

Ordinance No. 2016-016

Town of Ledgeview
Brown County, Wisconsin

AN ORDINANCE TO AMEND CHAPTER 135 – Zoning, Article XXV Telecommunications Antennas and Towers, Sections 234-Definitions, 235-Applicability, and 236-General Guidelines and Requirements.

The Town Board of Supervisors of the Town of Ledgeview, Brown County, Wisconsin does ordain as follows:

Section 1: Chapter 135 – Zoning, Article XXV Telecommunications Antennas and Towers, Sections 234-Definitions, 235-Applicability, and 236-General Guidelines and Requirements of the Town of Ledgeview Code of Ordinances is hereby amended to read as follows:

MOBILE TOWER SITING REGULATIONS

Sec. 135-234 Definitions.

(A) General Definitions. For the purpose of Sections 135-235 and 135-236 of this Code, words used in the present tense shall include the future; words used in the singular shall include the plural number, and the plural the singular.

(1) The word "herein" refers to the provisions of Sections 135-235 and 135-236.

(2) All measured distances or heights shall be to the nearest "integral foot". If a fraction is one-half foot or less, the next "integral foot" below shall be taken.

(B) Specific Terms. The following terms and phrases shall have the following described meanings:

(1) "Antenna" shall mean communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

(2) "Applicant" shall mean the entity applying to the Town for the location of a Mobile Service Support Structure or Mobile Service Facility in the Town.

(3) "Application" shall mean an application for a permit under this Section to engage in either:

(a) The siting and construction of a 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 or a Class 2 Collocation.

(4) "Building Permit" means a permit issued by Town that authorizes an applicant to conduct construction activity that is consistent with Town Building Code.

(5) "Class 1 Collocation" shall mean the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

(6) "Class 2 Collocation" shall mean the placement existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

(7) "Collocation" shall mean either a Class 1 Collocation or a Class 2 Collocation or both.

(8) "Distributed Antenna System" shall mean a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure. (9) "Equipment Compound" shall mean an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

(10) "Existing Structure" shall mean a support structure that exists at the time a request for permission to place mobile service facilities on a Support Structure is filed with Town.

(11) "Fall Zone" shall mean the area over which a mobile support structure is designed to collapse.

- (12) "Mobile Service" shall and mean a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, as more specifically provided in 47 USC 153 (33), and includes:
 - (a) Both one-way and two-way radio communication services,
 - (b) A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and
 - (c) Any service for which a license is required in a personal communications service.
- (13) "Mobile service facility" shall mean the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.
- (14) "Mobile Service Provider" shall mean a person who provides mobile service.
- (15) "Mobile Service Support Structure" shall mean a freestanding structure that is designed to support a Mobile Service Facility.
- (16) "Permit" shall mean a permit, other than a building permit, or approval issued by the Town which authorizes any of the following activities by an applicant:
 - (a) A Class 1 Collocation.
 - (b) A Class 2 Collocation.
 - (c) The construction of a Mobile Service Support Structure.
- (17) "Radio Broadcast Services" means the regular provision of a commercial or noncommercial service involving the transmission, emission, or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public.
- (18) "Radio Broadcast Service Facilities" means commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services as allowed under Sec. 66.0406, Wis. Stats.
- (19) "Responsible Party" shall mean the person associated with the Applicant who is filing an Application under this Chapter and who has responsibility over the placement of the Applicant's proposed Mobile Service Support Structure.
- (20) "Search Ring" shall mean a shape drawn on a map to indicate the general area within which a Mobile Service Support Structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.
- (21) "Substantial Modification" means the modification of a Mobile Service Support Structure, including the mounting of an antenna on such a Structure, that does any of the following:
 - a. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
 - b. For structures with an overall height of more than 200 feet, increases the overall height of the structure by ten (10%) percent or more.
 - c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
 - d. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
- (22) "Support Structure" shall mean an existing or new structure that supports or can support a Mobile Service Facility, including a Mobile Service Support Structure, utility pole, water tower, building, or other structure.
- (23) "Utility pole" shall mean a structure owned or operated by an alternative telecommunications utility, as defined in Wisconsin Statutes; public utility, as defined in Wisconsin Statutes; telecommunications utility, as defined in Wisconsin Statutes; political subdivision; or cooperative association organized under Wisconsin Statutes; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wisconsin Statutes; for video service, as defined in Wisconsin Statutes; for electricity; or to provide light.

- (24) "Zoning Administrator" shall mean the Town Zoning Administrator.
- (25) "Zoning and Planning Commission" shall mean the Town of Ledgeview Zoning and Planning Commission.

