

ADOPTED: October 4, 2023
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Office of the City Clerk

90-23

AN ORDINANCE REPEALING ARTICLE XIII OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES.

(City Plan Commission – 10-04-2023)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Article XIII of Chapter 23 of the Municipal Code of the City of Appleton, relating to wireless telecommunications facilities, is hereby repealed:

ARTICLE XIII. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 23-420. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary in order to:

- (a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;
- (b) Minimize adverse visual effects of towers through careful design and siting standards;
- (c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
- (d) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location; and,
- (e) Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the City.

Sec. 23-421. Definitions.

As used in this section of the zoning ordinance, the following terms shall have the meanings indicated:

Antenna means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

Co-location means the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Personal communications service (PCS) means a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 332, and as the same may be amended from time to time.

Personal wireless facilities means transmitters, antenna structures and other types of installations used to provide personal wireless services.

Pre-existing towers shall have the meaning set forth in §23- 422 of this chapter.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

Tower site means the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

Wireless telecommunication services means licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Sec. 23-422. Special use permit requirements.

(a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit.

(b) Exceptions to a special use permit would apply to the following circumstances, subject to application for a building permit:

- (1) Water towers or other municipally owned structures, provided a license or lease authorizing such antenna has been approved by the Common Council;
- (2) Structures in the Central Business District zoning in excess of four (4) stories (seventy (70) plus feet);
- (3) Pre-existing tower that was granted a special use permit prior to the effective date of this ordinance.
(Ord 54-20, §1, 3-24-20)

Sec. 23-423. Building permit requirements.

(a) A building permit shall be required prior to commencement of work on any antennas or supporting structures exceeding sixty (60) feet in height. Application for a building permit shall be made to the Inspections Supervisor by the owner or the owner's authorized representative. A building permit shall be issued by the administrator when all the following requirements are met. All plans, calculations, and specifications shall be dated. Plan submittal shall include the state plan approval application (SBD 118) or equivalent, plus the following information:

- (1) Except as provided below, all plans, calculations and specifications shall be prepared, signed and sealed by an architect or engineer registered in Wisconsin. Plans, calculations and specifications shall show compliance with all state and local codes. *Exception:* Plans, calculations and specifications may be prepared by an architect or engineer registered outside the State of Wisconsin provided (1) the plans, calculations and specifications shall bear the signature and seal or stamp of a registered architect or engineer; and
- (2) A certificate dated, signed and sealed by an architect or engineer registered in Wisconsin is attached to the plans, calculations and specifications. The certificate shall indicate the plans, calculations and specifications were prepared in a state other than Wisconsin by an architect or professional engineer registered in that state, describe the work performed by the Wisconsin registered architect or engineer, and include statements to the effect that plans and specifications have been reviewed and comply with all applicable local and state building codes, and the reviewing architect or engineer will be responsible for the supervision of construction. (2) When antennas and supporting towers are submitted to the state for examination, two (2) sets of plans bearing the state approval stamp and copies of all approval correspondence shall be included with submittals to the Inspections Supervisor.
- (3) Plan submittal shall include an intermodulation study that provides technical evaluation of existing and proposed transmissions and indicates all potential

interference problems. No new telecommunications service shall interfere with public safety telecommunications.

- (4) Construction or installation of antennas or supporting structures exceeding sixty (60) feet in height shall be supervised by a Wisconsin registered architect or engineer in the manner called out in the Wisconsin Building Code ILHR 50.10. A compliance statement shall be provided by the supervising professional upon completion of the project.
- (5) Plans must describe tower height and design, including a cross-section and evaluation. The plans shall also describe the number, height and mounting positions for co-location antennas.

(b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of a tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

Sec. 23-424. Tower/structure design requirements.

All towers constructed after September 17, 1997 or wireless telecommunication antennas affixed to buildings shall comply with the following requirements:

(a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(b) Wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend into the surrounding environment.

