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RESOLUTION #34-2015

**GENERAL CODE OF ONEIDA COUNTY, WISCONSIN
ORDINANCE AMENDMENT #3-2015**

Ordinance Amendment offered by the Planning and Development Committee

WHEREAS, the Planning & Development Committee, having considered Ordinance Amendment #3-2015, (copy attached) which was filed January 29, 2015, (copy attached) to amend Section 9.54, Communication Structures of the Oneida County Zoning and Shoreland Protection Ordinance, and having given notice thereof as provided by law and having held a public hearing thereon February 18, 2015 pursuant to Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to the changes which are as follows:

WHEREAS, 66.0404 Wis. Stats., Mobile Tower Siting Regulations place limitations on political subdivision in their ability to regulate mobile towers; and

WHEREAS, The Oneida County Zoning and Shoreland Protection Ordinance, 9.54-Communication Structures does not comply with 66.0404 Wis. Stats.; and

WHEREAS, the Planning and Development committee has carefully studied the proposed changes after listening to comments made at the public hearing and recommends approval.

**NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS
DOES ORDAIN AS FOLLOWS:**

Section 1. Any existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

Section 2. This ordinance shall take effect the day after passage and publication as required by law.

Section 3. If any claims, provisions or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 4. Chapter 9 of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

~~9.54 COMMUNICATION STRUCTURES (Amend #25-2005,03-2007,11-2008)~~

~~The purpose of this section is to regulate placement of communication structures, as defined in this ordinance to protect the public interest by minimizing health and safety hazards, and degradation of the Northwoods environment, while meeting public and private needs for communication services utilizing RF radiating and receiving equipment. Such regulation shall be accomplished by requiring a conditional use permit (CUP) for location of certain communication structures. Issuance of a CUP under this section does not relieve an applicant of any requirement to obtain any other permits, or to meet setback or other requirements, that may be applicable in this ordinance and Federal and Wisconsin law and regulation.~~

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~~A. Applicability~~

~~Communication structures which meet any of the following conditions are regulated under this section:~~

- ~~1. Structures, including antennas and any other attachments or extensions, which exceed 100 feet in height above grade.~~
- ~~2. Structures, regardless of height, which are required by Federal regulations to be equipped with aviation hazard warning lighting.~~
- ~~3. Structures, regardless of height, which radiate, or have antennas which radiate, in excess 200 watts total RF energy.~~

~~Communication structures not meeting one or more of the above conditions are not regulated under this section but may be subject to regulation under other sections of this ordinance.~~

~~B. Conditional Use Permit Required~~

~~Communication structures regulated under this section may not be constructed, placed, modified, or removed without a CUP, except that a CUP will not be required for modifications to a communication structure which do not change the overall height, nor affect the structural integrity, significantly change the appearance and/or aviation hazard lighting, or increase the total RF energy radiated.~~

~~C. Compliance with Federal Regulations and Standards~~

~~Communication structures shall conform to all ANSI/TIA 222-F and all FCC, FAA, and OSHA regulations and standards. CUP applications submitted under this section shall certify that such requirements are met. If modifications are required to an existing communication structure as a result of new or changed regulations or standards, an application must be submitted for a new CUP or an amendment to any applicable existing CUP.~~

~~D. Minimizing the Number of Sites~~

~~Insofar as possible, the numbers and locations of communications structures shall be minimized through co-location by mounting more than one antenna on one structure, or, when that is not possible, by co-siting such structures. The cost of eliminating impediments to co-location shall be deemed reasonable if it does not exceed by 75 percent the cost of constructing a new structure on which to mount applicant's equipment.~~

