Applications for any license required by this ordinance shall be made in writing on the form prescribed by the Wisconsin Department of Revenue, or the Mosel Town Board in the case of operator’s licenses, and shall be sworn to by the applicant as provided by §. 887.01 to 887.04 of the Wisconsin Statutes. Applications by corporations or limited liability companies shall be sworn to by at least two officers of said entity. The premises shall be described to include every space, enclosed or not enclosed, in which the licensed activity will be carried out or in which alcohol beverages will be stored, including any rooms used to keep alcohol beverage related records.
- (2) **Filing of Application.** All applications for licenses required by this ordinance shall be filed with the Mosel Clerk-Treasurer not less than the stated number of days prior to the granting of such license:
  - (a) Retail and wholesale license applications: fifteen (15) days.
  - (b) Operator’s license applications: ten (10) days.
  - (c) Temporary Retail or Operator’s license applications for events lasting less than four (4) days: five (5) days.

(d) Provisional Retail or Operator's license applications: 48 hours.

- (3) **Publication.** Notice of all applications for retail or wholesale licenses shall be published at least once in a non-daily newspaper or on three consecutive days in a daily newspaper having circulation in the Town of Mosel. The notice shall include the name and address of the applicant, the kind of license applied for and the location of the premises to be licensed. Publication is not required for applications of all types of operator's licenses, and temporary or provisional retail licenses. The cost of the publication shall be paid by the applicant at the time the application is filed.
- (4) **License Fees Paid.** License fees for alcohol beverage licenses, as established in Chapter 11.05 of the Mosel Municipal Code by the Mosel Town Board, shall be submitted at the time of application, except the Town of Mosel may not require an applicant to pay the license fee more than thirty (30) days prior to the date the license is to be issued. The full license fee shall be paid for the whole or fraction of any year, except for new retail "Class A", Class "A", "Class B", Class "B" and "Class C" licenses which shall be prorated based on the number of months or fractions thereof remaining in the licensing year. In no case shall a license be issued until all fees are paid.
- (5) **Amending Applications.** Prior to and after issuance of any alcohol beverage license, the applicant or licensee shall file with the Mosel Clerk-Treasurer a written notice of any change in any fact set out in an application, including a change in the named agent, for such license. Notification shall be within ten (10) days of said change.

#### **F. QUALIFICATIONS FOR APPLICANTS AND PREMISES.**

- (1) **Eligibility.** Licenses shall be issued only to applicants eligible therefore under Chapter 125 of the Wisconsin Statutes, and specifically those qualifications set forth in §. 125.04(5).
- (2) **Right to Premises.** No applicant will be considered unless said applicant has the right to possession of the premises described in the application for the entire license period, by lease or by deed.
- (3) **Combinations Required.** A "Class B" intoxicating liquor license may only be issued to a person who holds, or to who is concurrently issued, a Class "B" fermented malt beverage license.
- (4) **Corporations and Entities other than Individuals.** An alcohol beverage license shall only be issued to a corporation, limited liability company, partnership or other entity which satisfies the requirements of §. 125.04(5)(c) of the Wisconsin Statutes.

## **G. REVIEW OF APPLICATIONS.**

- (1) **Investigation.** Upon application for any license issued under this ordinance, except for temporary retail and temporary operator's licenses, the Mosel Clerk-Treasurer shall conduct a criminal background investigation utilizing at least two investigative sources to determine if the applicant meets the qualifications set forth in §. 125.04(5) of the Wisconsin Statutes. An application may be denied if the applicant's arrest and conviction record demonstrates circumstances of charges that substantially relate to the alcohol beverage licensing activity, such as the following:

  - (a) One or more felony convictions for alcohol or drug-related offenses within the five year period preceding the date of application, unless the applicant has been duly pardoned.
  - (b) Three or more arrests or convictions for alcohol or drug-related offenses within the five year period prior to the date of application.
  - (c) Any arrest or conviction for an alcohol or drug-related offense within the six months prior to the date of application, with any other alcohol or drug-related offense in the last five years.
- (2) **Review of Application.** The Mosel Town Board shall consider all pertinent facts when determining whether to grant or deny an alcohol beverage license. Although not limited by this listing, consideration will be given to the health, safety, and welfare of the residents of the Town of Mosel, the license conditions as listed in section I of this ordinance, the results of the criminal background investigation, completeness and truthfulness of the application, and the financial responsibility of the applicant, if applicable. In addition, opportunity shall be given by the Town Board to any person to be heard for or against the granting of any alcohol beverage license. The Town Board reserves the right to consider the severity, and facts and circumstances, of pertinent issues, including arrest or conviction records, subject to §. 111.321, 111.322, and 111.335 of the Wisconsin Statutes, including any amendments thereto, when making its decision. After review, the Town Board shall act to grant, deny, postpone for further information, or grant conditionally, the application.