(c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(d) The placement of wireless telecommunication antennas on roofs or walls shall include submittal of a report prepared by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(e) Towers shall not be artificially lighted, unless required by the FAA or the City. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(f) Towers shall be set back a distance equal to the height of the tower from any residential structure.

(g) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.

(h) Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.

(i) The following site plan review requirements shall govern landscaping surrounding towers:

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

(3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

(j) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(k) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment. Site plan review per §23-570, Site plan review and approval, shall be required for these types of buildings.

(l) All towers shall be shielded, filtered and grounded to meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal and State government with the authority to regulate towers and antennas so as to minimize the possibility of interference with locally received transmissions.

Sec. 23-425. Co-location requirements.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Inspections Supervisor that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence must be submitted to demonstrate that the telecommunications equipment cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius (one-half ($\frac{1}{2}$) mile search radius for towers under one hundred twenty (120) feet in height, one-quarter ($\frac{1}{4}$) mile search radius for towers under eighty (80) feet in height) of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing tower or building, as documented by a licensed professional engineer, and the existing tower cannot be reinforced, modified or replaced.

(b) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna. This interference would have to be documented by a licensed professional engineer. Documentation would have to show that the interference cannot be prevented at a reasonable cost.

(c) Existing towers and buildings within the search radius are not of sufficient height to function reasonably as documented by a licensed professional engineer.

(d) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

Sec. 23-426. Accommodation of other uses (co-location).

(a) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s), for at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights and to accommodate supporting buildings and equipment on the antenna site.

(b) The holder of a special use permit for a tower shall not make co-location on the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made co-location on such tower and tower site economically unfeasible, then the tower permit shall become null and void.

Sec. 23-427. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:

(a) The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove the antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of an abandonment notice from the City Inspection Division. If removal to the satisfaction of the Inspections Supervisor does not occur within the ninety (90) days, the City may remove and salvage the antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(b) The applicant for a permit under this ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of (h)(1). The agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).
(Ord 80-97, §1, 9-17-97)

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

Dated: October 4, 2023



Jacob A. Woodford, Mayor



Kami Lynch, City Clerk

ADOPTED: October 4, 2023
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Office of the City Clerk

91-23

AN ORDINANCE AMENDING SECTION 23-66(h)(1) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SPECIAL USE PERMITS AND SPECIAL REGULATIONS; SPECIAL REGULATIONS; ELECTRONIC TOWERS.

(City Plan Commission – 10-04-2023)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 23-66(h)(1) of Chapter 23 of the Municipal Code of the City of Appleton, relating to special use permits and special regulations; special regulations; electronic towers, is hereby amended to read as follows:

Sec. 23-66. Special use permits and special regulations.

(h) ***Special regulations.*** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

- (1) ***Electronic towers.*** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include Mobile Service Support Structures and Facilities pursuant to Section 23-66(h)(22).
 - a. Distance of each freestanding electronic tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the electronic tower, or fifty (50) feet, whichever is greater.
 - b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
 - c. The applicant shall demonstrate that the location of the electronic tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the electronic tower begins operation or if interference is

anticipated, the applicant shall provide appropriate steps to eliminate said interference.

- d. All electronic towers and associated ground equipment shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
- e. All electronic towers and associated ground equipment shall be landscaped with plantings being placed outside and along the perimeter of the ground equipment compound fencing and shall consist of the following:
 - 1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, “mature landscaping” shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
 - 2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.
- f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

Dated: October 4, 2023



Jacob A. Woodford, Mayor



Kami Lynch, City Clerk

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92-23

AN ORDINANCE CREATING SECTION 23-66(h)(22) OF CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO SPECIAL USE PERMITS AND SPECIAL REGULATIONS; SPECIAL REGULATIONS; MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES.

(City Plan Commission – 10-04-2023)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 23-66(h)(22) of Chapter 23 of the Municipal Code of the City of Appleton, relating to special use permits and special regulations; special regulations; mobile service support structures and facilities, is hereby created to read as follows:

Sec. 23-66. Special use permits and special regulations.