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- ~~1. When it is technically and economically feasible to mount more than one antenna on a communication structure, that structure shall be placed and constructed so that it may be utilized as a common support structure for several antennas unless fully justified otherwise in the CUP application.~~
- ~~2. If a suitable location cannot be found for placement of an additional antenna and related equipment on an existing structure, any new structure shall be co-sited within 100 feet of an existing structure insofar as possible. In such case, the owner of an existing structure shall allow placement of a new structure nearby on his site if space is available and at reasonable market cost. A CUP application to construct a new communication structure shall provide credible evidence as to why any existing structure cannot be used, or if to be located at a new site, why a site with an existing structure cannot be utilized for placement of an adjacent communication structure, to meet these requirements.~~
- ~~3. A new proposed structure shall be structurally and electrically designed to accommodate the applicant's antenna and associated equipment, and at least one comparable antenna and associated equipment for an additional user unless the applicant fully justifies why that is not feasible. Such new structures shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.~~
- ~~4. A new proposed communication structure shall be located not less than a distance at least equal to the height of the tower plus 100 ft from a principal dwelling that is not on the property on which the tower is located, unless co-located on an existing structure for which a CUP for a communication structure has been issued. This shall not apply to municipally owned towers used to provide police, fire and other emergency communication services for the protection and safety of the public, as well as providing co-location space for other communication service providers.~~
- ~~5. No CUP application for the placement or construction of a new communication structure at a new site shall be approved unless the applicant presents to the County credible evidence of the following:
 - ~~a. No existing communication structure is located within the area in which the applicant's equipment must, for technical reasons, be located. The technical reasons that pertain shall be fully explained and justified in the CUP application.~~
 - ~~b. No existing communication structure within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost. This situation shall be fully explained in the CUP application.~~
 - ~~c. No existing communication structure within the area in which the applicant's equipment must be located has sufficient structural~~~~

143 strength to support applicant's equipment and the deficiency in
144 structural strength cannot be remedied at a reasonable cost.
145 The circumstances shall be fully explained in the CUP
146 application.

147 d. The applicant's equipment would cause uncorrectable
148 electromagnetic interference with equipment on the existing
149 permitted communication structures and equipment within the
150 area in which the applicant's equipment must be located, or the
151 equipment on the existing communication structure(s) would
152 cause uncorrectable interference with the applicant's equipment
153 and the interference from whatever source, cannot be
154 eliminated at a reasonable cost, or the applicant's equipment
155 would cause uncorrectable interference with other legally
156 permitted and properly operating electronic equipment in the
157 vicinity.

158 e. The fees, costs or contractual provisions required by the owner
159 of the existing communication structure or site in order to
160 co-locate on an existing communication structure or locate a
161 new structure adjacent to the existing structure are
162 unreasonable relative to industry norms.

163 f. The applicant demonstrates that there are other factors that
164 render existing communication structures unsuitable or
165 unavailable and establishes that the public interest is best
166 served by the placement or construction of a new
167 communication structure. A municipally owned communication
168 tower, whose primary purpose is to provide essential police, fire,
169 and other emergency communications and services for the
170 protection and safety of the public, is clearly one factor.

171 6. County and local government agencies shall have the right to
172 reserve space upon any new tower or upon any tower being
173 substantially modified. Reservation of the space upon the structure
174 shall be acquired during the permit approval process through good
175 faith negotiations with the applicant.

176
177 ~~E. Electromagnetic Interference~~

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179 Communication structures shall comply with all applicable federal and
180 state regulations and standards to preclude electromagnetic
181 interference with existing RF receiving equipment, provided that
182 existing equipment which might be subject to interference is permitted,
183 of proper design, and in good operating condition.

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~~F. Aesthetics~~

~~Communication structures and associated equipment enclosures and buildings shall be constructed and maintained insofar as possible using materials, colors, textures, screening, and landscaping that blend the facilities with the surrounding landscape and in a manner that will minimize degradation of the environment to the greatest extent possible. They shall be, where technically feasible and when permitted by Federal regulation, finished in a color that is as visually neutral to the background sky as possible. Where an antenna is installed on a communication structure other than a tower, the antenna and associated equipment shall be of a color so as to be visually unobtrusive insofar as possible. When that is not possible for technical reasons, the CUP application shall provide full justification.~~

~~G. Signs~~

~~No advertising material or signage other than safety and security warning or equipment identification information shall be allowed on any communication structure. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamer, pennant, ribbon, spinner or waving, fluttering or revolving device, but not including weather devices. Signs identifying the owner(s) and operator(s) of the site and equipment thereat may be placed at the entrance to the site and/or entrance to the security compound in accordance with sign regulations outlined elsewhere in the ordinance.~~

~~H. Lighting~~

~~Communication structures shall not be artificially illuminated unless required by Federal or State regulation. To the maximum extent possible, all required lighting must cause the minimum visual disturbance to the surrounding views from the ground within a radius equal to five times the structure height above grade. Strobe lights shall not be operated at night if not required by Federal regulation. However, motion detector and/or photocell controlled security lighting shall be permitted to illuminate the compound, provided that such light fixtures shall be no higher than 20 feet above grade and directed downward.~~

~~I. Fencing~~

~~Towers, tower guy anchor points, and equipment buildings and enclosures shall be enclosed by security fencing not less than 6 feet in height and secured so as to make the enclosed area inaccessible to the general public. Fence design, materials and colors shall reflect the~~

230 character of the surrounding area insofar as possible. The required
231 fencing shall be installed within 30 days of completion of construction
232 of the communications structure.