## **H. GRANTING AND ISSUING OF LICENSES.**

- (1) **Issuance of Provisional Licenses.** The Mosel Clerk-Treasurer is hereby authorized to issue provisional retail and operator's licenses. The Clerk-Treasurer is also authorized to revoke any provisional license issued if he/she discovers that the holder of the license made a false statement on the application or fails to successfully complete the training course requirements. The Clerk-Treasurer shall follow these steps prior to issuing any such license:

  - (a) Receive the required application and fee for the provisional license sought and ensure the applicant meets all eligibility requirements of this ordinance and Chapter 125 of the Wisconsin Statutes.
  - (b) Obtain proof that the applicant has enrolled in or completed the required alcohol beverage server training course, if applicable.

- (c) Receive the application for the regular alcohol beverage license for the type of provisional license being requested.
- (d) Ensure that the Mosel Town Board has not previously denied, revoked, or suspended an alcohol beverage application or license of any kind for the applicant within the twelve month period prior to the application.
- (e) Complete a criminal background investigation on the applicant utilizing at least one investigative source. If the investigation reveals any of the types of offenses listed in sub-section (7)(a)(i) to (iii), a provisional license shall not be issued.
- (f) If a provisional “Class B” intoxicating liquor license is requested, ensure that a regular license is available under the quotas established by state law. No provisional license may be issued if the issuance of a “Class B” license would cause the quota to be exceeded.

(2) **Approval and Issuance of Original, Renewal and Temporary Licenses.**

- (a) Following review of the application and the appropriate waiting period as determined in sub-section E (2), the Town Board, if it finds the application in order, they shall act to grant or grant conditionally, the appropriate license.
- (b) Pursuant of Sec. 125.17, Wis Stats., the Town Clerk-Treasurer will review each application for an operator’s license and shall, if the application is in order and the waiting period determined in Subsection E (2) has been met, approve or conditionally approve the application, or refer the application to the Town Board for its review as provided in (2) (a) of this section.
- (c) After being granted, the Mosel Clerk-Treasurer shall issue the license to the applicant within ten (10) days, unless the license was granted with conditions, and then within ten (10) days of the conditions being met. The Town Clerk-Treasurer will report to the Town Board any operator’s licenses issued by the Town Clerk-Treasurer without prior Town Board review. All licenses issued shall be numbered in the order in which they were issued. Each license type shall be numbered independently. Upon issuance, the licensee must frame, and prominently display said retail license in the area in which alcohol beverage activity will take place. Persons issued an operator’s license shall carry the license card whenever engaged in activity covered by the license.

(3) **Denial of License.**

- (a) The Town Board may deny a retail license for reasons as allowed by Wisconsin Statutes and to promote the public health, safety and welfare of the community, including consideration of items such as: (1) adverse impact on traffic; (2) adverse impact on the peace, quiet and cleanliness of the neighborhood where the establishment is located; (3) insufficient parking; (4) proximity to other licensed establishments, residential areas schools or churches; and (5) ability or inability of the Sheboygan County Sheriff’s Department to adequately provide law enforcement services to the establishment and the Town as a whole.

- (b) If the Mosel Town Board denies the license, the applicant shall be notified in writing, by certified mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board to provide evidence as to why the denial should be reversed. Such notice shall be mailed or served at least fifteen (15) days prior to the meeting at which the application is to be reconsidered. Following such reconsideration, retail and wholesale license fees will be refunded, less a \$100 administrative fee for any license which is denied. Publication fees, operator's, provisional and temporary license fees and license fees which are less than the administrative fee listed are not refundable. Any person or entity which is denied a license shall be ineligible to apply for any alcohol beverage license from the Town of Mosel for one full year from date of denial.
- (4) **Withholding of License.** An original or renewal license may not be granted, and shall not be issued, to anyone or for any premises for which any of the following is true:
- (a) taxes, assessments, forfeitures or other financial claims of the Town of Mosel are delinquent or unpaid.
  - (b) sanitary, safety or health requirements of Sheboygan County or the State of Wisconsin are not met.
  - (c) a valid State of Wisconsin seller's permit has not been issued.
  - (d) the Mosel Clerk-Treasurer has received notice that payment to beer suppliers is outstanding more than 15 days or payment to liquor suppliers is outstanding more than 30 days.
- (5) **Transfer of Licenses.** Transfers of alcohol beverage licenses shall only be done in accordance with the provisions of §. 125.04(12) of the Wisconsin Statutes. A license may not be transferred upon the sale of the business. In the event the holder of the license sells a business or business premises, the purchaser must apply to the Town of Mosel for a new license, and the Town is not obligated to issue a new license to the purchaser.
- (6) **List of Licensees.** By July 15 annually, the Mosel Clerk-Treasurer shall provide the Wisconsin Department of Revenue with a list of each person holding a license issued by the Town of Mosel. The list shall include the name, address and trade name of the licensee, the type of license held and, if the licensee is a corporation, partnership, or limited liability company, the name of the agent appointed under §. 125.04(6) of the Wisconsin Statutes. The list shall not include those persons issued an operator's license or a temporary retail license.

