

SECTION 26.00 MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

26.01 Purpose

In addition to promoting the public health, safety, and general welfare of the citizens of the Town of Wilson, the purposes of this Section include 1) minimizing any adverse visual effects of communication facilities, 2) allowing a non-discriminatory, competitive, and broad range of communication services consistent with the Federal Telecommunications Act of 1996, 3) achieving consistency with the mobile service support structure and facility regulations of 2013 Wisconsin Act 20, and 4) encouraging the use of alternative support structures and the co-location of new antennas primarily on existing telecommunication towers or secondarily on new towers with the capacity to locate three or more providers.

This Section is not intended to regulate commercial television or radio towers.

26.02 Definitions

- (1) Alternative Mobile Service Support Structure: Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities and/or antennas.
- (2) Antenna: Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
- (3) Antenna, Building Mounted: Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.
- (4) Antenna, Ground Mounted: Any antenna with its base placed directly on the ground.
- (5) Application: An application for a permit under this section to engage in an activity specified in 64.0404 (2) (a) or a Class 2 collocation.
- (6) Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal, equipment, goods or materials of any kind, including external equipment cabinets.
- (7) Building Permit: A permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision's building code.
- (8) Camouflaged Tower: Any telecommunication tower that due to design or appearance hides, obscures or conceals the presence of the tower and/or its antennas.
- (9) 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.

(10) 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.

(11) Collocation: Class 1 or Class 2 collocation or both.

(12) Collocator: The second and all subsequent providers of wireless telecommunication services to be located at a telecommunication facility.

(13) 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.

(14) Equipment Compound: An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

(15) Existing Structure: 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.

(16) Fall Zone: The area over which a mobile support structure is designed to collapse.

(17) Guyed Tower: A telecommunication tower that is supported in whole or in part by devices other than the superstructure of the support tower, such as guy wires or ground anchors.

(18) Height, Telecommunication Facility: The distance measured from the original grade at the base of the tower to the highest point of the telecommunication facility, including the tower and any attached antennas, protection devices such as lightning rods, and lighting. In the case of "crank-up" or other height-adjustable towers, height shall be determined by the maximum height to which it is capable of being raised. The height of building mounted antennas shall be determined by adding the height of the building above the lowest adjacent grade to the highest point of the telecommunication facility.

(19) Lattice Tower: A self-supporting telecommunication tower that consists of vertical, horizontal and/or diagonal supports and braces.

(20) Mobile Service: Has the meaning given in U.S. Code 47 USC 153 (33).

(21) 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.

- (22) Mobile Service Provider: A person who provides mobile service.
- (23) Mobile Service Support Structure: A freestanding structure, such as a tower, that is designed to support a mobile service facility.
- (24) Monopole: A self-supporting telecommunication tower of a single pole design.
- (25) Navigable Stream or Lake: A waterway designated as navigable by the Wisconsin Department of Natural Resources (DNR), or as designated on a United States Geological Survey (USGS) map, or by the Town of Wilson Board utilizing DNR or USGS standards.
- (26) Non-Conforming: Any mobile service support structure or facility that was in existence and operation prior to the enactment of this ordinance, and for which all applicable permits were issued at the time of construction.
- (27) Operation: A mobile service support structure or facility is in operation when it is fully and regularly functioning for its intended purpose as a component of a telecommunication system.
- (28) Permit: A permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:
- a. A Class 1 collocation.
 - b. A Class 2 collocation.
 - c. The construction of a mobile service support structure.
- (29) Platform: A support system used to connect antennas and antenna arrays to mobile service support structures or alternative mobile service support structures, generally designed to facilitate maintenance access to the antennas.
- (30) Political Subdivision: A city, village, town, or county.
- (31) Preferred Tower Area (PTA): Preferred Tower Areas consist of:
- a. The areas specifically delineated as such on the attached map, which is incorporated by reference; and
 - b. All parcels owned on the date of enactment of this ordinance by the Town of Wilson.
- (32) Public Utility: Has the meaning given in 196.01 (5), Wis. Stats.
- (33) Satellite Dish: A device incorporating a reflective surface that may be solid, open mesh, or bar configured and that may be shallow dish, cone, horn, or cornucopia shaped and that is used to transmit and/or receive electromagnetic signals. Examples include but are not limited to satellite earth stations, TVROs and satellite microwave antennas.

(34) 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.

(35) 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.
- d. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

(36) 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.