233

234 ~~J. Landscaping~~

235

236 A buffer of plant materials shall be provided to effectively screen tower
237 compounds and guy anchor points from public view and from adjacent
238 properties. The minimum buffer shall consist of a landscaped strip
239 surrounding the fenced area, excepting access gates, and providing at
240 least 75 percent opacity up to six feet in height during a normal July
241 growing season, that condition to be achieved within two years of
242 construction of the fence. In locations where the visual impact of the
243 tower would be minimal, the landscaping requirement may be reduced
244 as approved by the County. Existing mature tree growth and natural
245 land forms shall be preserved to the maximum extent possible. In
246 some cases, such as large, wooded sites, natural growth around the
247 property perimeter may be sufficient buffer.

248

249 ~~K. Communication Structures on Existing Structures~~

250

251 Subject to County approval, a communication structure may be
252 situated on a commercial, industrial, professional, institutional, or
253 governmental structure provided that such is installed and maintained
254 in accord with applicable building codes, and complies with current
255 Federal regulations and standards.

256

257 ~~L. Costs of Required Consultants~~

258

259 In the event the County determines that it is necessary to consult with
260 a qualified and neutral third party in evaluating an application, all
261 reasonable costs and expenses associated with such consultation
262 shall be borne by the applicant. Failure to pay such costs and
263 expenses or provide information requested by the County shall be
264 grounds for denial or revocation of a CUP. Upon request, the applicant
265 shall provide to the County the name of at least one consultant which
266 the applicant believes is qualified to assist in resolving the issues
267 before the County.

268

269 ~~M. Charges for Co-Location~~

270

271 The holder of a CUP under this section shall make the structures and
272 sites available for the placement of technologically compatible
273 communication structures, antenna arrays, and associated equipment
274 under contractual provisions which are standard in the industry and at

275 ~~prevailing market rates allowing the permit holder to recoup the cost of~~
276 ~~providing the co-location sites and a fair return on investment.~~

277

278 ~~N. Conditions and Standards for Co-Location~~

279

280 ~~The County shall apply the procedures under sections 9.41, 9.42 and~~
281 ~~9.72(B)(4) and this section of this ordinance, when considering an~~
282 ~~application for a CUP to allow the modification of an existing~~
283 ~~communication structure. In addition, the County shall consider the~~
284 ~~reasonableness, based on economic and technological feasibility, of~~
285 ~~conditioning the grant of the CUP upon modifying the structure in a~~
286 ~~manner which would accommodate the co-location of one or more~~
287 ~~additional antenna arrays.~~

288

289 ~~O. Compliance with Conditions of CUP~~

290

291 ~~Upon written inquiry by the County the recipient of a CUP under this~~
292 ~~section shall have the burden of presenting credible evidence~~
293 ~~establishing to a reasonable certainty the continued compliance with all~~
294 ~~conditions placed upon the CUP. Failure to establish compliance with~~
295 ~~all conditions placed upon the conditional use permit shall be grounds~~
296 ~~for revocation of the permit. In the event the County determines that it~~
297 ~~is necessary to consult with a qualified neutral third party to ascertain~~
298 ~~compliance with conditions on a CUP, all reasonable costs and~~
299 ~~expenses associated with such consultation shall be borne by the~~
300 ~~holder of the permit. Failure to pay such costs and expenses or~~
301 ~~provide information requested by the County shall be grounds for~~
302 ~~revocation of the permit. Upon request, the holder of the permit shall~~
303 ~~provide to the County the name of at least one consultant which the~~
304 ~~permit holder believes is qualified to assist in resolving the issues~~
305 ~~before the County. In any event, where a dispute arises under this~~
306 ~~ordinance involving an applicant for a CUP and the holder of a CUP~~
307 ~~hereunder, the County may allocate consulting costs and expenses~~
308 ~~between the applicant and permit holder in a competitively neutral~~
309 ~~manner.~~

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311 ~~P. Termination of Operation Under a CUP~~