## **I. CONDITIONS OF LICENSES.**

- (1) **Consent to Entry.** Every applicant procuring an alcohol beverage license consents to the entry of peace officers or duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles that are in violation of Town of Mosel ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offense.
- (2) **Loss of Premises.** Upon the loss or eviction from a licensed premises, the licensee may request approval of the Mosel Town Board to transfer the license to another location in the Town or surrender the license to the Mosel Clerk-Treasurer. The licensee may also hold the license until its expiration date, subject to sub-section I(3).
- (3) **Continuation of Business.** Any licensee shall cause such business described in the license to be operated for at least 180 days during the license period, unless the license is issued for a term of 180 days or less, in which case this section shall not apply. Unless this requirement is specifically waived by the Mosel Town Board, any licensee who does not meet this requirement shall be subject to suspension or revocation proceedings as stated in section J of this ordinance.
- (4) **Quotas.** Based on the quotas established by Wisconsin Statutes 125.51(4), the following limits apply in the Town of Mosel
  - (a) A total of two (2) "Class B" licenses may be issued.
  - (b) A total of three (3) Reserve "Class B" licenses may be issued, except the number of reserve "Class B" licenses available shall increase by one (1) for every increase in population of 500 persons from the Town of Mosel's 1997 population of 884 persons.
  - (c) If the Town of Mosel has granted or issued "Class B" licenses equal to its quota (the total of regular and reserve "Class B" licenses available), the Town Board may nevertheless issue a regular "Class B" liquor license to a full-service restaurant that has a seating capacity of 300 or more, or to a hotel that has 50 or more rooms for sleeping accommodations and has either an attached restaurant with seating capacity of 150 or more, or a banquet room with a 400 person or greater capacity. A full service restaurant is defined as one in which the food is prepared, sold and served on the premises. Seating capacity shall be determined by the total available indoor seating capacity of the premises. The initial and renewal fee for a license granted under this exception shall be the same as for a regular "Class B" license.
- (5) **Closing Hours.** All licensees shall establish closing hours in conformance with §. 125.32(3) of the Wisconsin Statutes, including any amendments thereto.
- (6) **Activities Prohibited on Licensed Premises.**
  - (a) No disorderly, riotous or indecent conduct shall be allowed at any time.
  - (b) Except as authorized by state law, no gambling or game of chance of any sort shall be permitted.



- (c) No retail alcohol beverage licensee shall sell or offer for sale alcohol beverages by extending credit, except hotel credit extended to a resident guest, or to receive goods, merchandise or other articles in exchange for alcohol beverages.
- (d) No performance or exhibition by patrons, employees, or hired entertainers which engages in or simulates sexual contact of any kind, or which exposes male or female genitalia or the female breast at or below the areola shall be permitted. The presentation of such films or slides is also prohibited.

#### **J. REVOCATION, SUSPENSION, OR NON-RENEWAL OF LICENSE.**

- (1) **Violations by Agents and Employees.** A licensee shall be responsible for the supervision, management, and control of all alcohol beverage related activities, and compliance with all regulations and statutes by its agents and employees.
- (2) **Revocation or Suspension Procedure.** Whenever the holder of any license issued under this ordinance violates any portion of this ordinance or of Chapter 125 of the Wisconsin Statutes, proceedings for the revocation or suspension of such license may be instituted in the manner prescribed by §. 125.12(2), Wisconsin Statutes.
- (3) **Non-renewal Procedure.** A renewal application may be denied only for the causes specified by Chapter 125, Wisconsin Statutes. Prior to the time for renewal of the license, the Mosel Clerk-Treasurer must notify the licensee in writing of the Mosel Town Board's intention to deny renewal and state the reason(s) for doing so. The notice shall also inform the applicant of the opportunity for a hearing. The renewal application fee for a license which is not renewed shall be subject to the same refund policy stated in sub-section H(3).
- (4) **Effect of Revocation or Non-Renewal.** When a license is revoked or not renewed, no other license under this ordinance shall be granted to such applicant, or to any premises in which said applicant has any interest, for a period of 12 months from the date of revocation or non-renewal.
- (5) **Notification to State.** Upon revocation or suspension of a license, or when a penalty is imposed for violation of this ordinance, the Mosel Clerk-Treasurer shall notify the Wisconsin Department of Revenue within 10 days of such action. This notice shall include the name of the licensee, the address of the licensed premises and a full description of the action taken.