(h) ***Special regulations.*** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

(22) ***Mobile Service Support Structures and Facilities.***

a. **Purpose.** The purpose of this subsection is to:

1. Regulate by Site Plan Review pursuant to Section 23-570 of this chapter, Building/Electrical Permits and Certificate of Occupancy for: (1) The siting and construction of any new mobile service support structure (cell towers) and facilities; (2) Class 1 collocation which involves the placement of a new mobile service facility on an existing support structure without constructing a free standing support structure for the facility but does need to engage in substantial modification.

Substantial modification includes any of the following:

- i. For structures with an overall height of 200 feet or less, increases the overall height of the structure more than 20 feet.
 - ii. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more.
 - iii. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless the increase is necessary for collocation.
 - iv. Increases the square footage of an existing equipment compound to a total area by more than 2,500 square feet.
 2. Regulate by Building/Electrical Permits and Certificate of Occupancy for: (1) Class 2 collocation which involves the placement of a new mobile service facility on an existing support structure which does not require the need to construct a free standing support structure or engage is a substantial modification of an existing support structure and mobile service facilities.
- b. **Intent.** The intent of this subsection is to:
1. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure, consistent with the Federal Telecommunications Act of 1996 and Wisconsin State Statutes §66.0404 is provided to serve the community, as well as serve as an important and effective part of the City's law enforcement, fire, rescue and emergency response network.
 2. Provide a process for obtaining necessary permits for mobile service support structures and facilities while protecting the interests of City citizens.
- c. **Definitions.** All definitions identified in Wisconsin Statutes §66.0404(1) and §66.0406(1) (2021-22), as amended from time to time, are hereby incorporated by reference.

d. **Exemptions.** The following are exempt from the provisions of this subsection. However, exemptions under this subsection are subject to all other applicable provisions of the Municipal Code.

1. Amateur radio antennas and towers licensed by the Federal Communications Commission (FCC).
2. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes that are an accessory use to agricultural, residential, railroad, temporary, public institutional, commercial, or industrial uses.
3. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes including the placement of equipment buildings, shelters or cabinets that are associated with a broadcast station.
4. Mobile services providing public information coverage of news events of a temporary or emergency nature.

e. **Additional procedures and special regulations for siting and construction of any New Mobile Service Support Structure (cell tower) and facilities and Class 1 collocations.**

1. Application Requirements. Applications for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) must be completed by any applicant and submitted to the Community and Economic Development Department along with the application fee. The application materials must contain all of the following information:
 - i. The name and business address of, and the contact individual for, the property owner and applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. All information contained on the application form(s) for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) as prescribed by the City. The Community and Economic Development Director or their designee may require additional information

in writing which is necessary for effective review of the application(s). Such required additional information may be issued at a pre-submittal meeting or at any time during the review process.

- v. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), a construction plan which describes the proposed mobile service support structure (cell tower) and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the new mobile service support structure (cell tower).
 - vi. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), 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 (cell tower) 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.
 - vii. Substantial modification (Class 1 Collocation). If the application is to substantially modify an existing mobile service support structure (cell tower), 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.
2. Response Required. Determination of completeness within ten (10) days of submittal date of the Site Plan Review Application.
- i. The Community and Economic Development

Director or their designee shall review the Site Plan Review application materials and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be considered complete. If the Community and Economic Development Director or their designee finds the application is incomplete, the Community and Economic Development Director or their designee shall notify the applicant in writing, within 10 days from the date of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.

3. Authority of the Community and Economic Development Director or their designee.

- i. Limitations upon authority. The City review and action for siting and construction of any new mobile service support structure (cell tower) and facilities and Class 1 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
- ii. Within 90 days of its receipt of a complete application, the Community and Economic Development Director or their designee shall complete all of the following or the applicant may consider the site plan application materials approved, except that the applicant and the Community and Economic Development Director or their designee may agree in writing to an extension of the 90 day period:
 1. Make a final decision whether to approve, approve with conditions or deny the site plan application materials pursuant to the applicable regulations contained in the Municipal Code and this subsection.

