

Mobile Tower Siting and Collocation Ordinance.

I. Title.

This ordinance is entitled the "Town of Liberty, Vernon County, Mobile Tower Siting and Collocation."

II. Purpose.

The purpose of this ordinance is to regulate (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

III. Authority.

The Town Board has the specific authority under §§ 60.62, 62.23, and 66.0404, Wis. Stats., to adopt and enforce this ordinance.

IV. Adoption of ordinance.

This ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

V. Definitions.

All definitions contained in § 66.0404(1) are hereby incorporated by reference.

VI. Subdivision and numbering of this ordinance.

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

VII. Siting and construction of any new mobile service support structure and facilities; Application process.

A. A Town permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.

B. A written permit application must be completed by any applicant and submitted to the Town. The application must 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) Applicants requesting to construct a new mobile service support structure shall submit to the Town 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.

(5) Applicants requesting to construct a new mobile service support structure shall submit to the Town 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. A permit application will be provided by the Town upon request to any applicant.

D. If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, 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 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.

E. 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 ninety-day period:

(1) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and ordinances.

(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.

F. 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 paragraph (2)(f).

VIII. Class 1 collocation; Application process.

A. A Town permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the Town obtainable with this permit.

B. A written permit application must be completed by any applicant and submitted to the Town. The application must 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) Applicants requesting to substantially modify an existing support structure shall submit to the Town 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.

C. A permit application will be provided by the Town upon request to any applicant.

D. If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, 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 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.

E. 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 ninety-day period:

(1) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and ordinances.

(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.

F. 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 paragraph (2)(f).

G. The fee for the permit is \$3,000.

IX. Class 2 collocation; Application process.

A. A Town permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the Town permit.

B. A written permit application must be completed by any applicant and submitted to the Town. The application must 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.

C. A permit application will be provided by the Town upon request to any applicant.

D. 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.

E. If an applicant submits to the Town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, 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 five 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.

F. 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 forty-five-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.

G. The fee for the permit is \$500.

X. Limitations.

A. The Town may deny, request that the application be modified, or place limitations upon the application as long as the basis for denial, modification, or limitation is not prohibited under § 66.0404, Wis. Stat.

B. The Town will require that the application adhere to the following setback requirements:

- (1) The setback requirement of the tower and supporting cable anchors is the distance equal to the height of the proposed mobile tower.
- (2) The setback requirement shall be measured from the lot lines of other adjacent parcels.
- (3) The Town Board may determine that a smaller area may be allowed, than the setback or fall zone area required above, based upon substantial evidence that the tower is designed to collapse in a smaller circle than its height.

XI. Removal and Security for Removal.

A. It is the express policy of the Town and this Ordinance that mobile service support structures be removed once they are no longer in use and not a functioning part of providing mobile service. It is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or as condition approved by the Town Board. This 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. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have 180 days to effect removal and restoration, unless weather prohibits such efforts. The owner shall record a document with the Vernon County Register of Deeds showing the existence of any subsurface structure remaining below the ground surface. Such recording shall accurately set forth the location and described the remaining structure.

B. The owner of any mobile service support structure other than Town or other unit of government shall provide to the Town a bond, based upon a written estimate of a qualified remover of said types of structures, or \$25,000.00, whichever is less, to guarantee that the mobile service support structure will be removed when no longer in operation. The Town will be named as obligee in the bond and must approve the bonding company. The Town may require an increase in the bond amount after five year intervals to reflect increases in the consumer price

index, but at no time shall the bond amount exceed \$25,000.00. The provider shall supply any increased bond within a reasonable time, not to exceed 60 days after the Town's request.

XII. Abandonment.

A. Any antenna, mobile service facility, or mobile service support structure that is not operated for a period of 12 months shall be considered abandoned. Upon application, the Town Board may extend the time limit for abandonment for an additional 12-month period. Such extension shall be based on the finding that the owner or permit holder is actively seeking tenants for the site. After expiration of the established time period, the following shall apply.

(1) The owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, buildings, and foundations to the depth required in this chapter within 90 days of receipt of notice from the Town that abandonment is required. If removal to the satisfaction of the Town Board does not occur within said 90 days, the Town Board may order removal utilizing the established bond as provided under Wis. Stats. § 62.08(2). And salvage said antenna, mobile service facility or mobile service support structure, including all supporting equipment and building(s). If there are two or more users of a single mobile support structure, then this provision shall not become effective until all operations of the mobile service support structure cease.

(2) The recipient of a permit allowing a mobile service support structure and facility under this chapter, or the current owner or operator, shall notify the Town Board within 45 days of the date when the mobile service facility is no longer in operation.

XIII. Penalty Provisions.

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

XIV. 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.

EFFECTIVE DATE

This ordinance shall take effect and be in full force from and after its passage.

Adopted this 14th day of December, 2020, by the Town Board of Supervisors of the Town of Liberty.

Chairman: yes/no; 1st Supervisor: yes/no; 2nd Supervisor: yes/no



Terry Theis
Town of Liberty Chairperson



Nicole Rakobitsch
1st Supervisor



Adrian Amelse
2nd Supervisor

Attested by the Town Clerk 
Lori Polhamus
Town of Liberty Clerk

This ordinance was filed in the office of the Town Clerk and properly posted or published as required by law on the 14th day of December, 2020.



Town of Liberty Clerk

Signed copy kept at the Clerk's office.