#### **K. PENALTIES.**

- (1) Any person who violates any provision of this ordinance or Chapter 125 of the Wisconsin Statutes, for which a specific penalty is not provided, shall be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Any license issued to the person under this ordinance may be revoked by the court.
- (2) If a person is convicted of a felony under this ordinance or Chapter 125 or the Wisconsin Statutes, in addition to the penalties provided for the felony, the court shall revoke any license issued to the person under this ordinance.
- (3) Each day a violation exists or continues shall be considered a separate offense.

- (4) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

#### **4.04 REGULATION AND LICENSING OF DOGS**

- A. LICENSE REQUIRED:** Any owner of a dog residing in the Town, whose dog is more than five (5) months of age as of January 1<sup>st</sup> of any year, shall annually at the time and in the manner prescribed by law for the payment of personal property taxes, obtain a license therefore as provided in Section 174.05 of the Wisconsin Statutes.
- B. LICENSE FEE:** Each owner shall pay to the Town Treasurer annually a license fee as set forth in Section 11.05.
- C. ISSUANCE OF LICENSE:** Upon payment to the Town Treasurer of the above named sum and submission of current rabies certificate, the Treasurer shall issue to each owner a license to keep such dog for a period not less than one (1) year, and the owner, upon procuring such license shall place upon each dog a collar, which is to be attached to the dog tag furnished by the Town Treasurer.
- D. DEFINITIONS:**
- (1) “Owner” shall mean any person owning, harboring or keeping a dog or a parent of a minor child having ownership of a dog and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of ten days is presumed to be harboring or keeping the dog within the meaning of this section.
  - (2) “At Large” means to be off the premises of the Owner and not under the control of some person either by leash or otherwise, but a dog within a motor vehicle of its owner or in a motor vehicle of any other person with the consent of the dog’s owner shall be deemed to be upon the owner’s premises.
  - (3) “Leash” means a cord, thong, or chain not more than ten (10) feet in length, by which a dog is controlled by the person accompanying it.
- E. RESTRICTION ON KEEPING DOGS:** It shall be unlawful for any person within the Town to own, harbor or keep any dog which:
- (1) Habitually pursues any vehicle upon any public street, alley, or highway in the Town.
  - (2) Assaults or attacks any person.
  - (3) Is at large within the limits of the Town.
  - (4) Habitually barks or howls to the annoyance of any person or persons.
  - (5) Kills, wounds, or worries any domestic animal.
  - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

**F. DUTY OF OWNER IN CASE OF DOG BITE:** Every owner or person harboring or keeping a dog who knows that such dog has bitten any person shall immediately report such fact to the health officer and shall keep such dog confined for not less than fourteen (14) days or for such period of time as the health officer shall direct. The owner or keeper of any such dog shall surrender the dog to the health officer or any Town police officer upon demand for examination.

**G. IMPOUNDING OR KILLING OF DOGS:** In addition to any penalty hereinafter provided for a violation of this section, any person may impound any dog and any police officer of the Town may kill any dog which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, habitually barks or howls, kills, wounds or worries any domestic animal or is infected with rabies. Possession of dogs impounded under this section may be obtained by paying \$3.00 to the Town Treasurer plus \$4.00 a day for each day or fraction thereof the dog has been so impounded. Dogs impounded for a period of seven days shall be destroyed by or under the direction of the Health Officer, in accordance with §. 174.10(2), Wisconsin Statutes.

**H. PENALTY:** The penalty for violation of this section shall be a penalty as provided in Section 11.04(1) of this code.

#### **4.05 WITHHOLDING LICENSE**

The Town Clerk shall withhold the issuance of any license or permit (except dog license) from any applicant who has failed to pay a forfeiture imposed on him for a violation of a town ordinance. Licenses or permits shall not be withheld if said violation in which forfeiture was imposed is being appealed.

#### **4.06 REGULATIONS FOR MOVING BUILDINGS**

See Building Code, Chapter 8, Section 30.07.

#### **4.07 MOBILE AND MOBILE HOME PARKS LICENSE**

See Section 5.03.

#### **4.08 TRAILER CAMP LICENSE**

See Section 5.08.

#### **4.09 REGULATION OF TRANSIENT MERCHANTS**

**A. PURPOSE.** This chapter is enacted to protect the health, safety and general welfare of the Town of Mosel, Sheboygan County, Wisconsin, by providing for the regulation and registration of transient merchants, peddlers, and direct sellers, to ensure fair dealings with purchasers and to acquire adequate information to correct any problems that may occur after the sale is made.

