

## **SECTION 17.00 WIRELESS TELECOMMUNICATIONS MOBILE SERVICE FACILITIES**

### **17.01 PURPOSE**

This section is intended to regulate mobile service facilities to the full extent allowed by Wisconsin Statutes Section 66.0404 and other applicable laws. Nothing herein is intended to regulate or to authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wisconsin Statutes Section 66.0404 or other applicable laws.

### **17.02 DEFINITIONS**

All terms used herein shall have the meaning described in Wisconsin Statutes Section 66.0404(1).

### **17.03 NEW TOWERS AND FACILITIES**

The applicant is not subject to the requirements of Section 4.02 or 4.03, and instead the siting and construction of a new mobile service support structure and facilities shall be subject to the following requirements:

- A. Application Process. The applicant shall submit a written application which shall include 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 tower.
  3. The location of the mobile service facility.
  4. A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
  5. An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
- B. Determination of Completeness within 10 Days of Submittal. The Town Zoning Administrator shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Zoning

Administrator shall notify the applicant in writing within ten days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.

C. Conditional Use Review Procedure. The wireless telecommunications mobile service facility shall be a conditional use; however, it is not subject to Section 4.02 or 4.03 of this ordinance, and instead shall be reviewed pursuant to the following procedures:

1. Public Hearing. Within a reasonable time after an application and all required information has been filed, a public hearing shall be held by the Town Board pursuant to this chapter.
2. Fee. Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of notification and holding of public hearing. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the Petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes Section 66.0404(4)(d).

3. Requirements.
  - a. Conditional use status shall not be granted to communication towers unless the tower is located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property, subject to the following. If an applicant provides the Town with engineering certification showing that the tower is designed to collapse within a smaller area than the radius equal to the height of the tower, the smaller area shall be used unless the Town has and provides to the applicant substantial evidence that the engineering certification is lawed.

4. Determination. The Town Board shall make a decision on the application within a reasonable time after the public hearing, provided further that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If conditional use status is not granted, the reasons therefore will be included in such record.

5. Changes or Additions. Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Town Board and, if in the opinion of the Town Board, such change or addition constitutes a substantial alteration, a public hearing before the Town Board shall be required and notice thereof be given pursuant to this Chapter.

6. Conditions. Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting

screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, among other issues as deemed appropriate may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter; subject to the limitations of Section 17.0509(C 4), below.

- D. Limitations upon Authority. The Town review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4). In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Town Board in writing and the Town Board reserves the right to reconsider the matter, to ensure that applicable laws are followed.

### **17.04 MODIFICATIONS**

The construction of modifications to an existing mobile service support structure or mobile service facility shall be subject to the following requirements:

- A. Substantial Modification.
1. Application and Review Process. The application and review process for a substantial modification is identical to the application and review process for a new tower, as described in Section 17.0509(C), above, except that the required plans should describe the proposed modifications, rather than describe the new structure.
- B. Not Substantial Modifications.
1. Application Information. The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:
    - a. The name and business address of, and the contact individual for the applicant.
    - b. The location of the affected support structure.
    - c. The location of the proposed facility.
  2. Completeness Determination within Five Days. The Town Zoning Administrator will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Town Zoning Administrator must notify the applicant in writing within five (5) days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
  3. Fee. Any petition shall be accompanied by a fee as set from time-to-time by the Town Board to defray the cost of review. Costs incurred by the Town in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the

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conditions to  
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be improved shall be charged to the Petitioner. Such  
exceed the limits established by Wisconsin Statutes  
66.0404(4)(d).

4. Determination. The Town Board shall make a decision on the application within a reasonable time, provided further that final action shall be taken within 45 days of receipt of a complete application unless the time extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Town records. If approval is not granted, the reasons therefore will be included in such record.
5. Limitations Upon Authority. The review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4), and such other laws as may apply which may include 47 USCA §1455. In the event the applicant believes the Town has exceeded its authority in this regard, the applicant shall notify the Town Board in writing and the Town Board reserves the right to reconsider the matter, to ensure that applicable laws are followed.