(37) Mobile Service Support Structure/Facility Permit: Written authorization from the Town of Wilson to an applicant to construct a mobile service support structure or facility or to connect to, expand, modify, or otherwise utilize an existing mobile service support structure or facility.

(38) 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.

(39) Utility Pole Mounted Antenna: An antenna attached to or mounted upon electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure.

26.03 When Mobile Service Support Structure/Facility Permit Not Required

The following shall be permitted without the need to apply for a Mobile Service Support Structure/Facility permit under subsection 26.04, provided that the primary use of the property

is not a mobile service support structure or facility, that the antenna use is accessory to the primary use of the property, and that a building permit and all other permits that may be needed under Town, county, state or federal law shall have been obtained:

- (1) Provided the height does not exceed 70 feet, wireless Internet antennas, receive-only television antennas and satellite dishes, and all other satellite dishes or antennas whose regulation is prohibited by state law or preempted by Federal law.
- (2) Antennas for federally licensed amateur radio operators and/or receive-only radio antennas.
- (3) Mobile services providing public information coverage of news events of a temporary or emergency nature.
- (4) Ground mounted antennas and their support towers, poles or masts if the height of the mobile service support structure or facility does not exceed 50 feet above the original grade at the site of the installation.
- (5) Building mounted antennas or antennas on alternative mobile service support structures if the height of the mobile service support structure or facility does not exceed 25 feet above the highest part of the building or alternative mobile service support structure to which they are attached.
- (6) Utility pole mounted antennas if the height of the mobile service support structure or facility does not exceed 25 feet above the highest part of the utility pole.

26.04 When Mobile Service Support Structure/Facility Permit Required

Any mobile service support structure or facility not exempted by subsection 26.03 from the permit obligation may be permitted only upon issuance of a Mobile Service Support Structure/Facility Permit under this subsection.

All proposed mobile service support structures and facilities shall comply with the provisions set forth herein. A Mobile Service Support Structure/Facility Permit and a building permit from the Town of Wilson are required before the new construction or substantial modification may begin on any mobile service support structure or facility. Applications for a Mobile Service Support Structure/Facility Permit shall be made in accordance with the following:

- (1) New construction or substantial modification of facilities and support structures.
 - a. Subject to the provisions and limitations of this section, the Town shall regulate the following activities:
 1. The siting and construction of a new mobile service support structure and facilities.

2. With regard to class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
- b. The application for an activity described under sub. (1) a. shall be in writing and shall contain all of the following:
1. The name and business address of, and 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 support structure, a construction plan that 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.
 5. If the application is to construct a new mobile service support structure, a construction plan that 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.
- c. If an applicant submits an application for a permit to engage in an activity described under sub. (1) a., which contains all of the information required under sub. (1) b., the Town shall consider the application complete. If the Town does not believe the application is complete, the Town 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.
- d. Within 90 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 day period:

1. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this article, the Town's 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 that supports the decision.
- e. The Town 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 under sub. (1) b. 6.
- f. A party who is aggrieved by the final decision of the Town under sub. (1) d. 2. may bring an action in Sheboygan County circuit court.
- g. If an applicant provides the Town 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 subsection 26.10, then 26.10 does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The Town may regulate the activities described under sub. (1) a. only as provided in this section.
- (2) Collocation on existing support structures.
- a.
 1. A class 2 collocation is a permitted use under 59.69, 60.61, and 62.23, Wis. Stats.
 2. The Town may regulate a class 2 collocation only as provided in this section.
 3. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
 - b. If an applicant submits to the Town an application for a Mobile Service Support Structure/Facility Permit to engage in a class 2 collocation, the application shall contain all of the information required under sub. (1) b. 1. to 3., in which case the Town shall consider the application complete. If any of the required information is not in the application, the Town 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 that supports the decision.
- d. A party who is aggrieved by the final decision of the Town under sub. (2) c. 1. may bring an action in Sheboygan County circuit court.

(3) The recipient of a Mobile Service Support Structure/Facility Permit shall notify the Town Clerk within 15 days of any change in facility ownership, and shall provide contact information for said new ownership

(4) Fences, Signs, Security

- a. An eight-foot high fence with locked gate shall be provided around the tower and related equipment.
- b. Advertising signs of any type shall not be permitted in connection with tower sites. An identification sign, measuring no more than six feet square, indicating the owner's name and a 24-hour emergency number, shall be affixed to the facility in such a way that it is visible from outside the fence.