Sec. 135-235 New Construction

- (A) New Construction. The siting and construction of a new Mobile Service Support Structure and Mobile Service Facility shall be subject to the following requirements:
 - (1) Application: The Applicant shall submit a written application on forms provided by the Town which shall include all of the following information:
 - (a) The name and business address of, and the contact individual for, the Applicant.
 - (b) The location of the proposed Mobile Service Support Structure.
 - (c) The location of the proposed Mobile Service Facility to be connected to the proposed Mobile Service Support Structure.
 - (d) A construction plan which describes the Mobile Service Support Structure, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
 - (e) An explanation as to why the Applicant chose the proposed location, and why the Applicant did not choose collocation, including a sworn statement from the Responsible Party attesting that collocation within the Applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
 - (f) The application hereunder shall be accompanied by a fee of \$3,000.00. Costs incurred by the Town in for publishing the public hearing notice and obtaining legal, planning, engineering and other technical and professional advice in connection with the review and implementation of the conditional use shall be charged separately and in addition to the application fee.
 - (2) Determination of Completeness.
 - (a) The Town Zoning Administrator shall review the new construction application and determine whether the application is complete. If the application includes all of information required under Sec. (A)(1) above, the application shall be found to be complete.
 - (b) The Zoning Administrator shall notify the Applicant in writing within ten (10) days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until the application is determined to be complete.
 - (c) When the new construction application is found to be complete, the Town Zoning Administrator shall refer the application to the Town Board and Town Zoning and Planning Commission for review in the manner provided herein.
 - (3) Conditional Use Permit. All tower structures proposed to be located within the Town are a conditional use and are subject to reviewed pursuant to the following procedures:
 - (a) Zoning and Planning Commission Review. Within forty-five (45) days after a complete Application and all required information has been filed, the Zoning and Planning Commission shall review the Application and make a recommendation to the Town Board based upon the requirements of this chapter and Sec. 66.0404, Wis. Stats.
 - (b) Public hearing. Following the Zoning and Planning Commission recommendation, proper posting and notification, a public hearing shall be held by the Town Board regarding the application pursuant to this chapter.
 - (c) Requirements.
 - i. Conditional use status shall not be granted for the construction of a new Mobile Service Support Structure unless that Structure's Fall Zone contains a sufficient radius of clear land around the Structure so that its collapse shall be completely contained on the property, provided that if the Applicant provides the Town with an engineering certification showing that the Mobile Service Support Structure is designed to collapse within a smaller area than the radius equal to the height of the Structure, the smaller area shall be used unless the Town has

and provides the Applicant with substantial evidence that the Applicant's engineering certification is flawed.

ii. All facilities shall meet all state and federal codes.

(d) Determination. Within 90 days after receipt of an Application determined to be complete, the Town Board shall complete the following reviews or the Applicant may consider the application approved, except that the applicant and Town may agree in writing to an extension of the 90 day period.

i. Review the application to determine whether the application complies with all applicable aspects of the Town's Building Code and, subject to the limitations of Sec.66.0404, Wis. Stats., and the Town Zoning Ordinance.

ii. Make a final decision whether to approve or disapprove the application.

iii. Notify the applicant, in writing, of the Town's final decision.

iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(e) Disapproval. The Town may disapprove an application if an Applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described in Sec. (A)(1)(e) above.

(B) Limitations Upon Authority. The review of an Application under this Section shall be subject to the limitations imposed by Sec. 66.0404(4), Wis. Stats.

Sec. 135-236 Collocation and Modification

(A) Collocation.

(1) Class 1 Collocation.

(a) Application. The Applicant shall submit a written application for a Class 1 Collocation on forms provided by the Town which shall include all of the information required under the provisions of Sec. (A)(1) above together with the following additional information:

i. The location of the proposed Support Structure.

ii. The location of the proposed Equipment Compound.

(b) Determination of Completeness. The Town Zoning Administrator shall review the Class 1 Collocation application for completeness in the manner provided in Section 135-235(A)(2)(a) and (b) above. An Applicant may resubmit an application as often as necessary until it is complete.

(c) Fee. The Class 1 Collocation application fee shall be \$3,000.00.

(d) Conditional Use Permit. If the Zoning Administrator determines that the nature and scope of the proposed Class 1 Collocation exceeds the then current Conditional Use Permit for the Mobile Service Support Structure on which the Class 1 Collocation is proposed, the completed application shall be referred to the Zoning and Planning Commission for review under, pursuant and subject to the provisions of Sec. 135-235(A)(3).

(2) Class 2 Collocation.

