

CHAPTER 9

(Ordinance 2014-17; 01/19/15)

(*Overlay in Ordinance Chapter – See Chapter 10 for Shoreland Zoning Ordinance)

MOBILE TOWER SITING

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SEC. 16-9-1 DEFINITIONS.

In addition to the definitions under Section 20-1 of the Racine County Code of Ordinances as adopted by the Village of Caledonia pursuant to Section 16-1-1, the following definitions shall apply to this Chapter:

- (a) **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.
- (b) **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 but does not need to engage in substantial modification.
- (c) **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.
- (d) **Mobile Service Provider** means a person who provides mobile service as defined by federal law.
- (e) **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.
- (f) **Utility Pole** means a structure owned or operated by an alternative telecommunications utility, public utility, telecommunications utility, county, municipality, or cooperative associate, all as defined under current law or under the proposal, and that is specifically for and used to carry lines, cables, or wires for telecommunications service, video service, or for electricity or to provide light.
- (g) **Antenna** means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
- (h) **Mobile Service Support Structure** means free-standing structure that is designed to support a mobile service facility.
- (i) **Search Ring** means 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 demographics of the service area.
- (j) **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 two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet;
 - (2) for structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by 10% 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 more than twenty (20) feet or more, unless a larger area is needed for collocation;

- (k) **Equipment Compound** means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
- (l) **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 county or municipality.
- (m) **Fall Zone** means the area over which a mobile support structure is designed to collapse.

SEC. 16-9-2. PURPOSE.

The purpose of this section is to regulate by zoning permit, site plan review, or conditional use the siting and construction of any new mobile service support structures and/or facilities.

Mobile service support structures or other supporting buildings or structures that are used to elevate an antenna, or which act as an antenna, and are intended for wireless telecommunications, are subject to the regulations and site development standards set forth in this Chapter.

SEC. 16-9-3. AMATEUR AND CITIZEN BAND TOWERS.

Amateur and citizen band towers and antennas where the structure is fifty (50) feet or more in height are exempt from the provisions of this Chapter except for the following:

- (a) The installation or construction of such structure must require a site plan review and approval in accordance with the procedure set forth in Section 20-1184 of the Racine County Code of Ordinances as adopted by the Village of Caledonia pursuant to Section 16-1-1. The Plan Commission may request a hearing following a site plan review if it is determined that such a hearing is in the public interest.
- (b) Such structures must be considered an accessory structure and may only be permitted in the side yard and rear yard. A minimum ten (10) foot side-yard and rear-yard setback must be maintained.

SEC. 16-9-4 APPLICATION SUBMITTAL REQUIREMENTS – NEW MOBILE SERVICE SUPPORT STRUCTURES.

The siting and construction of any new mobile service support structures will require a conditional use permit. All structures should be camouflaged to the greatest extent possible, including compatible building materials, colors, and screening. Per Wisconsin State Statutes 66.0404(4)(g), an application may not be denied based solely on aesthetics concerns. A zoning permit application must be completed by the applicant and submitted to the Development Services Office. In addition to the requirements found in Section 20-1161 of the Racine County Code of Ordinances as adopted by the Village of Caledonia pursuant to Section 16-1-1, the application must contain the following information:

- (a) Applicant name, business address, and phone number of all known occupants of the proposed mobile service support structure, including contact individual(s) for the applicant(s). The proposed structure must be designed structurally, electronically, and in all respects to accommodate collocation of both the applicant's antennas and antennas for at least two (2) additional users. The equipment compound must also be able to accommodate multiple users.
- (b) The location of the proposed mobile service support facility.
- (c) If the applicant does not own the site or the tower, the applicant must provide a lease agreement or binding lease memorandum which shows on its face:
 - (1) that it does not preclude the site owner from entering into leases on the site with other provider(s);
 - (2) that it does not preclude the tower owner from entering into leases on the tower with other provider(s);
 - (3) the legal descriptions and amount of property leased;
 - (4) in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
- (d) A scaled site plan which shows property lines, location of mobile service support structure, setback distances, mobile service facility, and fencing.
- (e) A sketch, concept, or rendition of the site as proposed.
- (f) 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 is responsible 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 not technically feasible; or is economically burdensome to the mobile service provider.
- (g) 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.
- (h) A tabular and/or map inventory of all of the applicant's existing towers and antennas which are located within the county. The inventory must specify the location, antennae height, and structure type of each of the applicant's existing mobile service support facilities. The inventory must also specify whether such towers are currently in operation and indicate the ability of the existing structures to accommodate additional collocation antennas.
- (i) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (j) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport, including all landing strips.

SEC. 16-9-5 APPLICATION PROCESS – NEW MOBILE SERVICE SUPPORT STRUCTURES.

- (a) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village

must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.

- (b) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - (2) The Village Board must make a final decision whether to approve or deny the application, after receiving a recommendation of the Plan Commission;
 - (3) The Village must notify the applicant in writing of the final decision;
 - (4) If the application is approved, the Zoning Administrator will issue the applicant a zoning permit;
 - (5) If the decision is to deny the application, the Village must include with the written notification substantial evidence which supports that decision.
- (c) The Village may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and does not provide the sworn statement described in Section 16-9-4(f).
- (d) If an applicant provides the Village with an engineering certification showing that the proposed mobile service support structure is designed to collapse within a smaller area than the setback or fall zone area required in the specified zoning district, that zoning setback does not apply to the proposed structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.