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313 ~~Within 30 days after the date on which any operation conducted under~~
314 ~~an approved CUP permanently ceases, the permit holder shall provide~~
315 ~~the County with written notice of the cessation of such use. However,~~
316 ~~the holder of a CUP shall continue to be responsible for maintenance~~
317 ~~and security of the structure after permanent cessation of operation~~
318 ~~and until the structure is properly removed. Prior to final approval of~~
319 ~~the CUP by the County, the applicant shall provide a financial surety~~
320 ~~for the purpose of removal of the communication structure, in the event~~

321 the permit holder does not completely remove said structure within the
322 time specified in this section. The surety must remain in place for the
323 life of the communication structure for the proposed location.
324

325 ~~Q. Equipment Enclosures and Buildings~~

326
327 The holder of a CUP for a communication structure and any user
328 co-locating under this ordinance shall be permitted to construct an
329 equipment enclosure or building not exceeding 14 feet in height and
330 320 square feet in floor area for use directly incidental and necessary
331 to the use of the communication structure. Two or more users of the
332 structure may build a single building with a floor area not exceeding
333 320 square feet per user sharing the building. Buildings constructed or
334 used by co-locators shall be subject to conditions established for the
335 CUP for the structure. Larger buildings may be authorized in a CUP if
336 adequately justified by an applicant. Plumbing shall not be allowed in
337 such enclosures or buildings unless fully justified in the CUP
338 application. Issuance of a CUP does not obviate any applicable
339 requirement for a location and occupancy permit or other permit
340 required by this or any other County ordinance or Federal or State
341 regulation.
342

343 ~~R. Identification and Removal of RF Equipment and Structures~~

344
345 Permits issued hereunder shall identify the primary type or types of RF
346 equipment which are to be placed on the communication structure.
347 Any such structure on which RF equipment authorized under any CUP
348 is no longer placed or used for a continuous period of 12 months shall,
349 upon notification by the County, be removed by the holder of the
350 CUP(s) issued under this section. Upon permanent termination of the
351 use of the communication structure all equipment and associated
352 structure(s) shall be removed from the site. The County may grant an
353 extension of the deadline for removal for good cause. If the
354 communications structure is not removed by the removal deadline, the
355 County may remove the structure at the expense of the holder of the
356 CUP.
357

358 ~~S. Future Plans~~

359
360 The County may require that an applicant for a CUP under this section
361 provide information regarding the applicant's current plans for future
362 placement or construction of communication structures elsewhere in
363 Oneida County in addition to the structure which is the subject of the
364 application.
365

366 ~~T. Notice to Nearby Property Owners~~

367
368 An applicant for a CUP to construct a new communication structure, or
369 to modify an existing structure by changing its height or significantly
370 changing its lighting and appearance, shall notify nearby property
371 owners of record, the town clerk, County supervisor and the town
372 chairman for the district in which the structure is to be located, within
373 five working days of submission of the CUP application to the County.
374 The notice shall include as a minimum the location and a clear
375 description of the size, lighting, and appearance of the proposed new
376 structure, or intended changes to such features of an existing
377 structure, and a telephone number and/or address where additional
378 information on the application can be obtained. The notice shall be
379 sent by U.S. first class mail to the last-known address of the owners of
380 all parcels located in whole or in part within a radius equal to eight
381 times the height of the structure above grade, the radius to be
382 measured horizontally from the base of the structure but not to exceed
383 a radius of 1/2 mile. The CUP applicant shall provide to the County
384 within five working days of submission of the application a complete
385 listing of the names and addresses of all property owners who have
386 been notified of the application as required under this section.

387 388 9.54 MOBILE TOWER SITING

389 390 A. Purpose and Intent

391 392 1. Purpose

393
394 The purpose of this ordinance is to regulate by a permit:

- 395
396 a. The siting and construction of any new mobile service support
397 structure and facilities.
398 b. With regard to a class 1 collocation, the substantial modification
399 of an existing support structure and mobile service facilities.
400 c. With regard to a class 2 collocation, collocation on an existing
401 support structure which does not require the substantial
402 modification of an existing support structure and mobile service
403 facilities.

404
405 It is the intent of Oneida County to regulate Mobile Service Support
406 Structures and Facilities as permitted by Wisconsin State Statutes
407 Chapter 66.0404.

408 409 2. Authority

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411 The Oneida County Board has the specific authority under Wis Stat
412 s. 59.69 and 66.0404 to adopt and enforce this ordinance.

