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CHAPTER 14

COMMUNICATIONS SUPPORT STRUCTURES AND RELATED FACILITIES

TOWN OF LIBERTY GROVE

14.01 Mobile Tower Siting

14.02 Radio Broadcast Service Facilities

14.03 Other Communications Services Support Structures and Facilities

**14.01 MOBILE TOWER SITING**

- (1) **Authority.** Section 14.01 is adopted pursuant to §§59.03, 59.54, 59.69, and 66.0404, Wis. Stats.
- (2) **Applicability.** Section 14.01 applies in the unincorporated areas of Door County ("County") as provided under §66.0404(5), Wis. Stats.
- (3) **Authority Cited.** All references to the Wisconsin Statutes and Administrative Code in this Chapter are to the statutes and code in effect as of the date this ordinance is enacted or as the statutes and code are subsequently amended or revised.
- (4) **Exemptions.** The following are exempt from all provisions of Section 14.01 except Section 14.01(18):
  - (a) Portable or mobile structures and facilities (i.e., those in existence for not more than one year) for temporary mobile services or temporary services providing public information coverage of news events or of an emergency. One extension, of one year or less, may be available upon prior written request, and demonstration of need, to the Resource Planning Committee.
  - (b) Public safety communications support structures and related facilities owned and operated by federal, state, county, or other local units of governments.
  - (c) Support structures, including mobile service support structures, destroyed or partially destroyed by an event that directly and exclusively results from the occurrence of natural causes (e.g. earthquakes, fire, flood, storm, tornado, and violent wind), explosion, terrorism, vandalism, or similar calamity that was not caused by, and could not have been prevented by the exercise of foresight or caution of the mobile service support structure owner or property owner, may be replaced with a mobile service support structure of the same type and height without a permit, but only upon prior written notice to and with approval of the Planning Department.
  - (d) Structures for residential satellite dishes, residential television antennas, or other receive-only antennas that are used privately, provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property.

- (e) Antenna facilities, but only to the extent set forth in §59.69(4d)(a) – (c), Wis. Stats.
  - (f) Amateur radio antennas, but only to the extent set forth in §59.69(4f)(a) – (b), Wis. Stats., that are owned and/or operated by a federally licensed amateur radio operator, provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property.
- (5) **Purpose.** The purposes of Section 14.01 includes regulation, subject to the provisions and limitations of §66.0404, Wis. Stats., of the following activities:
- (a) The siting and construction of mobile service support structures and mobile service facilities.
  - (b) With regard to a class 1 collocation, the installation of mobile service facilities on existing support structures that require substantial modification.
  - (c) Class 2 collocation.
- (6) **Intent.** These regulations are intended to accomplish, to the greatest degree possible, the following:
- (a) Provide a uniform and comprehensive set of standards for the siting, construction, and modification of support structures and related facilities, including mobile service support structures and mobile service facilities.
  - (b) Minimize adverse effects of support structures and related facilities, including mobile service support structures and mobile service facilities, through siting standards.
  - (c) Consistent with the Federal Telecommunications Act of 1996, maintain and ensure a broad range of mobile services and high quality mobile service infrastructure in order to serve the community and Door County's police, fire, and emergency response network.
  - (d) Encourage collocation of new antennas on existing mobile service support structures and capacity for collocation of antennas on new mobile service support structures.
  - (e) Promote and protect public health, safety, and general welfare.
  - (f) Not prohibit, or have the effect of prohibiting, the provision of mobile services.
  - (g) Not unreasonably discriminate among providers of functionally equivalent services.
  - (h) Preserve the authority of Door County over decisions regarding the siting, construction, and modification of support structures and related facilities, including mobile service support structures and mobile service facilities.

