

TOWN OF PORT WASHINGTON
ORDINANCE NO. 2014- 2
ORDINANCE TO AMEND CHAPTER 340 ZONING AND
SUBDIVISION CODE

The Town Board of the Town of Port Washington, Ozaukee County, Wisconsin, does hereby ordain as follows:

Section I: Article VII of Chapter 340 is hereby repealed and recreated to read as follows:

ARTICLE VII
Mobile Service Support Structures and Facilities

§ 340-74. Affected facilities.

The purpose of this ordinance is to regulate by conditional use permit (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.

A. Mobile service support structures 35 or more feet in height used for the purpose of commercial transmission and/or reception of radio frequency waves shall be defined as a principal use requiring a conditional use permit. As a principal use, the land used for the placement of the mobile service support structure regulated under this article will be subject to the minimum lot size for the district in which it is placed.

B. Additional mobile service support structures located within 100 feet of the principal tower on an existing site shall be considered an accessory use.

C. Mobile service facilities shall be defined as an accessory use.

D. Amateur radio towers will be excluded from this article, but normal setback requirements for these towers as defined elsewhere in this chapter shall be met.

E. AM multi-tower phased arrays are not addressed in this chapter and would require an ordinance revision if applied for.

§ 340-75. Definitions

As used in this section the following terms shall have the meanings indicated:

ANTENNA – communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

APPLICATION – an application for a permit under this section to construct a new mobile service support structure, or for a class 1 or class 2 collocation.

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.

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.

COLLOCATION – class 1 or class 2 collocation or both.

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.

EQUIPMENT COMPOUND – an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

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.

FALL ZONE – the area over which a mobile support structure is designed to collapse.

MOBILE SERVICE – has the meaning given in 47 USC 153 (33).

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.

MOBILE SERVICE PROVIDER – a person who provides mobile service.

MOBILE SERVICE SUPPORT STRUCTURE – a freestanding structure that is designed to support a mobile service facility.

PUBLIC UTILITY – has the meaning given in s. 196.01(5).

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.

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:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.

2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent 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 20 feet or more, unless a larger area is necessary for collocation.

4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

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.

UTILITY POLE – a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01(1d); public utility, as defined in s. 196.01(5); telecommunications utility, as defined in s. 196.01(10); political subdivision; or cooperative association organized under ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in s. 182.017(1g)(cq); for video service, as defined in s. 66.0420(2)(y); for electricity; or to provide light.

§ 340-76. Setback requirements.

A mobile service facility and all accessory structures shall meet the minimum setback requirements of the zoning district in which they are located, unless the applicant provides an engineering certification showing that a mobile service support structure is designed to collapse within a smaller area than the minimum setback requirements.

§ 340-77. Landscaping and fencing.

The tower and the adjacent equipment building(s) shall be security fenced with at least six-foot-high chain link fencing. Landscaping at the perimeter of the fencing which abuts or is visible from streets, residences, public parks or areas with access to the general public other than the owner of the adjoining property shall be required at a minimum as follows:

A. For towers 150 feet in height or less, a buffer no less than 25 feet wide shall be commenced at the security fence line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Shrubs should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs not less than four feet high at the time of planting and spaced not more than 15 feet apart shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that would not exceed 20 feet in height or would not affect the stability of the guy wires should they be uprooted.

B. For towers more than 150 feet in height a buffer area of not less than 40 feet wide shall be provided at the security fence line. At least one row of evergreen shrubs shall be spaced not more than five feet apart which will grow into a continuous hedge at least five feet in height within two years of planting. In addition, there shall be one row of deciduous trees not less than 1 1/2 inches in caliper measured three feet from the ground at the time of planting. The deciduous trees are to be spaced not more than 20 feet apart, and at least one row of evergreen trees not less than four feet in height at the time of planting spaced not more than 15 feet apart shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that does not exceed 20 feet in mature height or does not affect the stability of the guy wires should they be uprooted.

- (1) A town zoning 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.
- (2) A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - (a) The name and business address of, and the contact individual for, the applicant.
 - (b) The location of the proposed or affected support structure.
 - (c) The location of the proposed mobile service facility.
 - (d) If the application is to substantially modify an existing support structure, 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.
 - (e) If the application is to construct a new mobile service support structure, 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.
 - (f) 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.
- (3) A permit application will be provided by the town upon request to any applicant.
- (4) 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.
- (5) 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:

- (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) 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.
- (7) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by Wis. Stats. s. 66.0404(4)(d).
- (8) The applicant shall pay for the cost of all professional fees incurred for the review of the application.
- (9) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

B. Class 1 Collocation

- (1) A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.
- (2) A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
- (a) The name and business address of, and the contact individual for, the applicant.
 - (b) The location of the proposed or affected support structure.
 - (c) The location of the proposed mobile service facility.
 - (d) If the application is to substantially modify an existing support structure, 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.

- (e) If the application is to construct a new mobile service support structure, 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.
 - (f) 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.
- (3) A permit application will be provided by the town upon request to any applicant.
- (4) 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.
- (5) 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:
- (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) 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.
- (7) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by Wis. Stats. s. 66.0404(4)(d).

- (8) The applicant shall pay for the cost of all professional fees incurred for the review of the application.
- (9) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

C. Class 2 Collocation

- (1) A town zoning 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.
- (2) A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - (a) The name and business address of, and the contact individual for, the applicant.
 - (b) The location of the proposed or affected support structure.
 - (c) The location of the proposed mobile service facility.
- (3) A permit application will be provided by the town upon request to any applicant.
- (4) 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 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.
- (5) 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:
 - (a) Make a final decision whether to approve or disapprove the application.
 - (b) Notify the applicant, in writing, of its final decision.
 - (c) If the application is approved, issue the applicant the relevant permit.
 - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

- (6) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by Wis. Stats. s. 66.0404(4)(d).
- (7) The applicant shall pay for the cost of all professional fees incurred for the review of the application.
- (8) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

§ 340-84. Maintenance.

The owner of any mobile service support structure shall be responsible for maintaining the structure, accessory structures, fencing, road and landscaping in good repair and free from any unsightly rubbish. In addition, the structure owner shall submit to the Town a certified inspection report signed by a State of Wisconsin registered structural engineer at least once every ten years to ensure the continuing structural integrity of the mobile service support structure and accessory structures. If the report recommends repairs or maintenance be required, then a letter signed by a State of Wisconsin registered structural engineer shall be submitted to the Township to verify that such repairs and/or maintenance have been completed. The Township shall have the authority to require the removal of the structure based on the inspection report if it deems the removal necessary to preserve the general welfare and safety of the Township.

§ 340-85. Worksheets.

Worksheets for both applicants and Plan Commission members will be constructed so that all necessary procedures are followed in the application and approval process.

§ 340-86. Conflicting provisions.

Enactment of this article shall nullify any conflicting language or provisions regarding mobile service support structures or facilities that may appear elsewhere in this chapter.

Section II. 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.

ADOPTED THIS 1st day of December, 2014

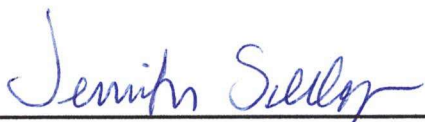
**BY THE TOWN BOARD OF SUPERVISORS
TOWN OF PORT WASHINGTON
OZAUKEE COUNTY, WI**


James Melichar, Town Chair


Michael Didier, Town Supervisor


James Rychtik, Town Supervisor

Attest:


Jennifer Schlenvogt, Town Clerk