(5) Lighting: unless required by the Federal Aviation Administration, there shall be no continuous artificial lighting attached to mobile service support structures or facilities. Security lighting shall be "cut off lighting" fixtures.

26.05 Technical Review

The Town may employ one or more technical experts in engineering, law, municipal planning, or related fields to review materials submitted by applicants, to request additional information from applicants, to advise Town officials whether the application fully complies with all applicable requirements, and to make further recommendations to Town officials as the technical experts deem to be relevant and appropriate. The applicant shall pay all the costs of said reviews, except that the applicant cannot be charged for any travel costs incurred by said technical experts. The payment to the Town shall be due upon receipt of the invoices. All invoices, fees, and charges accumulated for the technical reviews must be paid in full prior to

the issuance of the Mobile Service Support Structure/Facility permit. A decision by the Town Board to decline to issue a Mobile Service Support Structure/Facility Permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection

26.06 Removal and Site Restoration

(1) The removal of mobile service support structures or facilities no longer in operation or abandoned, and site restoration shall comply with the following:

- a. The recipient for a Mobile Service Support Structure/Facility Permit shall notify the Town Clerk within 45 days of the permanent cessation of operations of the structure or facility. If no notice is received for a structure or facility that has not been in operation for a continuous period of 12 months, the structure or facility shall be considered abandoned.
- b. The owner of a mobile service support structure or facility shall be responsible for the removal of the structure or facility within 90 days and the restoration of the site to a condition acceptable to the Town Plan Commission within 180 days following the date the Town Clerk receives notice the facility is no longer in operation. Note: Tower-based antennas that are no longer operational shall be removed; however, site restoration is not required.
 1. Site restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five feet below the ground surface. The structure owner shall provide a signed and notarized document in recordable form to the Town of Wilson stating the existence, description, and precise location of any subsurface structure remaining.
 2. A surety bond, letter of credit, cash, or other surety, as determined by the Town of Wilson, shall be provided by the applicant prior to the issuance of a Mobile Service Support Structure/Facility Permit to cover the costs of complete removal of an abandoned facility, along with landscape remediation, landscaping, and removal of any on-site hazardous materials, if necessary. The Town of Wilson shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company. The Town may require an increase in the surety amount at five-year intervals to reflect increases in the costs in the aforementioned removal, remediation, and landscaping expenses. The amount of the increased surety shall be determined by the Town of Wilson consistent with actual anticipated costs as provided by appropriate experts. The applicant shall provide any increase in surety within 60 days after the Town's request. In no case shall the bond, letter of credit, cash, or surety exceed \$20,000.

- c. Any cost not covered by the surety bond furnished shall be provided by the existing landowner or become a lien on the real estate.

26.07 Preexisting Mobile Service Support Structures and Facilities

Except for routine maintenance and repair, the owners of mobile service support structures and facilities in existence on the date of enactment of this ordinance may not rebuild the structure, or add, move or replace facilities, without first obtaining a Mobile Service Support Structure/Facility Permit.

26.08 Compliance

(1) Revocation. Grounds for revocation of the Mobile Service Support Structure/Facility permit shall include:

- a. The owner of such site, service provider, and/or tower owner fails to comply with the requirements of this section.
- b. The permittee fails to comply with the conditions imposed by the permit.
- c. The permittee is adjudged in violation of a rule, regulation, and/or decision promulgated by a state or federal agency with jurisdictional oversight of mobile service support structures or facilities, or a court of competent jurisdiction, and has not cured the deficiency within the time period designated by the agency or court, or if no time period was designated, within a reasonable time.

(2) Revocation Process.

- a. The owner of such site, service provider, and/or tower owner shall be notified by certified mail of noncompliance and warning of intent to revoke by the Town Clerk upon direction of the Town Board.
- b. The owner shall have 30 days after receipt of the noncompliance notice to either correct the deficiencies or to file a written request for a hearing with the Town Clerk.
- c. If a written request for a hearing is received within 30 days, the Town Board shall schedule a due process hearing and shall provide at least seven days advance notice to the owner. The Town Board shall consider all relevant evidence at the due process hearing. The Town Board of Zoning Appeals may decide to revoke the permit, to suspend the permit with or without conditions, or to dismiss the matter, as it deems appropriate under the circumstances. If the Town Board revokes or suspends the permit, or imposes any other penalty, it shall prepare a written decision incorporating its findings of fact and reasoning.
- d. If no request for a hearing has been received and compliance is not obtained within 30 days after receipt of the noncompliance notice, the Town Board may summarily revoke or suspend the permit with or without conditions, as it deems appropriate under the circumstances.