**B. REGISTRATION REQUIRED.** It shall be unlawful for any transient merchant to engage in sales within the Town of Mosel, Sheboygan County, Wisconsin, without being registered for that purpose as provided herein.

**C. DEFINITIONS.** In this ordinance, these words or phrases shall have the following meanings:

- (1) **Charitable organization** – Any benevolent, philanthropic, or patriotic person, partnership, association or business entity.
- (2) **Merchandise or Goods** – Personal property of any kind, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm.
- (3) **Permanent merchant** – Any person who, for at least one year prior to the consideration of the application of this ordinance to said merchant:
  - (a) has continuously operated an established place of business in Sheboygan or Manitowoc County, or
  - (b) has continuously resided in the Town of Mosel and now does business from his/her residence.
- (4) **Transient merchant** – Any individual who engages in the retail sale of merchandise at any place in the Town of Mosel, and who does not intend to become and does not become a permanent merchant of such place.

**D. EXEMPTIONS.** The following shall be exempt from all provisions of this ordinance:

- (1) Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on established routes;
- (2) Any person selling merchandise at wholesale to dealers in such merchandise;
- (3) Any person selling agricultural products which such person, or someone in his/her immediate family, has grown;
- (4) Any permanent merchant or employee thereof who takes orders away from the established place of business for merchandise regularly offered for sale by such merchant within this trade area, and who delivers such merchandise in their regular course of business;
- (5) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by said person;
- (6) Any person who has had, or who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, on other than a one-time basis, with the prospective customer;
- (7) Any person selling, or offering for sale, a service unconnected with the sale, or offering for sale, of merchandise;

- (8) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (9) Any employee, officer, or agent of a charitable organization who engages in direct sales for or on behalf of the organization; provided, that there is submitted to the clerk proof that such charitable organization is registered under section 440.41 of the Wisconsin Statutes. Any charitable organization not registered under Section 440.41 of the Wisconsin statutes or which is exempt from that statute's registration requirements, shall be required to register under this ordinance;
- (10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk-Treasurer that such person is a transient merchant; provided that there is submitted to the Clerk-Treasurer proof that such person has leased for at least one year, or purchased the premises from which he/she is conducting business, or proof that such person has conducted such business in Sheboygan or Manitowoc County for at least one year prior to the date complaint was made.
- (11) Any person less than 18 years of age selling a product, service or ticket promoted and sponsored by a school or a youth service, religious, nonprofit or charitable organization having an individual item cost of \$25.00 or less;
- (12) Any transient merchant while doing business at a special event which is authorized by the Mosel Town Board and who is registered under Section (G) as a transient merchant for that event.

#### **E. REGISTRATION**

- (1) **Application.** Applicants for registration must complete and return to the Clerk-Treasurer a registration form furnished by the Clerk-Treasurer which shall require the following information:
  - (a) Name, permanent address and telephone number, and temporary address, if any;
  - (b) Age, height, weight, color of hair and eyes;
  - (c) Name, address and telephone number of the contact person for the firm, association or business entity that the transient merchant represents or is employed by, or whose merchandise is being sold;
  - (d) Temporary address and telephone number from which business will be conducted, if any, and written permission from the owner of the property for applicant to conduct business on that property (submitted with application);
  - (e) Nature of business to be conducted, a brief description of the merchandise and any services offered, and the dollar value of the most expensive merchandise or service offered;
  - (f) Dates during which selling activity shall occur;
  - (g) Proposed methods of delivery of merchandise, if applicable;
  - (h) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;
  - (i) Names of cities, villages, or towns, not to exceed three, where applicant conducted his/her business immediately prior to making this registration;

- (j) Place where applicant can be contacted for at least seven days after leaving this Town;
  - (k) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.
- (2) **Identification & Certification.** Applicants shall present to the clerk for examination:
- (a) A driver's license or other proof of identity as may be reasonably required;
  - (b) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
  - (c) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application is made.
- (3) **Filing of Application.** All applications shall be filed at least 15 business days prior to the applicant conducting business within the Town to allow for the investigation described in Section F.
- (4) **Registration Period.** Registration shall occur annually, and the registration period shall be from January 1 through December 31. All registrations shall expire on December 31 of the year of application, regardless of when the application was made.
- (5) **Fees.** At the time of application, registration and background check fees as established in Section 11.05 of the Mosel Municipal Code shall be paid to the Clerk-Treasurer to cover the cost of processing said application. The Town Board may, from time to time, amend the fee by resolution.
- (6) **Display and Possession of Registration Card.** The registration card issued pursuant to this ordinance shall be conspicuously displayed at all times when the applicant is engaged as a transient merchant in this Town so said card is visible to the public and/or law enforcement officials.