2. Review of Collocation Statement. The Community and Economic Development Director or their designee may deny site plan application materials if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described below:

If an application is to construct a new mobile service support structure (cell tower), 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 (cell tower) 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. Review of Height and Setbacks. The Community and Economic Development Director or their designee shall not approve the site plan application materials unless the mobile service support structure (cell tower), including *substantial modifications (Class 1 Collocations)* complies with the following setback requirements:

- a. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *allows* a single-family detached dwelling as a permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;

- b. Any mobile service support structure (cell tower) that is constructed or substantially modified on a parcel of land that is *adjacent* to a parcel of land that allows a single-family detached dwelling as permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
 - c. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *does not allow* a single-family detached dwelling as permitted principal shall be setback from lot lines a distance equal to the setback(s) of a principal building/structure pursuant to the underlying zoning district development standards;
 - d. Setback modification. Setbacks may be *reduced* to a lesser specified distance if the applicant submits a report stamped by a Wisconsin Registered Professional Engineer that certifies that the mobile service support structure (cell tower) is designed and engineered to collapse upon failure within the lesser specified distance unless the City has and provides the applicant with substantial evidence that the engineering certification is flawed.
- 4. Notify the applicant, in writing, of the final decision.
 - 5. If the site plan materials are approved, provide the applicant with the approved site plan application materials.
 - 6. If the decision is to deny the site plan materials, include with the written

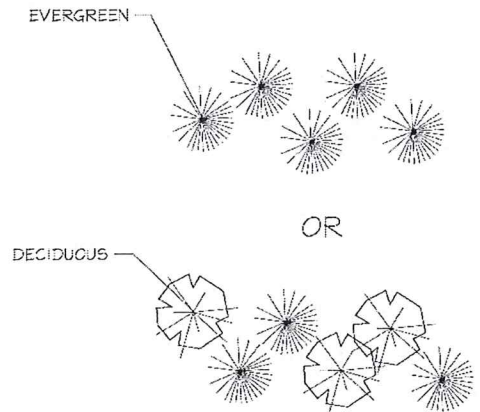
notification substantial evidence which supports the decision.

- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
4. Appeal. A party who is aggrieved by the final decision of the Community and Economic Development Director or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.
 5. Special regulations. The following special regulations shall apply to all mobile service support structures (cell towers) and mobile service facilities, including substantial modifications (Class 1 Collocations) and Class 2 Collocations:
 - i. *Federal Requirements*. Each mobile service support structure (cell tower) and mobile service facility must meet or exceed all applicable regulations and standards of the Federal Aviation Administration, Federal Communications Commission, and any other federal agency with authority over the structure and facility that are in effect at the time the structure or facility is placed in service.
 - ii. *Fence Requirements*. All mobile service support structures (cell tower) and mobile service facilities shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass on the equipment compound. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
 - iii. *Landscaping Buffer Requirements*. All mobile service support structures (cell towers) and mobile

service facilities shall be landscaped with plantings being placed outside and along the perimeter of the equipment compound fencing and shall consist of the following:

1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.

STAGGERED PLANTINGS



- iv. *Identification.* Mobile service support structures (cell towers) and mobile service facilities may only display identifying information, such as call letters, frequencies, or Federal Communications Commission registration numbers, if required by federal or state law, regulation, rule, or order.