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3. Adoption of Ordinance

This ordinance, adopted by Oneida County, provides for the regulation by permit:

- a. The siting and construction of any new mobile service support structure and facilities.
- b. With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
- c. 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.

[Since s. 66.0404 terms this as a “zoning ordinance” and references the statutory zoning authorities that envision prior Planning and Development Committee review and require a public hearing prior to adopting a new zoning ordinance, the county should also adhere those requirements.]

B. Definitions

All definitions contained in Wis Stat s. 66.0404(1) are hereby incorporated by reference.

C. Exempt from Permitting

The following shall be exempt from the requirement to obtain a zoning permit, unless otherwise noted.

- 1. The use of all receive-only television antenna and satellite dishes.
- 2. Amateur radio and/or receive-only antennas. This ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator and is used for amateur radio purposes or is used exclusively for receive-only purposes.
- 3. Mobile services providing public information coverage of news events of a temporary or emergency nature.

D. Siting and Construction of Any New Mobile Service Support Structure and Facilities and Class I Collocation

1. Application Process

- a. A permit is required for the siting and construction of any new

- 459 mobile service support structure and facilities.
460 b. A permit is required for a class I collocation.
461
462 2. A written permit application must be completed by any applicant
463 and submitted to the Oneida County Planning and Zoning
464 Department. The application must contain the following information:
465
466 a. The name and business address of, and the contact individual
467 for, the applicant.
468 b. The location of the proposed or affected support structure.
469 c. The location of the proposed mobile service facility.
470 d. If the application is to substantially modify an existing support
471 structure, a construction plan which describes the proposed
472 modifications to the support structure and the equipment and
473 network components, including antennas, transmitters,
474 receivers, base stations, power supplies, cabling, and related
475 equipment associated with the proposed modifications.
476 e. If the application is to construct a new mobile service support
477 structure, a construction plan which describes the proposed
478 mobile service support structure and the equipment and
479 network components, including antennas, transmitters,
480 receivers, base stations, power supplies, cabling, and
481 related equipment to be placed on or around the new mobile
482 service support structure.
483
484 f. If an application is to construct a new mobile service support
485 structure, an explanation as to why the applicant chose the
486 proposed location and why the applicant did not choose
487 collocation, including a sworn statement from an individual who
488 has responsibility over the placement of the mobile service
489 support structure attesting that collocation within the applicant's
490 search ring would not result in the same mobile service
491 functionality, coverage, and capacity; is technically infeasible; or
492 is economically burdensome to the mobile service provider.
493
494 3. A permit application will be provided by the county upon request to
495 any applicant.
496
497 4. If an applicant submits to the County an application for a permit to
498 engage in an activity described in this ordinance, which contains all
499 of the information required under this ordinance, the County shall
500 consider the application complete. If the County does not believe
501 that the application is complete, the County shall notify the
502 applicant in writing, within 10 days of receiving the application, that
503 the application is not complete. The written notification shall specify
504 in detail the required information that was incomplete. An applicant

- 505 may resubmit an application as often as necessary until it is
506 complete.
507
- 508 5. Within 90 days of its receipt of a complete application, the County
509 shall complete all of the following or the applicant may consider the
510 application approved, except that the applicant and the County may
511 agree in writing to an extension of the 90 day period:
512
- 513 a. Notify the Town involved and all neighboring property owners
514 within one-thousand (1000) feet.
515
- 516 b. Review the application to determine whether it complies with all
517 applicable aspects of the political subdivision's building code
518 and, subject to the limitations in this section, zoning ordinances.
519
- 520 c. Make a final decision whether to approve or disapprove the
521 application.
522
- 523 d. Notify the applicant, in writing, of its final decision.
524
- 525 e. If the decision is to disapprove the application, include with the
526 written notification substantial evidence which supports the
527 decision.
528
- 529 6. The county may disapprove an application if an applicant refuses to
530 evaluate the feasibility of collocation within the applicant's search
531 ring and provide the sworn statement described under paragraph
532 2.f.
533
- 534 7. If an applicant provides the county with an engineering certification
535 showing that a mobile service support structure, or an existing
536 structure, is designed to collapse within a smaller area than the set
537 back or fall zone area required in a zoning ordinance, that zoning
538 ordinance does not apply to such a structure unless the county
539 provides the applicant with substantial evidence that the
540 engineering certification is flawed.
541
- 542 8. The fee for the permit is \$1,500 per s. 66.0404(4)(d).
543
- 544 9. Limitations. Permits for siting and construction of any new mobile
545 service support structure and facilities and permits for class 1
546 collocations shall only be granted provided the following conditions
547 exist:
548
- 549 a. If the location of the proposed mobile service support structure
550 or mobile service facility is on leased land, the lease agreement

