

**Town of Cooperstown**  
**Manitowoc County, Wisconsin**  
**Ordinance No. 2019-02**

**An Ordinance to amend and create Sections 6.15 and 6.16 of the General Code of Ordinances**

Section 6.15 of Chapter 6, Public Works, is amended as follows:

**Section 6.15. Regulation of Infrastructure in the Town Right of Way (ROW)**

**Section I: Purpose**

This Ordinance is enacted in the interest of public health, safety and general welfare, to protect the town's economic investment in infrastructure for the public good, and to regulate the placement of infrastructure in the public right of way of all highways under the jurisdiction of the Town of Cooperstown.

**Section II: Authority**

This Ordinance is adopted pursuant to the powers granted under Wisconsin Statutes, including but not limited to, sections 60.22, 60.23, 86.07 and 86.16 S.S. and Wis. DOT FDM 11-40 (1.9.1.1 Utilities), Wis. PSC 130, and FCC 18-133.

**Section III: Definitions**

**Town** means the Town of Cooperstown, Manitowoc County, WI.

**Person** means any individual, firm, corporation, partnership limited liability company, or any other entity.

**Utilities** means Conventional Utilities and Small-Cell (5G) Wireless Utility, both as defined herein.

**Conventional Utilities** are described as gas pipelines, electrical utility lines and poles, telephone and cable TV lines, whether underground or above ground, which fall under regulation or administration of the FCC, or Wis. PSC or other administrative code provision, or State Statute.

**Small-Cell (5G) Wireless Utility** is described as the next generation of mobile networks beyond 4G LTE. 5G facilities will be low powered, short-range communication service for one carrier. Also referred to herein as **Small Wireless Facility**. Volumetric limit of three (3) cubic feet for antenna and twenty-eight (28) cubic feet for all other associated equipment.

**Infrastructure** means lines, wires, fiber for telecommunications service, telegraph, telephone, or electricity lines, or pipes or pipelines, for the purpose of transmitting voice, video, data, messages, heat, light, or power along, across, under, or within the limits of the town right of way, together with all supporting poles and associated equipment.

**Section IV: Permitting**

No person shall install, construct or operate infrastructure for utilities within the town right of way without first obtaining a permit therefor from the town board. The following procedure relates to the permit process:

1. Applicant shall file a permit application with the Town Clerk, on forms provided by the Town. The application shall be reviewed by \_\_\_\_\_ to determine the application is complete. Upon determination the application is complete, the application shall be provided to the Town Planning Commission for review to determine the proposed work complies with applicable town, state and federal requirements.
2. The Town Planning Commission shall present a recommendation on the permit application to the Town Board, including any recommended conditions to be included in the permit. The Town Board shall consider the recommendation of the Planning Commission and act on the application. If the Town Planning Commission fails to

make a recommendation to the Town Board on a timely basis, the Town Board may act without any recommendation.

3. The Town Planning Commission may include in its recommendation to the Town Board, and the Town Board may include in its approval of the permit, reasonable conditions including, but not limited to, reasonable location requirements; bonding or insurance requirements if there are reasonable grounds to question the financial responsibility or compliance ability of the applicant; relocation requirements consistent with town plans to widen or alter the road right of way. Notwithstanding the foregoing, the town board shall not impose conditions or requirements that materially inhibit the ability of any entity as a competitor or potential competitor to compete in a fair and balanced legal and regulatory environment per FCC 18-13, par. 35.
4. Conventional Utilities Application(s) shall be approved within 90 days after deemed complete for facility placement on an existing structure, and within 150 days for placement on a new structure.
5. Small Cell (5G) Wireless Utility Application(s) shall be approved within 60 days after deemed complete, for facility placement on an existing structure, and within 90 days for placement on a new structure.
6. Structure(s) placement will be on the back-slope of the ditch (ROW) and away from pavement and shoulder for public safety reasons.
7. Structure(s) shall be located outside of ROW clear zone, and shall not obstruct sight distances at intersections or driveways, for public safety reasons.
8. Structure(s) shall not obstruct drainage way for public safety reasons.

#### **Section V: Permit Fees**

Permit Fees shall be established by the Town Board, shall bear a reasonable relationship to the services provided pursuant to Sec. 66.0628, Wis. Stat., and shall not exceed the actual cost for administration of the application and permit. All permit fees shall be paid prior to issuance of the permit. The permit fees for Small-Cell Wireless (5G) Utility shall be subject to the following maximum amounts (Reference: FCC 18-133):

1. Maximum of \$500 for a single up-front application that includes up to five (5) Small Wireless Facilities.
2. \$100 for each Small Wireless Facility beyond Five (5).
3. \$270 per Small Wireless Facility per year for all recurring fees, e.g., access fees, attachment fees, and maintenance fees.

#### **Section VI: Removal**

Permittee shall notify the Town Board at least thirty (30) days prior to the abandonment of infrastructure including the supporting equipment and structures. Permittee shall remove all infrastructure and supporting equipment and structures within 150 days following abandonment, and restore the site to its pre-installation condition.

#### **Section VII: Enforcement and Penalties**

Failure to properly comply shall be punishable by a fine of no more than \$500. Each day a violation continues shall constitute a separate offense. Refer to chapter 15 of Town Code.

#### **Section VIII: Liability**

The permittee shall be liable for any and all damages which occur during the progress of the installation or as a result thereof, including but not limited to, the use of the facility.

#### **Section IX: Severability**

Should a court of competent jurisdiction find any portion of this ordinance unconstitutional, invalid, or unenforceable, such finding shall not affect the remainder of this ordinance which shall remain in full force and effect.

Section X: Section 6.16 of Chapter 6, Public Works of the Code of the Town of Cooperstown, is hereby created to read as follows:

6.16 PENALTY: Any person who violates any provision of this chapter, except as otherwise provided, shall be subject to a penalty as provided in Chapter 15 of this code.

Section XI: Effective Date

This ordinance becomes effective upon passage and publication.

Passed the 12 day of February 2019

Town of Cooperstown

By: [Signature]

Town Chairperson

Attest

By: Michael W. Albers

Supervisor  
By: [Signature]

Supervisor  
By: Fred Lomen

Supervisor  
By: \_\_\_\_\_

Supervisor  
By: Susan Kanelly

Town Clerk

## APPENDIX B

### Public Right of Way Utility Application For Wireline Only Installations (coax, fiber-optic or other cabling, and related equipment)

#### Applicant Information

Applicant Name		Company Name	
Applicant Email		Company Address	
On-Site Contact Name		On-Site Contact Phone #	
On-Site Contact Email			

#### Project Information

Location(s): \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Portion(s) of the Public Right of Way affected by project. (Select all that apply)

Street \_\_\_\_\_ Sidewalk \_\_\_\_\_ Shoulder \_\_\_\_\_

Work Types:

Telecommunications: \_\_\_\_\_ Linear Feet: \_\_\_\_\_ Underground \_\_\_\_\_ Aerial \_\_\_\_\_  
Service \_\_\_\_\_

Other Infrastructure Impacts (Power/Gas/Sewer):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Public Right of Way Obstruction Request: (Select all that apply)

Sidewalk Obstruction/Detour: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_  
Lane Obstruction: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_  
Full Street Closure: \_\_\_\_\_ Date(m/d/yy) From: \_\_\_\_\_ To: \_\_\_\_\_