- v. *Generators.* Back-up generators shall not be used as a primary electrical power source. Back-up generators shall only be operated during power outages or for testing and maintenance purposes.
- vi. *Off-street parking and driveway access.* Service vehicle parking areas for one (1) vehicle and driveway shall be concrete, asphalt, or another permeable hard surface.
- vii. *Non-Interference.* Mobile service facilities shall comply with all relevant Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) standards and shall not interfere with or obstruct existing or proposed public safety, fire protection and other city and private telecommunication operations and facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the City.
- viii. *Other requirements.* Mobile service support structures (cell towers) and mobile service facilities shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- ix. *Abandonment and Removal.* A mobile service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:
 - 1. The owner of such mobile service facility or owner(s) of the property where the mobile service facility is located shall remove such structure(s) and foundations and restore the site to its original condition or a condition approved by the Zoning Administrator within ninety (90) days of receipt of an abandonment notice from the Inspections Division. If removal to the satisfaction of the Zoning Administrator does not occur within the ninety (90) days, the City may remove and salvage the mobile service facility at the property owner's expense. If there are two (2) or more users of a single

mobile service support structure (cell tower), then this provision shall not become effective until all users cease using the mobile service support structure (cell tower) and mobile service facility.

2. The recipient of a permit allowing a mobile service support structure (cell tower) and mobile service facility under this subsection, or current owner or operator, shall notify the Inspections Division and the Community and Economic Development Department within 45 days of the date when the mobile service facility is no longer in operation.

x. *Enforcement and Violations; penalty.* Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this subsection shall be subject to penalty provisions as prescribed in §23-69 of this chapter. Enforcement of this subsection is prescribed in §23-69 of this chapter.

f. **Procedures and special regulations for a Class 2 Collocation on existing support structure and other modifications.**

1. Applicability. A building and/or electrical permit is required for the placement and construction of the following:

i. A Class 2 collocation which includes, the placement of a new equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment on an existing support structure.

ii. Any other modification to a mobile service facility not classified as a substantial modification which includes any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure up to 20 feet.

2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by less than 10 percent.
3. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by less than 20 feet.
4. Increases the square footage of an existing equipment compound to a total area by 2,500 square feet or less.

2. Application Requirements. A building and/or electrical permit must be completed by the applicant and be submitted to the Inspections Division. In addition to the information required to be submitted for a building and/or electrical permit pursuant the Chapter 4 of the Municipal Code, the applications must contain the following information:

- i. The name and business address of, and the contact individual for, the property owner and applicant.
- ii. The location of the proposed or affected support structure.
- iii. Construction and site plan drawing set pursuant to Chapter 4 of the Municipal Code. The site plan drawing set shall show the applicable information listed for Sheet 1. on the Site Plan Application. Site Plan Layout and elevations drawings showing the applicable information listed for Sheet 2. on the Site Plan Application. Exterior Elevation pursuant to the Application for Site Plan Review (New Mobile Service Support Structures (cell towers) and Class 1 Collocation).

3. Response Required. Determination of completeness within five (5) days of submittal.

- i. The Inspections Supervisor or their designee shall review the application for a building and/or electrical permit and determine whether the application is complete. If the application includes all of the information required under this

subsection, the application shall be consider complete. If the Inspection Supervisor or their designee finds the application is incomplete, the Inspection Supervisor or their designee 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. The applicant may resubmit an application as often as necessary until it is complete.

4. Authority of the Inspections Supervisor or their designee.

- i. Limitations upon authority. The City review and action for Class 2 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
- ii. Within 45 days of its receipt of a complete application, the Inspections Supervisor or their designee shall complete all of the following or the applicant may consider the building and/or electrical permit approved, except that the applicant and the Inspections Supervisor or their designee may agree in writing to an extension of the 45 day period:
 1. Make a final decision whether to approve, approve with conditions or deny the application pursuant to the applicable regulations contained in the Municipal Code and Section 23-66(h)(22).
 2. Notify the applicant, in writing, of the final decision.
 3. If the application is approved, provide the applicant with the approved relevant building and/or electrical permit(s) and materials.
 4. If the decision is to deny the application(s), include with the written notification substantial evidence which supports the decision.

- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
4. Appeal. A party who is aggrieved by the final decision of the Inspections Supervisor or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

Dated: October 4, 2023



Jacob A. Woodford, Mayor



Kami Lynch, City Clerk