- 551 does not preclude the lessee from entering into leases on the
552 site with other provider(s) and there is no other lease provision
553 operating as a bar to collocation of other providers.
- 554
- 555 b. The applicant has obtained Federal Communications
556 Commission (FCC) license numbers and registration numbers if
557 applicable.
- 558
- 559 c. The applicant and/or agent have copies of Findings of No
560 Significant Impacts (FONSI) statement from the Federal
561 Communications Commission (FCC) or Environmental
562 Assessment or Environmental Impact Study (EIS), if applicable.
- 563
- 564 d. The applicant and/or agent have copies of the determination of
565 no hazard from the Federal Aviation Administration (FAA)
566 including any aeronautical study determination or other findings,
567 if applicable.
- 568
- 569 e. The applicant and/or agent have plans indicating security
570 measures (i.e. access, fencing, lighting, etc.).
- 571
- 572 f. For new mobile service support structures, the applicant has
573 obtained a report prepared by an engineer licensed by the State
574 of Wisconsin certifying the structural design of the tower and its
575 ability to accommodate additional antennas.
- 576
- 577 g. The applicant and/or agent have proof of liability coverage.
- 578
- 579 h. The applicant and/or agent have copies of an Affidavit of
580 Notification indicating that all operators and owners of airports
581 located within five (5) miles of the proposed site have been
582 notified via certified mail.
- 583
- 584 i. The facility or collocation is designed to promote site sharing,
585 such that space is reasonably available to co-locators and such
586 that telecommunication towers and necessary appurtenances,
587 including but not limited to parking areas, access road, and
588 utilities, are shared by site users whenever possible.
- 589

590 E. Class 2 Collocation

591 1. Application Process

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- 593
- 594 a. A county permit is required for a class 2 collocation. A class 2
595 collocation is a permitted use in the county but still requires the
596 issuance of the county permit.

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b. A written permit application must be completed by any applicant and submitted to the Oneida County Planning and Zoning Department. 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 county upon request to any applicant.

d. A class 2 collocation is subject to the same requirements for the issuance of a permit to which any other type of commercial development or land use development is subject, except that the maximum fee for a permit shall be \$500.

e. If an applicant submits to the county 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 county shall consider the application complete. If any of the required information is not in the application, the county 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.

f. Within 45 days of its receipt of a complete application, the county 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:

(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.

643 (4) If the decision is to disapprove the application, include with
644 the written notification substantial evidence which supports
645 the decision.

646
647 2. The fee for the permit is \$500

648
649 F. Information Report

650
651 The purpose of the report under this subsection is to provide the
652 county with accurate and current information concerning the
653 telecommunications facility owners and providers who offer or provide
654 telecommunications services within the county, or that own or operate
655 telecommunications facilities within the county, to assist the county in
656 enforcement of this subsection, and to assist the county in monitoring
657 compliance with local, state and federal laws.

658
659 1. Information Report. All telecommunications tower owners of any
660 new telecommunications tower shall submit to the Planning and
661 Zoning Department a Telecommunications Facility Information
662 Report (the "Report") within 45 days:

- 663
664 a. Following permit approval.
665 b. Following receipt of a written request from the Oneida County
666 Planning and Zoning Department.
667 c. Following any change in occupancy of the tower.

668
669 The report shall include the tower owner name(s), address(es),
670 phone number(s), contact person(s), and proof of bond as security
671 for removal. The tower owner shall supply the tower height or
672 current occupancy, if applicable, the number of collocation positions
673 designated, occupied or vacant. This information shall be submitted
674 on the county form provided and designated for such use, and shall
675 become evidence of compliance.

676
677 G. Removal/Security for Removal.

678
679 1. It is the express policy of Oneida County and this ordinance that
680 telecommunications towers be removed once they are no longer in
681 use and not a functional part of providing telecommunications
682 service and that it is the telecommunications provider's
683 responsibility to remove such telecommunications tower and
684 restore the site to its original condition or a condition approved by
685 the Oneida County Planning and Zoning Department. This
686 restoration shall include removal of any subsurface structure or
687 foundation, including concrete, used to support the
688 telecommunications tower down to five (5) feet below the surface.

