

Wireless communication facilities.

A. Authority. The provisions of this section are authorized and designed to be consistent with the regulations of Wis. Stat. 66.0404

B. Purpose. This section is intended for the purpose of establishing regulations for wireless communication facilities that minimize adverse impacts to the community as follows:

- (1) Encourage the location of mobile services support structures in nonresidential zoning districts.
- (2) Minimize the total number of mobile services support structures within the community.
- (3) Encourage co-location onto existing structures.
- (4) Identify appropriate locations for new wireless telecommunication facilities.
- (5) Ensure that antennas and mobile services support structures are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting, landscape screening and innovative camouflaging techniques.
- (6) Avoid damage to adjacent properties from mobile services support structure failure through careful engineering and locating of such structures.
- (7) Facilitate the provision of wireless telecommunication facilities.
- (8) Enhance the ability to provide wireless telecommunication facilities to the community quickly, effectively and efficiently.

C. Definitions. As used in this section, the following terms and phrases shall have the below meanings: "ANTENNA" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

"APPLICATION" means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.

"BUILDING PERMIT" means a permit issued by a Building Inspector that authorizes an applicant to conduct construction activity that is consistent with the Towns' Ordinances

"CLASS 1 COLLOCATION" means 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.

"CLASS 2 COLLOCATION" means 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.

"COLLOCATION" or "CO-LOCATION" means class 1 or class 2 collocation or both.

"DEPARTMENT" means the Zoning Administrator / Plan Commission

"DISTRIBUTED ANTENNA SYSTEM" means 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.

"EQUIPMENT COMPOUND" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

"EXISTING STRUCTURE" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

"FALL ZONE" means the area over which a mobile support structure is designed to collapse.

"MOBILE SERVICE" has the meaning given in 47 USC 153 (33).

"MOBILE SERVICE FACILITY" means 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.

"MOBILE SERVICE PROVIDER" means a person who provides mobile service.

"MOBILE SERVICE SUPPORT STRUCTURE" means a freestanding structure that is designed to support a mobile service facility.

"PERMIT" means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

- (1) Class 1 collocation.
- (2) A class 2 collocation.
- (3) The construction of a mobile service support structure.

"PUBLIC UTILITY" has the meaning given in s. 196.01 (5).

"SEARCH RING" means 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, considering other factors including topography and the demographics of the service area.

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

- (1) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- (2) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
- (3) 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.

(4) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

“SUPPORT STRUCTURE” means 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.

“UTILITY POLE” means a structure owned or operated by an alternative telecommunications utility, that is designed specifically for and used to carry lines, cables, or wires for telecommunications service.

D. Exceptions. The provisions of this section do not apply to radio or television reception antennas or satellite or microwave parabolic antennas not used by wireless communications service providers, receive-only antennas, antennas less than 70 feet in height and owned and operated by a federally licensed amateur radio station operator, towers or antennas lawfully in existence in the Town on the date this section became effective, facilities of any cable television company holding a valid and current franchise or commercial radio and/or television broadcasting facilities.

E. Building Code. The construction and installation of antenna support structures, antennas, and antenna arrays, the installation or placement of antenna arrays on buildings and the placement of antennas on alternative support structures shall be subject to requirements of the Building Code,20 requirements of the Electronics Industries Association/Telecommunications Industries Association and any additional standards applicable thereto published by the Electronics Industries Association.

F. Mobile Tower Siting

(1) New tower - application and process

(a) A building permit is required for the siting and construction of any new mobile service support structure and facilities within the Town of Saratoga.

(b) An application for siting and the construction of any new mobile tower shall be submitted the Zoning Administrator and shall contain 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] Proof a site address has been issued for the tower.

[5] Copy of the easement or agreement with the landowner if the land is not owned by the company/applicant.

[6] A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base station, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

[7] An explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a notarized sworn statement from an

individual who has responsibility over the placement of the mobile service support structure attesting that colocation within a two-mile radius would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

(c) If an applicant submits an application for a permit to engage in an activity described in this ordinance to the Town, which contains all of the information required under this ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 calendar days of receiving the application, informing the applicant that the application is not complete. The written notification shall specify in detail the required information that was not submitted which has rendered the application incomplete. An applicant may resubmit an application as often as necessary until it is deemed complete.

(d) Within 90 calendar days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90-calendar day period:

[1] Review the application to determine whether it complies with all applicable aspects of the Village's building code, subject to the limitations in this section and zoning 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.