## F. INVESTIGATION

- (1) **Verification.** Upon receipt of each application, the Clerk-Treasurer shall complete an investigation of the statements made in such application, utilizing at least two investigative sources.
- (2) **Denial.** The Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation, that:
  - (a) the application contains any material omission or materially inaccurate statement;
  - (b) complaints of a material nature have been received against the applicant by authorities in the most recent cities, village or towns in which the applicant conducted similar business;

- (c) the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or
- (d) the applicant failed to comply with any applicable provision of Section E above.

## **G. ALTERNATIVE REGISTRATION**

- (1) **Special Event Registration.** As an alternative to the registration requirements and procedures set forth in Section E and F, organizations sponsoring special events such as community festivals, craft fairs, or other events authorized by the Town Board, may assume responsibility for registration of its authorized transient vendors for that event, as provided in this section.
  - (a) At least five days prior to the special event, the sponsoring organization shall complete and return to the Clerk-Treasurer a special event transient vendor form, furnished by the Clerk-Treasurer, containing the following information:
    - (i) Name of sponsoring organization and name, address and phone number of person responsible for registering transient merchants;
    - (ii) Date(s) and place of the special event;
    - (iii) Name and address of each authorized vendor, along with a list of the names of each person expected to work for that vendor during the special event;
    - (iv) A brief description of the merchandise and any services being offered for sale; and
    - (v) Any other information deemed necessary by the Clerk-Treasurer.
  - (b) The sponsoring organization shall accompany the registration form with a fee of \$10 for each authorized vendor to be registered for the event.
  - (c) No registration card shall be issued under this special event registration procedure unless the Clerk-Treasurer determines otherwise.
- (2) **Failure to Register.** Failure on the part of the sponsoring organization to register its authorized transient vendors as provided in this section shall subject the organization to a late registration fee of \$10 per unregistered vendor, plus the required \$10 fee. In addition, for knowing or intentional violations of this section or attempts to evade registration, such organizations may be prohibited from registering its authorized transient vendors for future events under this section.

## **H. REGULATIONS**

### **(1) Prohibited Practices**

- (a) A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words “No Peddlers,” “No Solicitors,” or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (b) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (c) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (d) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred foot radius of the source.
- (e) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- (f) No transient merchant shall conduct sales in a period or place not specifically noted on the license.
- (g) No transient merchant registered under this ordinance shall allow another person to use his/her transient merchant registration card to engage in activities covered by this ordinance.

### **(2) Disclosure Requirements**

- (a) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (b) If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in Ss. 423.202, Wisconsin Statutes; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Ss. 423.203(1)(a), (b), and (c), (2) and (3), Wisconsin Statutes.



(c) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

**I. RECORDS.** The Clerk-Treasurer shall keep a record of all registered transient merchants within the Town. If any transient merchant is convicted of a violation of this ordinance, the Clerk-Treasurer shall note any such violation on the record of the registrant.

**J. REVOCATION**

- (1) **Reason for Revocation.** Registration may be revoked by the Town Board after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales, violated any provision of this ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.
- (2) **Notice of Hearing Provided.** Written notice of the hearing shall be served personally on the registrant, or sent by certified mail to the registrant's permanent address supplied on the application, at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the facts upon which the hearing will be based.

**K. APPEAL.** Any person refused or denied registration, or whose registration is revoked, may appeal the denial or revocation to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.

**L. PENALTY.** Any person adjudged in violation of any provision of this ordinance shall forfeit not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars for the first offense, and not less than five hundred (\$500) dollars nor more than one thousand (\$1,000) dollars for subsequent offenses, plus costs of prosecution, for each violation. Each violation shall constitute a separate offense.

#### **4.10 CABLE TELEVISION FRANCHISE**

A. The Town Board is authorized to grant a non-exclusive cable television franchise within the Town by entering into an agreement with a qualified cable television service provider authorized to do business in Wisconsin. The grant of a franchise shall be in the form of a resolution, duly adopted by the Town Board, which signifies its approval of an agreement between the Town and the provider.

- B. The granting of a franchise shall be subject to the following limitations:
- (1) The grant of a cable franchise shall be for no longer than fifteen (15) years.
  - (2) The Board shall grant the franchise on terms which it deems are just, and which are in the best interests of the Town and its residents.
  - (3) The Board may, but is not required to, seek franchise fees from the service provider, as these are frequently passed directly on to consumers, and are not administratively cost-effective to collect within the Town given the currently small number of cable users.
- C. Any person violating the provisions of this cable television franchise ordinance shall be subject to the penalties as set forth in Chapter 11 of the Mosel Municipal Code.