- (7) **Compliance.** No support structure (e.g., communications tower) or related facility, including no mobile service support structure or mobile service facility, shall be sited, constructed, or modified except in full compliance with this Chapter.
- (8) **Abrogation.** It is not intended by the creation of this Chapter to repeal, abrogate, annul, impair, or interfere with any existing ordinance.
- (9) **Interpretation.** The provisions of this Chapter and all other provisions of the Zoning Ordinance shall be harmonized to give full force and effect to each wherever possible. In the event of an irreconcilable conflict, this Chapter controls with regard to the regulation of support structures and related facilities.
- (10) **Severability.** The provisions of this Chapter shall be interpreted, when possible, to sustain their legality and enforceability as a whole. In the event any provision of this Chapter shall be held, in whole or in part, illegal or unenforceable by a court of competent jurisdiction, neither the validity of the remaining part of such provision, nor the validity of any other provision of this Chapter, shall be in any way affected thereby.
- (11) **Warning and Disclaimer of Liability.** This Chapter shall not create a duty or liability on the part of, or a cause of action against Door County, its officers, or employees thereof, for any damages that may result from administration of or reliance on this Chapter.
- (12) **Definitions.**
- (a) **Antenna:** Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
  - (b) **Applicant:** The owner(s) or lessee(s) of the land upon which the structure and facilities are proposed to be located.
  - (c) **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.
  - (d) **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.
  - (e) **Collocation:** A class 1 or class 2 collocation or both.
  - (f) **Critical Public Safety Communications Corridor:** The area within an existing line-of-site communications path that is used by public safety entities for critical safety-of-life communications.

- (g) **Equipment Compound:** An area surrounding or adjacent to the base of an existing support structure within which is located the related mobile service facilities.
- (h) **Existing Structure:** A support structure that exists at the time a request for permission to place any type of mobile service facility on or near the support structure is filed with a political subdivision.
- (i) **Mobile Service:** The meaning given in 47 USC 153 (33).
- (j) **Mobile Service Facility:** All equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide mobile service to a discrete geographic area that are placed on or around a support structure, but does not include the underlying support structure.
- (k) **Mobile Service Provider:** Any person who provides mobile service, including a person that builds and operates mobile service support structures or facilities, whether or not licensed by the Federal Communications Commission.
- (l) **Mobile Service 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.
- (m) **Permit:** A permit issued hereunder which authorizes any of the following by an applicant: a Class 1 collocation; a Class 2 collocation; or construction of a support structure, including a mobile service support structure.
- (n) **Operator:** The person who owns or operates a support structure or related facilities.
- (o) **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.
- (p) **Substantial Modification:** The modification of a support structure (e.g., 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 co-location.

4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
- (q) **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.
- (r) **Utility Pole:** A structure owned or operated by an alternative telecommunications utility, as defined in §196.01(1d), Wis. Stats.; public utility, as defined in §196.01(5), Wis. Stats.; telecommunications utility, as defined in §196.01(10), Wis. Stats.; political subdivision; or cooperative association organized under Ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in §182.017(1g)(cq), Wis. Stats.; for video service, as defined in §66.0420(2)(y), Wis. Stats.; for electricity; or to provide light.

**(13) Application and Permit**

- (a) **Permit Required.** A permit is required hereunder, subject to the provisions and limitations of §66.0404, Wis. Stats., for any of the following activities:
  1. The siting and construction of mobile service support structures and mobile service facilities;
  2. With regard to a class 1 collocation, the installation of mobile service facilities on existing support structures that require substantial modification; and
  3. A class 2 collocation.
- (b) Provided all requirements of this Chapter are met, a permit to engage in the activities described in Section 14.01(13)(a)1. – 3. above shall be issued to the applicant.

**(14) Application Process.**

- (a) Prior to engaging in any siting, construction, or modification activity described in Section 14.01(13) above, the applicant must complete the application process and obtain a permit as set forth herein.
- (b) The application shall be in writing, on the prescribed form, and shall contain all of the information set forth below:
  1. Name, business address, email address, phone number, and original duly authorized (and notarized) signature of each applicant or a duly authorized signatory.
  2. Name, business address, email address, and phone number of the contact individual for each applicant.
  3. Name, business address, email address, and phone number of each known operator if different than the applicant.