(e) The town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicants search ring and provide the sworn statement described under Section (E)(1)(b)(7).

(f) A party who is aggrieved by the final decision of a political subdivision under Section (E)(1)(d) may bring an action in the circuit court of the county in which the proposed activity (which is the subject of the application) is to be located.

(g) If an applicant provides a political subdivision with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

(2) Class 1 Co-Location

(a) To be considered for approval for a Class 1 co-location, a written and signed affidavit from an engineer shall be submitted to the department stating the following:

[1] The number of antennas to be added and the total number of antennas on the tower.

[2] That the structure can support the amount/number of antennas and equipment being added.

[3] That the frequencies will not interfere with existing antennas on the tower.

(b) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications shall be submitted to the department.

(3) Class 2 Co-Location

(a) To be considered for approval for a Class 2 co-location, a written and signed affidavit from an engineer shall be submitted to the department stating the following:

[1] The number of antennas to be added and the total number of antennas on the tower.

[2] That the structure can support the amount/number of antennas and equipment being added.

[3] That the frequencies will not interfere with existing antennas on the tower.

(b) If an applicant submits an application for a permit to engage in a class 2 collocation to the Town, the application shall contain all of the information required under Section (E)(3)(a) in which case the Town shall consider the application complete. If any of the required information is not in the application, the political subdivision 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.

(c) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period:

[1] Make a final decision whether to approve or disapprove the application.

[2] Notify the applicant, in writing, of its final decision.

[3] If the application is approved, issue the applicant the relevant permit.

[4] If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(d) A party who is aggrieved by the final decision of a political subdivision under Section (E)(3)(c) may bring an action in the circuit court of the county in which the proposed activity (which is the subject of the application) is to be located.

(4) Height, setbacks, and other requirements

(a) When applicable, new mobile towers, Class 1, and Class 2 co-locations shall be subject to all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) approvals and regulations.

(b) New mobile towers and Class 1 co-locations are subject to a minimum side and rear yard setback of 30 feet unless documentation consistent with Section (E)(1)(g) is submitted with the application to the Town.

[1] The setback requirement under par (4)b for a mobile service support structure shall be measured from the lot lines of other adjacent and nonadjacent parcels for which single-family residential use is a permitted use under a zoning ordinance to the nearest support structure component (ex/ buildings, guidewires, towers, etc)

(5) Permitting requirements:

All Zoning districts Class 1 Co-location and Class 2 Co-location is a permitted use a New Mobile Tower is a CUP in all Zoning Districts.

(6) Site plan review by Plan Commission. All antenna support structures, antennas, antenna arrays and wireless communication facilities shall be subject to site plan review. The following requirements are in addition to the requirements in the site plan review portion of this chapter:

(a) Lighting. No antenna support structure shall be artificially lighted except as required by the Federal Aviation Administration or other governmental agency.

(b) Signage. There shall be no signs, symbols, flags, banners, devices or effects attached to or painted thereon or inscribed upon any antenna support structures or antennas.

(c) Support facility requirements.

[1] All support facilities, including buildings used for switching and other support functions, shall be placed in close proximity to the support structure on which the antennas are proposed.

[2] Support facilities, including all equipment enclosures, shelters, cabinets, boxes or vaults designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communication signals and data, and provisions for air conditioning, ventilation or auxiliary electrical generators shall be completely screened with trees, shrubs, fences or other decorative materials planted to a minimum width of five feet so as to be obscured from view from adjacent properties and from the street. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

[3] Support facilities shall be kept locked at all times and shall be clearly labeled as to the owner, operator or person to be contacted in the event of an emergency.

G. Removal of abandoned antenna support structures.

(1) Any antenna support structure that has had no antenna mounted upon it for a period of 180 successive days, or if the antenna(s) mounted thereon is not operated for a period of 180

successive days, shall be considered abandoned. The owner thereof shall remove such structure and any accompanying equipment enclosure within 90 days after the receipt of notice from the Town to do so. During the 90 days the owner may apply and, for good reason, be granted an extension of time on such terms as determined by the Plan Commission. If such structure and equipment enclosure are not removed within the permitted 90 days, the Village may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such structures are situated in an amount equal to the cost of removal. Any notice given under this section is subject to appeal to the Board of Zoning Appeals.

(2) In the event that more than one wireless communication service provider is using the support structure, this provision shall not become effective until all users cease use of such structure.