#### **4.11 REGULATION OF FIREWORKS**

- A. State Statute Adopted.** The definitions, restrictions, requirements, and other provisions of § 167.10, Wis. Stats., as amended, are adopted and shall apply to the regulation of fireworks in the Town, except as specifically set forth herein.
- B. Sale.** No person may sell, or possess with intent to sell, fireworks, except:
- (1) To the Town; or
  - (2) For a purpose specified under sub C(2)(b) to (f).
- C. Use.**
- (1) No person may possess or use fireworks without a user's permit from the Chairperson of the Town, or the Chairperson's designee.
  - (2) Paragraph (a) does not apply to the following:
    - (a) The Town, but the Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
    - (b) The possession or use of explosives in accordance with rules or general orders of the Department of Safety and Professional Services.
    - (c) The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources.
    - (d) The possession or use of combustible materials in any manufacturing process.
    - (e) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
    - (f) A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. §§ 841 to 848 if the possession of the fireworks is authorized under the license or permit.
    - (g) The possession of fireworks in the Town while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance. This exception only applies to a person who, in the course of transporting fireworks through the Town, remains in the Town for a period of less than twelve (12) hours.
  - (3) A permit under this subsection may be issued only to the following:

- (a) An individual or group of individuals at least 18 years old.
  - (b) A public authority.
  - (c) A fair association.
  - (d) An amusement park.
  - (e) A park board.
  - (f) A civic organization.
  - (g) An agricultural producer for the protection of crops from predatory birds or animals.
- (4) A person issued a permit for crop protection shall erect appropriate signs disclosing the use of fireworks for crop protection.
  - (5) Fee. Permit applicants shall pay the fee indicated in the Town's Fee Schedule (§ 11.05); applications are not complete and will not be considered until such fee is paid.
  - (6) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the Town Clerk.
  - (7) A permit under this subsection shall specify all of the following:
    - (a) The name and address of the permit holder.
    - (b) The date on and after which fireworks may be purchased.
    - (c) The kind and quantity of fireworks which may be purchased.
    - (d) The date, time and specific location of permitted use.
  - (8) A copy of a permit issued under this subsection shall be given to Town fire or law enforcement officials at least forty-eight (48) hours before the time of authorized use.
  - (9) The Haven Fire Chief may suspend or revoke a fireworks permit if in the Chief's sole discretion dry, windy or other conditions would cause the use of fireworks to endanger persons or property.

#### **D. Local Regulation.**

- (1) No person may smoke where fireworks are stored or handled.
- (2) A person who stores or handles fireworks shall notify the Fire Chief of the Town Fire Department of the location of the fireworks.
- (3) No wholesaler, dealer or jobber may store fireworks within fifty feet (50') of a dwelling.
- (4) No person may store fireworks within fifty feet (50') of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

**E. Parental Liability.** A parent, legal guardian or other person who consents to the use of fireworks by a minor is liable for any damages caused by the minor's use of the fireworks.

**F. Enforcement.**

- (1) The Town may petition the Circuit Court for an order enjoining violations of subsections B. or C.
- (2) Fireworks stored, handled, sold, possessed or used in violation of this section or a court order under paragraph 1. may be seized and held as evidence of the violation. Except as provided in Wis. Stats. § 968.20(4), the fireworks that are the subject of a violation of this section or a court order under paragraph 1. may be destroyed after conviction for a violation; fireworks that are seized as evidence but for which no conviction results shall be returned to the owner.

**G. Penalties.**

- (1) A person who violates a court order under F.1. shall be fined not more than \$10,000.00, together with costs, and in default of payment thereof, be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed sixty (60) days.
- (2) The forfeiture for all other violations of this section shall be not more than \$1,000.00, together with costs, and in default of payment thereof, be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed sixty (60) days.

<b>4.12 BROADBAND FORWARD! COMMUNITY ORDINANCE</b>
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Chapter 4.12 Broadband Network Project Applications

**A. GENERAL PROVISIONS.**

- (1) **Purpose and policy.** The purpose of this chapter is to encourage the development of broadband access in the Town of Mosel by reducing administrative obstacles to broadband service providers and coordinating the review of applications to ensure such applications are timely processed. This chapter shall at all times be construed consistent with the aforestated purpose.
- (2) **Definitions.** In this chapter:
  - (a) “Applicant” means a person applying for a permit for a broadband network project.
  - (b) “Broadband network project” means the construction or deployment of wireline or wireless communications facilities to provide broadband communications services in the Town of Mosel.
  - (c) “Permit” means any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a broadband network project.
  - (d) “Written” or “in writing” means information that is inscribed on a tangible medium or that is stored in an electronic or other intangible medium and is retrievable in perceivable form.

- (3) **Point of contact.** The Town of Mosel shall appoint a single point of contact for all matters related to a broadband network project. The Town of Mosel shall provide on its public website the contact information, including the e-mail address, for the point of contact authorized to receive a broadband network project application.