689 After a telecommunications tower is no longer in operation, the
690 provider shall have 180 days to effect removal and restoration
691 unless weather prohibits such efforts. Permittee shall record a
692 document with the Oneida County Register of Deeds showing the
693 existence of any subsurface structure remaining below grade. Such
694 recording shall accurately set forth the location and describe the
695 remaining structure.

696
697 2. Security for Removal. The owner of any telecommunications tower
698 shall provide to Oneida County, prior to the issuance of a permit, a
699 performance bond in an amount based on a written estimate of a
700 qualified remover of said types of structures, or Twenty Thousand
701 Dollars (\$20,000), whichever is less, to guarantee that the
702 telecommunications tower will be removed when no longer in
703 operation. Oneida County will be named as obligee in the bond
704 and must approve the bonding company. The county may require
705 an increase in the bond amount after five (5) year intervals to reflect
706 increases in the Consumer Price Index. The provider shall supply
707 any increased bond within a reasonable time, not exceeding sixty
708 (60) days, after the county's request. A permittee may submit a
709 letter of credit in the amount set forth above, or, in the alternative, a
710 permittee with several sites in the county may submit a master
711 bond to cover all of said sites. A master bond or a letter of credit
712 may, in the committee's discretion, be in an amount sufficient to
713 secure removal from one site if the master bond or letter of credit
714 provides for replenishing any amount used as the master bond or
715 letter of credit covers any other site in the county.

716
717 H. Structural, Design and Environmental Standards.

718
719 1. Mobile Service Support Structure, Antenna and Facilities
720 Requirements. All mobile service facilities and mobile service
721 support structures, except exempt facilities as defined in subsection
722 (c), shall be designed to reduce the negative impact on the
723 surrounding environment by implementing the measures set forth
724 below:

725
726 a. Mobile service support structures shall be constructed of metal
727 or other nonflammable material, unless specifically permitted by
728 the county to be otherwise.

729
730 b. Satellite dish and parabolic antennas shall be situated as close
731 to the ground as possible to reduce visual impact without
732 compromising their functions.

733

- 734 c. Equipment compounds shall be constructed of non-reflective
735 materials (visible exterior surfaces only). Equipment compounds
736 shall be designed to blend with existing architecture in the area
737 or shall be screened from sight by mature landscaping, and
738 shall be located or designed to minimize their visibility.
739
- 740 d. Mobile service facilities, support structures and antennas shall
741 be designed and constructed in accordance with the State of
742 Wisconsin Uniform Building Code, National Electrical Code,
743 Uniform Plumbing Code, Uniform Mechanical Code, and
744 Uniform Fire Code, Oneida County Subdivision Ordinance,
745 Oneida County Sanitation Ordinance, Electronic Industries
746 Association (EIA), American National Steel Institute Standards
747 (ANSI), and American National Standards Institute (ANSI) in
748 effect at the time of manufacture.
749
- 750 e. Mobile service facilities and support structures shall not interfere
751 with or obstruct existing or proposed public safety, fire
752 protection or Supervisory Controlled Automated Data
753 Acquisition (SCADA) operation telecommunication facilities. Any
754 actual interference and/or obstruction shall be corrected by the
755 applicant at no cost to the county.
756
- 757 2. Site Development. A leased parcel intended for the location of new
758 mobile service facilities, mobile service support structures, and
759 equipment compounds shall be located so as to permit expansion
760 for mobile service facilities to serve all potential co-locators.
761
- 762 3. Vegetation protection and facility screening.
763
- 764 a. Except exempt facilities as defined in subsection (c), all mobile
765 service facilities shall be installed in a manner to as to minimize
766 disturbance to existing native vegetation and shall include
767 suitable mature landscaping to screen the facility, where
768 necessary. For purposes of this section, "mature landscaping"
769 shall mean trees, shrubs or other vegetation of a minimum initial
770 height of five (5) feet that will provide the appropriate level of
771 visual screening immediately upon installation.
772
- 773 b. Upon project completion, the owner(s)/operator(s) of the facility
774 shall be responsible for maintenance and replacement of all
775 required landscaping as long as a telecommunication facility is
776 maintained on the site.
777