SEC. 16-9-6 TECHNICAL REVIEW.

In the event the Plan Commission determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the Plan Commission shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the Plan Commission the names of consultants believed by the applicant to be qualified to assist in resolving the issues before the Plan Commission.

SEC. 16-9-7 ABANDONMENT.

- (a) Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility of the property where the structure and facility are located must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the

location to its natural condition (except any grading may remain in the after-condition as determined by the zoning administrator) within ninety (90) days of receipt of notice from the zoning administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the zoning administrator may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner.

- (b) The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of Section 16-9-7(a). Said agreement must also identify that the agreement must be binding on future property owner(s) and future owner(s) of the mobile service support structure and facility.
- (c) The mobile service support structure and facility must be recorded in the Register of Deed's Office and a copy of the deed must be filed with the Zoning Administrator.

SEC. 16-9-8 SECURITY FOR REMOVAL.

The applicant shall provide to the Village, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) to guarantee that the tower and all supporting equipment, buildings and foundations will be removed when no longer in operation. The Village must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the Village will be given notice if the bonding company cancels the bond. If, prior to the removal of the tower, tower removal rates exceed twenty thousand dollars (\$20,000.00), the Village reserves the right to require a corresponding increase in the bond amount.

SEC. 16-9-9 CONTINUED COMPLIANCE.

Upon written inquiry by the Plan Commission, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation of the permit.

SEC. 16-9-10 USE OF EXISTING STRUCTURES.

A mobile service facility may locate on alternative support structures, such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure. Mobile service facilities located on roofs must not occupy more than fifty (50) percent of the roof surface of a building and must be secured from the remaining area to prevent unauthorized access. The mobile service facility must be painted or otherwise treated to match the exterior of

the structure. Such mobile service facility installation will be classified as either a class 1 or class 2 collocation and will require a site plan review.

SEC. 16-9-11 APPLICATION SUBMITTAL REQUIREMENTS – CLASS 1 COLLOCATIONS.

A collocation will be classified as a class 1 collocation if the following substantial modifications are added to the exiting mobile service support structure:

- (a) an increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less;
- (b) an increase in the overall height of the structure by 10% or more, for structures with an overall height of more than two hundred (200) feet;
- (c) an increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification;
- (d) an increase in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

A zoning application must be completed by the applicant and submitted to the Development Services Office. In addition to the requirements found in Section 20-1161 of the Racine County Code of Ordinances as adopted by the Village of Caledonia pursuant to Section 16-1-1, the application must contain the following information:

- (a) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s).
- (b) The location of the existing mobile service support structure, including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment.
- (c) A construction plan which describes the proposed modifications to the mobile 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) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

SEC. 16-9-12 APPLICATION PROCESS – CLASS 1 COLLOCATION.

- (a) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (b) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - (2) The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
 - (3) Notify the applicant in writing of the Village Board's final decision;
 - (4) If the application is approved, issue the applicant a zoning permit;
 - (5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

SEC. 16-9-13 APPLICATION SUBMITTAL REQUIREMENTS – CLASS 2 COLLOCATION.

A collocation will be classified as a class 2 collocation if the substantial modifications described in Section 16-9-11 are not required for service.

A zoning application must be completed by the applicant and submitted to the Zoning Administrator. In addition to the requirements found in Section 20-1161 of the Racine County Code of Ordinances as adopted by the Village of Caledonia pursuant to Section 16-1-1, the application must contain the following information:

- (a) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s);
- (b) The location of the existing support structure; including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment;
- (c) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

SEC. 16-9-14 APPLICATION PROCESS – CLASS 2 COLLOCATION.

- (a) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (b) Within forty-five (45) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the forty-five (45) day period:

- (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
- (2) The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
- (3) Notify the applicant in writing of the Village Board's final decision;
- (4) If the application is approved, issue the applicant a zoning permit;
- (5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

SEC. 16-9-15 APPLICATION PROCESS – LIABILITY.

The Village does not warrant any mobile service support structure against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a conditional use permit or zoning permit.

SEC. 16-9-16 SITE SPECIFICS.

- (a) As with commercial-scale wind energy facilities, mobile service support structures setbacks must not be less than the height of the tower above grade between the base of the tower and property line. The setback may be reduced if the requirements of Section 16-9-4(i) are met.
- (b) When more than one (1) tower is placed on a site, all setback and design requirements must be met by each tower.
- (c) A site with a guyed mobile support structure must provide:
 - (1) A setback of at least twenty-five (25) feet between a guy anchor and any property line abutting a residential district, public property, or street; and
 - (2) A setback equal to or exceeding the rear setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.
 - (3) A guy anchor may be located on an adjoining property when:
 - a. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and
 - b. The guy anchor meets the requirement of subsections (1) and (2) above, as to all other adjoining property lines.
- (d) Mobile service facility accessory structures must be limited to fifteen (15) feet in height.
- (e) Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

SEC. 16-9-17 SEVERABILITY.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given

effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SEC. 16-9-18 FEES.

Application fees for new mobile service support structures, and class 1 and 2 collocations, shall be in accordance with a fee schedule set by resolution of the Village Board from time-to-time.

SEC. 16-9-19 RESERVED.