26.09 Structural, Design, and Environmental Standards

(1) Mobile Service Support Structure and Facilities Requirements. Unless exempted by subsection 26.03 of this ordinance or precluded by the limitations of 64.0404 (4), all structures and facilities shall be designed to reduce negative impact on the surrounding environment by implementing the measures set forth below:

- a. Mobile service support structures shall be constructed of metal or other nonflammable material and have exterior surface finishes that minimize reflectivity, unless otherwise specified by the Town Board.
 - b. Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.
 - c. Mobile service facilities shall be no taller than 15 feet in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility from nearby roads and neighboring properties. Mobile service facilities for all mobile service support structure users at one site shall not exceed a total of 1,600 square feet of floor area.
 - d. The maximum height of an antenna platform located on a rooftop shall be 20 feet above the roof.
 - e. Mobile service facilities shall not interfere with or obstruct existing or proposed public safety, fire protection, Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities, or the private television, radio, or communication devices of businesses or residences. Any actual interference and/or obstruction shall be corrected by the Mobile Service Support Structure/Facility Permit holder as soon as reasonably possible and at no cost to the Town or public.
- (2) Height. The maximum height of a mobile service support structure or facility shall be 199 feet.

(3) Site Development, Roads, and Parking. A leased parcel intended for the location of new mobile service support structures or facilities shall be located so as to permit expansion for all potential colocators. A parcel owned by a mobile service carrier and/or provider and intended for the location of new mobile service support structures and facilities shall meet the minimum size requirement of the zoning district. All sites must be served by an easement sufficient to provide a turnaround and access for emergency vehicles. Sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the Town of Wilson Plan Commission.

(4) Fire Prevention. All mobile service support structures and facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

(5) Noise and Traffic. All mobile service support structures and facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. Noise producing construction activities shall take place only on days other than Sundays or holidays between the hours of 7:00 a.m. and 7:00 p.m., except in times of emergency repair, and backup generators shall be operated only during power outages and for testing and maintenance purposes.

26.10 Setback Requirements

All setbacks shall be measured from the base of the tower or structure and are the same as the setbacks for other commercial structures, as listed in subsection 25.01 of this ordinance. Nevertheless, to protect public safety, the following minimum setbacks are strongly recommended:

(1) Setbacks from all habitable residential buildings. All new mobile service support structures are recommended to be set back from all habitable residential buildings on the host property or on adjoining properties a distance of at least 125% of the height of the tower, or 249 feet, whichever is greater. In addition, mobile service support structures should strive to avoid being placed closer to a residence on neighboring properties than the distance of the tower from the residence or principal structure on the host property.

(2) Setbacks from streets. All new mobile service support structures are recommended to be set back from the traveled portion of all streets the greater of the distance established in the zoning code, 100% of the height of the tower, or 199 feet.

(3) Setbacks from property lines. All new mobile service support structures are recommended to be set back from all property lines a minimum of 100% of the height of the mobile service support structure, or 199 feet, whichever is greater.

(4) Guy wire anchor setback. All guy wire anchors are recommended to be at least 25 feet from all property lines.

26.11 Building Permit

A Town of Wilson building permit is required for the location of all mobile service support structures and facilities. The applicant shall submit such information as may be required by the Building Inspector.

26.12 Fees

(1) The fee charged for a Mobile Service Support Structure/Facility Permit required under this Section shall be determined from time to time by the Town Board and printed in a schedule to be maintained by the Town Clerk. Additional fees may be due under other sections of the Town of Wilson code.

(2) In no instance, however, shall any fee exceed one of the following amounts:

- a. For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by the Town of Wilson for a building permit for any other type of commercial development or land use development.
- b. For a permit for an activity described under subsection 26.04 (1) a., \$3,000.
- c. Charge a mobile service provider any recurring fee for an activity described in subsection 26.04 (1) a. or a class 2 collocation.

Effective Date: The herein Ordinance shall take effect upon enactment and publication. Enacted this 3rd Day of April 2014. Town of Wilson by David L. Gartman, Chairman

This is to certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of Wilson on this 17th day of March, 2014, Georgene Lubach, Interim Clerk