

## **SECTION 14.0 - ANTENNAS AND COMMUNICATIONS TOWERS**

### **14.1 Purpose.**

The purpose of this Section is to regulate by Conditional Use Permit (1) the siting and construction of any new Mobile Service Support Structure and Mobile Service Facility; (2) the substantial modification of an Existing Structure, Support Structure, or Mobile Service Facility in the case of a Class 1 Collocation; and (3) the collocation of an Existing Structure which does not require the Substantial Modification of an Existing Structure or Mobile Service Facility in the case of a Class 2 Collocation.

### **14.2 Definitions.**

As used in this Section, the following definitions apply, except to the extent they may be inconsistent with the definitions set forth in Wis. Stat. § 66.0404(1), as amended from time-to-time and, in all other respects, the definitions set forth in Wis. Stat. § 66.0404(1) and any amendment to that subsection shall apply:

- (1) Antenna: Communication equipment that transmits and receives electromagnetic radio signals and is used in the provision of Mobile Services.
- (2) Class 1 Collocation: The placement of a new Mobile Service Facility on an existing Support Structure such that the owner of the facility does not need to construct a free standing Support Structure for the facility but does need to engage in Substantial Modification.
- (3) Class 2 Collocation: The placement of a new Mobile Service Facility on an existing Support Structure such that the owner of the facility does not need to construct a free standing Support Structure for the facility or engage in Substantial Modification.
- (4) Collocation: A Class1 Collocation, Class 2 Collocation, or both.
- (5) Distributed Antenna System: A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides Mobile Service within a geographic area or structure.
- (6) Equipment Compound: An area surrounding or adjacent to the base of an Existing Structure within which is located Mobile Service Facilities.
- (7) Existing Structure: A Support Structure that exists at the time a request for permission to place Mobile Service Facility on a Support Structure is filed with the Town.
- (8) FAA: Federal Aviation Administration.

- (9) Fall Zone: The area over which a Mobile Service Support Structure is designed to collapse.
- (10) FCC: Federal Communications Commission.
- (11) Mobile Service: The meaning given in 47 USC 153(33).
- (12) Mobile Service Facility: The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide Mobile Service to a discrete geographic area, but does not include the underlying Support Structure.
- (13) Mobile Service Provider: A person who provides Mobile Service.
- (14) Mobile Service Support Structure: A freestanding structure that is designed to support a Mobile Service Facility.
- (15) Search Ring: A shape drawn on a map to indicate the general area within which a Mobile Service Support Structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.
- (16) Substantial Modification: The modification of a Mobile Service Support Structure, including the mounting of an Antenna on such a structure, that does any of the following:
  - (A) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet;
  - (B) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more;
  - (C) Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the Support Structure by 20 feet or more, unless a larger area is necessary for collocation; or
  - (D) Increases the square footage of an existing Equipment Compound to a total area of more than 2,500 square feet.
- (17) Support Structure: An existing or new structure that supports or can support a Mobile Service Facility, including a Mobile Service Support Structure, Utility Pole, water tower, building, or other structure.

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

### **14.3 Siting, Construction and Modification.**

- (1) Applicability. A Conditional Use Permit shall be required for **all** of the following:
- (A) The siting and construction of a new Mobile Service Support Structure or a new Mobile Service Facility; and
  - (B) The Substantial Modification of an Existing Structure, Support Structure, or Mobile Service Facility in the case of a Class 1 Collocation.
- (2) Application Process.
- (A) An application for a Conditional Use Permit required herein shall be in writing, filed the Town Clerk, and shall contain all of the following information:
    - 1. The name and business address of, and the contact individual for, the applicant.
    - 2. The location of the proposed or affected Support Structure.
    - 3. The location of the proposed Mobile Service Facility.
    - 4. If the application is to substantially modify an Existing Structure, a construction plan which describes the proposed modifications to the Existing Structure and the equipment and network components, including Antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
    - 5. If the application is to construct a new Mobile Service Support Structure, a construction plan which describes the proposed Mobile Service Support Structure and the equipment and network components, including Antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new Mobile Service Support Structure.

6. If an application is to construct a new Mobile Service Support Structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose Collocation, including a sworn statement from an individual who has responsibility over the placement of the Mobile Service Support Structure attesting that Collocation within the applicant's Search Ring would not result in the same Mobile Service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the Mobile Service Provider.
- (B) If an applicant submits an application for a Conditional Use Permit to engage in an activity described herein, the Planning and Zoning Committee shall consider the application complete. If the Planning and Zoning Committee does not believe that the application is complete, the Town Planning and Zoning Committee shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - (C) Within 90 days of its receipt of a complete application, the Planning and Zoning Committee shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning and Zoning Committee may agree in writing to an extension of the 90 day period:
    1. Review the application to determine whether it complies with all applicable aspects of the Town's Building Code, Ordinance No. 2013-03 and this Ordinance.
    2. Make a final decision whether to approve or disapprove the application.
    3. Notify the applicant, in writing, of its final decision.
    4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - (D) The Planning and Zoning Committee may deny an application if an applicant refuses to evaluate the feasibility of Collocation within the applicant's Search Ring and provide the sworn statement described under paragraph (A)6.

