

**Ordinance No. 400.13**

**SECTION I – TITLE**

This ordinance is entitled the Iowa County Mobile Tower Siting Permit Ordinance.

**SECTION II – PURPOSE**

The purpose of this ordinance is to regulate by land 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. It is intended that Iowa County shall apply these regulations to accomplish the following:

- A. Maintain and ensure that a nondiscriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Iowa County law enforcement, fire and emergency response network.
- B. Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Iowa County citizens.

**SECTION III – AUTHORITY**

This ordinance is adopted under the authority of §59.69 Wis. Stats and §66.0404 Wis. Stats.

**SECTION IV – APPLICABILITY**

This ordinance applies to all lands within the boundaries of the county lying outside the limits of incorporated cities and villages.

**SECTION V – 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.

**SECTION VI – ADMINISTRATION**

This ordinance shall be administered by the Iowa County Office of Planning & Development.

## **SECTION VII – EXCEPTIONS**

Exempt from review under this ordinance will be: television antennas, satellite dishes, receive only antennas, amateur radio facilities, mobile public information services providing coverage of news events or of a temporary or emergency nature, ground mounted antennas. Exempt structures under this ordinance shall be subject to all other applicable provisions of any zoning or other development ordinance in effect.

## **SECTION VIII – DEFINITIONS**

- A. All definitions contained in s. 66.0404(1) are hereby incorporated by reference.
- B. Office. The Iowa County Office of Planning & Development

## **SECTION IX – SITING AND CONSTRUCTION OF ANY NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES**

### **A. Application Process**

1. A land use permit is required for the siting and construction of any new mobile service support structure and facilities.
2. A written permit application must be completed by any applicant and submitted to the Office. 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 Office upon request to any applicant.
4. If an applicant submits to the Office 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 Office shall consider the application complete. If the Office does not believe that the application is complete, the Office 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 Office shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Office 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 county's land use regulations 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 Office 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. Setback. No mobile service support structure can be closer than 20 feet or the height of the tower, whichever is greater, to any property line. If an applicant provides the Office with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than this setback distance, the lesser of the two distances shall apply to such a structure unless the Office provides the applicant with substantial evidence that the engineering certification is flawed.
8. The fee for the permit is \$3,000.00

## **SECTION X – CLASS 1 COLLOCATION**

### **A. Application Process**

1. A county land use permit is required for a class 1 collocation.
2. A written permit application must be completed by any applicant and submitted to the Office. 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 Office upon request to any applicant.
4. If an applicant submits to the Office 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 Office shall consider the application complete. If the Office does not believe that the application is complete, the Office 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 Office 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 county's land use regulations 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 Office 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. **Setback.** No mobile service support structure can be closer than 20 feet or the height of the tower, whichever is greater, to any property line. If an applicant provides the Office with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than this setback distance, the lesser of the two distances shall apply to such a structure unless the Office provides the applicant with substantial evidence that the engineering certification is flawed.

8. The fee for the permit is \$3,000.00

## **SECTION XI – CLASS 2 COLLOCATION**

### **A. Application Process**

1. A county land use permit is required for a class 2 collocation.
2. A written permit application must be completed by any applicant and submitted to the Office. 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 Office upon request to any applicant.

4. If an applicant submits to the Office 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 Office shall consider the application complete. If any of the required information is not in the application, the Office 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 Office 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 is \$500.00

## **SECTION XII – PENALTY PROVISIONS**

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall be subject to enforcement actions as prescribed in the Uniform Citation Ordinance – Office of Planning & Development.

## **SECTION XIII – TRANSFERABILITY**

Permits granted under this ordinance go with the land and are transferable. All ordinance and permit requirements shall apply to subsequent owners. The Office shall be notified of any change in ownership including, but not limited to, facility leases, mortgages, liens or other instruments which may affect title to the property.

## **SECTION XIV – REMOVAL/SECURITY FOR REMOVAL**

- A. It is the express policy of Iowa County and this ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that 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 a condition approved by the Office. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to 5 feet below the 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 one hundred eighty (180) days to effect removal and restoration unless weather prohibits such efforts. The permit holder shall record a document with the Iowa County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.

- B. Security for Removal.** The owner of any mobile service support structure other than a municipality or other unit of government shall provide to Iowa County, prior to the issuance of the land use permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or Twenty Thousand Dollars (\$20,000), whichever is less, to guarantee that the mobile service support structure will be removed when no longer in operation. Iowa County will be named as obligee in the bond and must approve the bonding company. The County may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed Twenty Thousand Dollars (\$20,000). The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the County's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the County may submit a master bond to cover all of said sites. A master bond or a letter of credit may, in the Committee's discretion, be in an amount sufficient to secure removal from one site if the master bond or letter of credit provides for replenishing any amount used as the master bond or letter of credit covers any other site in the County.

## **SECTION XV – ACCESS AND EMERGENCY PROTECTION**

The owner of a mobile service facilities shall, as a prerequisite to the issuance of the land use permit, submit to the Office:

- A. Written driveway or road approval from any unit of government having jurisdiction to require a driveway or road to the mobile service facility site
- B. Written approval by the highway authority with jurisdiction over any existing or proposed access to a public road intended to serve the mobile service facility.

## **SECTION XVI - EFFECTIVE DATE**

This ordinance is effective on the day following publication per Wisconsin Statute.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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John Meyers  
Iowa County Chairman

ATTEST:

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Gregory T. Klusendorf  
Iowa County Clerk

**CERTIFICATION OF ADOPTION**

This is to certify that the above ordinance was duly adopted by the County Board of Iowa County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Gregory T. Klusendorf  
Iowa County Clerk  
Iowa County, Wisconsin