- 778 4. Fire prevention. All mobile service facilities shall be designed and
779 operated in accordance with all applicable codes regarding fire
780 prevention.
781
782 5. Noise and Traffic. All mobile service facilities shall be constructed
783 and operated in such a manner as to minimize the amount of
784 disruption caused to nearby properties. To that end the following
785 measures shall be implemented for all mobile service facilities,
786 except exempt facilities as defined in subsection (c):
787
788 a. Noise producing construction activities shall take place only on
789 weekdays (Monday through Saturday, non-holiday) between the
790 hours of 6:00 a.m. and 6:00 p.m., except in times of emergency
791 repair, and
792
793 b. Backup generators, if present, shall be operated only during
794 power outages and for testing and maintenance purposes.
795
796 6. Separation Requirements. Mobile service support structures shall
797 be separated by a minimum of 2640 feet, except that:
798
799 a. Two (2) mobile service support structures may be permitted to
800 be located within 100 feet of each other subject to approval of
801 the Oneida County Planning and Development Committee.
802
803 b. Camouflaged mobile service support structures are exempt from
804 the separation between mobile service support structures
805 requirement listed above.
806

807 I. Penalty Provisions

808

- 809 1. Abandonment. Any antenna, mobile service facility, or mobile service
810 support structure that is not operated for a continuous period of
811 twelve (12) months shall be considered abandoned. Upon
812 application, the Committee may extend the time limit to abandon
813 once for an additional twelve-month period. Such extension shall be
814 based on the finding that the owner or permit holder is actively
815 seeking tenants for the site. After the expiration of the time periods
816 established above, the following shall apply:
817
818 a. The owner of such antenna, mobile service facility or mobile
819 service support structure shall remove said antenna, mobile
820 service facility or mobile service support structure, including all
821 supporting equipment, building(s) and foundations to the depth
822 as otherwise herein required within ninety (90) days of receipt of
823 notice from the Planning and Zoning Department notifying the

824 owner of such abandonment. If removal to the satisfaction of the
825 Planning and Zoning Department does not occur within said
826 ninety (90) days, the Oneida County Planning and Zoning
827 Director may order removal utilizing the established bond as
828 provided under subsection (G) and salvage said antenna,
829 mobile service facility or mobile service support structure,
830 including all supporting equipment and building(s). If there are
831 two or more users of a single mobile service support structure,
832 then this provision shall not become effective until all operations
833 of the mobile service support structure cease.

834
835 b. The recipient of a permit allowing a mobile service
836 support structure and facility under this section, or the current
837 owner or operator, shall notify the Oneida County Planning and
838 Zoning Department within 45 days of the date when the mobile
839 service facility is no longer in operation.

840
841 2. Penalties. Any person, partnership, corporation, or other legal entity
842 that fails to comply with the provisions of this ordinance shall be
843 subject to the penalty provisions set forth in 9.82, Enforcement and
844 Penalties of the Oneida County Zoning and Shoreland Protection
845 Ordinance and upon conviction, may pay a forfeiture of not less than
846 \$25.00 nor more than \$250.00, plus the applicable surcharges,
847 assessments, and costs for each violation. Each day a violation
848 exists or continues constitutes a separate offense under this
849 ordinance. In addition, the Planning and Zoning Department may
850 seek injunctive relief from a court of record to enjoin further
851 violations.

852
853 J. Severability

854
855 1. If any provision of this ordinance or its application to any person or
856 circumstance is held invalid according to Wis Stat s. 66.0404, the
857 invalidity does not affect other provisions or applications of this
858 ordinance that can be given effect without the invalid provision or
859 application, and to this end the provisions of this ordinance are
860 severable.

861
862 The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment
863 #3-2015 by the Oneida County Board of Supervisors, cause a certified copy thereof to
864 be transmitted by mail to the Town Clerks of Oneida County and the Wisconsin
865 Department of Natural Resources.

866
867 Approved by the Planning and Development Committee this 1st day of April, 2015.

868
869 Consent Agenda Item: _____ YES _____ NO

870

871 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority = _____

872

873 The County Board has the legal authority to adopt: Yes _____ No _____ as
874 reviewed by the Corporation Counsel, _____, Date:
875 _____

876

877

878 Offered and passage moved by: _____
879 Supervisor

880

881 _____
882 Supervisor

883

884 _____
885 Supervisor

886

887 _____
888 Supervisor

889

890

891

_____ Ayes

892

893

_____ Nays

894

895

_____ Absent

896

897

_____ Abstain

898

899

900

_____ Enacted

901

902 by the County Board of Supervisors this _____ day of _____, 2015.

903

904

_____ Defeated

905

906

907

908

Mary Bartelt, Clerk

909

David Hintz, County Board Chair