**B. ELECTRONIC SUBMISSION OF APPLICATIONS.** An applicant may sign and file all forms, applications, and documentation related to a broadband network project electronically.

**C. REVIEW OF APPLICATIONS.** Notwithstanding any other provision in the Town of Mosel ordinances, resolutions, regulations, policies or practices to the contrary, the following process shall apply exclusively upon receiving a broadband network project application:

- (1) Completeness review. Upon receiving a broadband network project application, the Town of Mosel shall:
- (a) Determine whether an application is complete and notify the applicant of the determination by the Town of Mosel in writing within 10 calendar days of receiving an application. If the Town of Mosel does not notify the applicant in writing of its completeness determination within 10 calendar days of receiving the application, the application shall be considered complete.
  - (b) If the Town of Mosel determines that an application is not complete, the written notification to the applicant shall specify in detail the required information that is not complete. The applicant may resubmit an application as often as necessary until the application is complete.
- (2) Approval or denial of complete applications.
- (a) Within 60 calendar days of receiving an application that is complete, or considered complete under sub. (1), Town of Mosel Town Board shall approve or deny the application and provide the applicant written notification of the approval or denial. If the Town of Mosel Town Board does not notify the applicant of its approval or denial within 60 calendar days of receiving a complete application, the application shall be considered approved and any required permit shall be considered issued.
  - (b) If the Town of Mosel denies an application, the written notification of the denial under sub. (1) shall include evidence that the denial is not arbitrary and capricious.

**D. FEES.** Any fee imposed by the Town of Mosel to review an application, issue a permit, or perform any other activity related to a broadband network project shall be \$50 and listed within the then current Town of Mosel user fee listing.

**E. INITIAL APPLICABILITY.** The treatment of this ordinance first applies to applications received by the Town of Mosel on or after the effective date of this ordinance.

**F. EFFECTIVE DATE.** This ordinance takes effect on the day after publication.

#### **4.13 PERMITS FOR OVERWEIGHT IMPLEMENTS OF HUSBANDRY**

- A. No person shall operate an implement of husbandry on roads under the jurisdiction of the Town of Mosel, including a Category B implement of husbandry as defined in § 340.01(24)(a)1. b., Wis Stats., which exceeds state vehicle weight limits set forth in § 348.15(3)(b), Wis Stats., unless the person operating said vehicle is in possession of a valid permit issued by the Town of Mosel under authority granted by § 348.27(19), Wis Stats. No fee shall be charged for the application for a permit under this section.
- B. Permits issued under this section shall not apply to state or county roads.
- C. In the event a permit is not granted for a Category B implement of husbandry, as defined in § 348.01(24)(a)1. b., Wis Stats., the Town is required to provide an alternate route for purpose of operation. The alternate route may include highways that are not under the jurisdiction of the Town of Mosel only if prior approval has been given by the jurisdiction(s) over which the alternate route travels.
- D. Permits issued under this section are subject to all posted maximum weight allowances on bridges and road gross weight limitations as set forth on the *Road Preservation Initiative – Ag Use* map adopted as part of this section.
- E. Permit Conditions:
  - (1) Route information: Permit applicant must provide route information plotted on the *Road Preservation Initiative – Ag Use* map showing the roads to be travelled by and identify any Town bridges that will be crossed. Also include list of roads to be used one-directionally or temporarily closed, frac tank drop points, field access points and type of application. If multiple drop sites are to be used requiring multiple routes or if planned routes are seasonal, supply one map for each route.
  - (2) Damages: The Town’s goal is to establish one frac tank drop site and one field access point per tract of land. If damages occur because of normal operation at a permitted location, the Town will work with the permit holder to repair locations to withstand permitted activities. If an alternative non permitted route, frac drop site, field access point, or failure to manage equipment consistent with general practice of manure transportation and application, or general acts of negligence resulting in road or road rights-of-way damage, repairs will be at the permit holder’s expense as specified in Town Municipal Code Section 5.15 B.
  - (3) Rights-of way hazards: The permit holder shall not create unsafe conditions by the operation of any vehicle or equipment within the Town’s rights-of-way or by causing a build-up of mud/soil or manure on the roadways or shoulders. Such hazards will be abated at the permit holder’s expense as specified in Town of Mosel Municipal Code 5.05 B.(2)(o), B. (4) (v) and 5.05 C, D, and E.

- (4) Expiration: All permits expire December 31 each year.
  - (5) Permit display: A permit copy must be kept in each power unit and vehicle.
- F. Failure of the operator of an overweight vehicle to have a permit in his or her possession shall constitute a violation of this section, unless the Town of Mosel has failed to timely respond to a permit application as set forth in §348.27(19)(b), Wis. Stats.