4. Name, business address, email address, and phone number of the contact individual for each known operator.
  5. Federal Communications Commission license and registration numbers.
  6. Site plan showing location of the proposed or affected mobile service support structure and mobile service related facility.
  7. A sworn statement attesting that the applicant verified with the Door County Information Systems Department that the proposed support structure and related facilities will not be located within any critical public safety communications corridor.
  8. Plans indicating security measures (i.e., access, fencing, lighting, signage, etc.).
  9. Proof of comprehensive general liability insurance coverage, for personal injury, death or property damage arising from the maintenance and/or operation of the support structure or related facility with a single combined limit of not less than one million dollars (\$1,000,000) per occurrence. The policy shall contain a provision that it may not be canceled or materially modified without the approval of the County. The applicant shall provide the County with a certificate of such insurance
  10. A copy of the deed, evidencing current ownership of the real property, and, if applicable, the property lease agreement. The lease agreement shall not discourage or prevent collocation of other providers.
  11. Proof of compliance with Federal Communications Commission ("FCC") rules for environmental review, including a letter stating that an Environmental Assessment ("EA") is not required, a Finding of No Significant Impact ("FONSI"), or other written assurance that appropriate measures are or will be taken to protect environmental and historic resources.
  12. Proof that the Federal Aviation Administration ("FAA") was notified and a final written determination of 'no hazard' to air navigation from the FAA.
  13. A report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the mobile service support structure and its ability to accommodate additional antennas.
  14. Affidavit of Notification indicating that all operators and owners of airports located within five (5) miles of the proposed site have been notified via certified mail.
- (c) If the application is to substantially modify an existing support structure, the application shall also include 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.

- (d) If the application is to construct a new mobile service support structure, the application shall also include:
  - 1. 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; and
  - 2. 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.
- (e) All applications must be accompanied by the requisite non-refundable permit fee, consistent with §66.0404(4)(d)1. – 2., Wis. Stats. and as established by the Door County Board of Supervisors.
- (f) The Door County Planning Department ("Planning Department") may, in the exercise of its discretion, engage the services of third-party consultants to assist with review of the application and permit. If a third-party consultant is engaged, the applicant shall pay, subject to §66.0404(4)(f), Wis. Stats., the actual, necessary, and direct cost (sans travel expenses) of the third-party consultant.
- (g) The permit fee requirements do not apply to support structures and facilities wholly owned and operated by, or for the sole use or benefit of the state, the county, or a municipality.

**(15) Application Review and Permit Grant.**

- (a) The Planning Department will determine whether or not an application is complete. To be deemed complete, an application must contain all the information required by this Chapter, be properly executed, and be accompanied by the requisite fee and payment of (or agreement to pay) any applicable charges.
- (b) If the Planning Department does not deem an application to be complete, the Planning Department shall notify the applicant in writing within ten (10) days (within five (5) days for a class 2 collocation) 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 ninety (90) days (within forty five (45) days for a class 2 collocation) after the application is determined complete under Section 14.01(15)(a) supra, the Planning Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning Department may

agree in writing to an extension of the ninety (90) day (forty five (45) day for a class 2 collocation) period:

1. Review the application to determine whether it complies with all applicable aspects of any pertinent building code or (subject to the limitations of §66.0404, Wis. Stats.) 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 application is approved, and all fees and charges paid, issue the applicant the relevant permit.
  5. Any denial (i.e., disapproval) of an application will be in writing and supported by substantial evidence in a written record.
- (d) The Planning Department may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described in Section 14.01(14)(d)2., above.

**(16) Permit Transferability**

- (a) Permits are valid only for the person or persons listed on the permit.
- (b) Permits may only be transferred if: the real property is sold or the lease is transferred; the requisite permit transfer form (available from the Planning Department) is complete (to the satisfaction of the Planning Department), fully executed and notarized; and the transferee meets all the requirements of this Chapter and the permit.

**(17) Structural, Design, and Environmental Standards.**

- (a) All new mobile service support structures, existing support structures, and mobile service facilities shall be designed as set forth below:
  1. Mobile service support structures shall be designed to reasonably promote sharing, such that space is available to collocate.
  2. Mobile service support structures and mobile service facilities, to the degree feasible and practicable, shall be non-reflective in color.
  3. Mobile service facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
  4. The perimeter of the equipment compound shall be located within 50 feet of the associated support structure, as measured from the center of the support structure.
  5. Buildings located within the equipment compound shall not exceed twenty six (26) feet in height, measured from the original grade at the base of the facility to the top of the facility.