- (E) If an applicant provides the Planning and Zoning Committee with an engineering certification showing that a Mobile Service Support Structure, or an Existing Structure, is designed to collapse within a smaller area than the required setback in the applicable Zoning District or the Fall Zone, this Ordinance does not apply to such a structure unless the Planning and Zoning Committee provides the applicant with substantial evidence that the engineering certification is flawed.
- (3) Permit Fees. A Conditional Use Permit fee required hereunder shall be in accordance with a schedule of fees existing at the time of the adoption of this Ordinance or to be adopted or revised by the Town Board by resolution.
- (4) General Requirements.

In addition to compliance with all applicable regulations of this Ordinance, the following standards shall apply for the construction of a new Mobile Service Support Structure, Support Structure or Mobile Service Facility and, in the case of a Class 1 Collocation, for the Substantial Modification of an Existing Structure or Mobile Service Facility:

- (A) Building Codes and Safety Standards: To insure the structural integrity of Mobile Service Support Structure and the Mobile Service Facility, the owner of said structure or facility shall ensure that it is constructed and maintained in compliance with standards contained in applicable state or local building codes and the applicable standards that are published by the Electronic Industries Association.
- (B) State or Federal Requirements: A Mobile Service Facility and Mobile Service Support Structure shall meet or exceed applicable standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate Mobile Service Facilities.
- (C) Accommodation: A proposed Mobile Service Facility or Mobile Service Support Structure shall be structurally and electrically designed to accommodate one or more antennas.
- (D) Setbacks: A Mobile Service Facility, Mobile Service Support Structure, or other Support Structure shall comply with all setback requirements in the designated Zoning District.
- (E) Signs: No advertising material or signage other than warning or equipment information shall be allowed on any Mobile Service Facility, Mobile Service Support Structure, or other Support Structure. This prohibition shall include the attachment to an Antenna of any flag, decorative sign, streamers, or similar devices, but not including weather devices.

- (F) Fencing: A Mobile Service Support Structure shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
- (G) Landscaping: A buffer of plant material to effectively screen the Mobile Service Support Structure from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the Mobile Service Support Structure. In locations where the visual impact of the Mobile Service Support Structure would be minimal, the landscaping requirement may be reduced or waved. Existing mature tree growth and natural landforms shall be preserved to the maximum extent possible. In some cases, such as Mobile Service Support Structures sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.
- (H) Interference: The Mobile Service Support Structure shall be shielded, filtered and grounded in a manner consistent with FCC and Electronic Industries Association guidelines so as to minimize the possibility of interference with locally received transmissions. In the event any complaint of interference is received by the Town, and the interference is verified by a qualified engineer to be caused by the Mobile Service Support Structure, the Town shall notify the owner and operator in writing and the owner and operator shall have a period of 30 days to investigate the complaint and respond to the Town. In the event it is determined that the Mobile Service Support Structure is the source of the interference, the owner and operator shall take steps to correct the interference.

#### 14.4 Collocations on Existing Structures.

- (1) Applicability. A Zoning Permit shall be required for a Class 2 Collocation.
- (2) Application Process. An application for a Zoning Permit required herein shall be in writing, filed with the Zoning Officer, and shall contain all of the following information:
  - (A) The name and business address of, and the contact individual for, the applicant.
  - (B) The location of the proposed or affected Support Structure.
  - (C) The location of the proposed Mobile Service Facility.

- (D) If an applicant submits to the Zoning Officer an application for a Zoning Permit to engage in an activity described in this Section, which contains all of the information required herein, the Zoning Officer shall consider the application complete. If any of the required information is not in the application, the Zoning Officer shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (E) Within 45 days of its receipt of a complete application, the Zoning Officer shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Zoning Officer may agree in writing to an extension of the 45 day period:
  - 1. Make a final decision whether to approve or deny the application.
  - 2. Notify the applicant, in writing, of his or her final decision.
  - 3. If the application is approved, issue the applicant the Zoning Permit.
  - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (3) Building Code Compliance: A Class 2 Collocation is subject to the same requirements for the issuance of a building permit under the Town's Building Code, Ordinance No. 2013-03, as any other type of commercial or land use development.

#### **14.5 Removal of Abandoned Mobile Service Support Structures.**

- (1) Abandonment: A Mobile Service Support Structure that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such Mobile Service Support Structure shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. If there are two or more users of a single Mobile Service Support Structure, then this provision shall not become effective until all users cease using the tower.
- (2) Removal by Town: Failure to remove an abandoned Mobile Service Support Structure within such 90-day period shall be grounds for the Town to remove the Mobile Service Support Structure at the owner's expense. The Town may place a lien upon the property on which the Mobile Service Support Structure is located for the costs of removal.