(a) Application. The Applicant shall submit a written application for a Class 2 Collocation on forms provided by the Town which shall include all of the information required under the provisions of Sec. (A)(1) above.

(b) Determination of Completeness. The Town Zoning Administrator shall review the Class 2 Collocation application for completeness. If any of the required information is not in the application, the political subdivision 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.

(c) Determination. Within 45 days of its receipt of a complete application, the Town shall complete the following reviews of the Class 2 Collocation application 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 review period:

- i. Make a final decision whether to approve or disapprove the Class 2 Collocation application.
 - ii. Notify the Applicant, in writing, of its final decision.
 - iii. If the application is approved, issue the applicant the relevant permit.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (d) Fee. The Class 2 Collocation application fee shall be based on the Town's current building permit fee schedule.

(B) Modification.

(1) Non-Substantial Modification.

- (a) Application. The Applicant that proposes a Non-Substantial Modification of a Mobile Service Support Structure, including the mounting of an antenna on such a Structure shall submit a written application for such modification on forms provided by the Town which shall include all of the information required under the provisions of Sec. (A)(1) above together with the following additional information:
- i. The location of the proposed Support Structure.
 - ii. The location of the proposed Equipment Compound.
 - iii. 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 that demonstrates that the proposed modification is not a Substantial Modification.
- (b) Fee. The fee for a non-substantial modification shall be based on the Town's current building permit fee structure.
- (c) Determination of Completeness.
- i. The Town Zoning Administrator shall review the Non-Substantial Modification Application for completeness. If any of the required information is not in the application, the political subdivision 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 a Modification application as often as necessary until it is complete.
 - ii. When the Non-Substantial Modification application is found to be complete, the Town Zoning Administrator shall refer the application to the Town Building Inspector for issuance of the appropriate building permit.

(2) Substantial Modification.

- (a) Application. The Applicant that proposes the Substantial Modification of a Mobile Service Support Structure, including the mounting of an antenna on such a Structure shall submit a written application for such modification on forms provided by the Town which shall include all of the information required under the provisions of Sec. (A)(1) above together with 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.
- (b) Fee. The Substantial Modification Application hereunder shall be accompanied by a fee of \$3,000.00.
- (c) Determination of Completeness.
- i. The Town Zoning Administrator shall review the Substantial Modification Application for completeness. If any of the required information is not in the application, the political subdivision 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 a Substantial Modification application as often as necessary until it is complete.

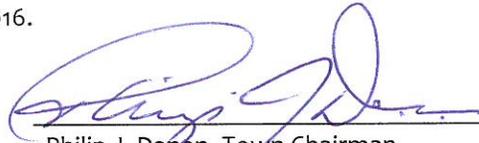
- ii. When the Substantial Modification application is found to be complete, the Town Zoning Administrator shall refer the application to the Town Board and Town Zoning and Planning Commission for review in the manner provided in Section 135-235(A)(3) hereof.
- (d) Determination. Within 90 days after receipt of a Substantial Modification Application determined to be complete, the Town Board shall complete the following reviews or the Applicant may consider the application approved, except that the applicant and Town may agree in writing to an extension of the 90 day period.
 - i. Review the application to determine whether the application complies with all applicable aspects of the Town's Building Code and, subject to the limitations of Sec. 66.0404, Wis. Stats., and the Town Zoning Ordinance.
 - ii. Make a final decision whether to approve or disapprove the application.
 - iii. Notify the applicant, in writing, of the Town's final decision.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (C) Limitations Upon Authority. The review of an Application under this Section shall be subject to the limitations imposed by Sec. 66.0404(4), Wis. Stats.

Section 2: Repeal of inconsistent ordinances. All existing town ordinances, parts of ordinances, and amendments thereto in conflict with any of the provisions of this ordinance are hereby repealed.

Section 3: Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provision shall not be affected hereby.

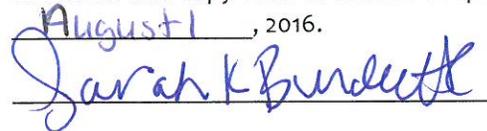
Section 4: Effective date. This ordinance shall take effect upon passage and posting.

Approved: 1 Aug 16, 2016.


 Philip J. Danen, Town Chairman

ATTEST:

I, Sarah K. Burdette, Clerk/Administrator of the Town of Ledgeview, Brown County, hereby certifies that the above is a true copy of an Ordinance adopted by the Town Board of the Town of Ledgeview on August 1, 2016.


 Sarah K. Burdette

Sarah K. Burdette
 Town Clerk/Administrator

Posted: August 8, 2016