

CHAPTER 20

MOBILE AND RADIO BROADCAST SERVICES

Part I. General Provisions.

- | | |
|------------------|-------------------------------------|
| 20.01 Title. | 20.04 Jurisdiction and Scope. |
| 20.02 Authority. | 20.05 Relation to Other Ordinances. |
| 20.03 Purpose. | 20.06 Definitions. |

Part II. Mobile Services Facilities and Structures.

- | | |
|---|----------------------------|
| 20.07 Pre-existing Facilities and Structures. | 20.09 Class 1 Collocation. |
| 20.08 New Facilities and Structures. | 20.10 Class 2 Collocation. |

Part III. Radio Broadcast Services Facilities and Structures.

- | | |
|---|-------------------------------|
| 20.11 Pre-existing Facilities and Structures. | 20.12 Application Procedures. |
|---|-------------------------------|

Part IV. Universal Regulations.

- | | |
|--|---------------------------|
| 20.13 Applicability. | 20.17 Removal. |
| 20.14 Emergency Communications
Corridors. | 20.18 Security. |
| 20.15 Federal Requirements. | 20.19 Setbacks. |
| 20.16 Markings. | 20.20 Zoning Regulations. |

Part V. Administration and Enforcement.

- | | |
|--------------------------------------|-------------------|
| 20.21 Administration. | 20.23 Violations. |
| 20.22 Permit Fees and Other Charges. | 20.24 Penalties. |
-

PART I. GENERAL PROVISIONS.

20.01 Title.

This ordinance may be referred to as the Mobile and Radio Broadcast Services Ordinance.

20.02 Authority.

This ordinance is adopted pursuant to authority granted by Wis. Stat. §§ 59.69, 66.0404, and 66.0406.

20.03 Purpose.

The purpose of this ordinance is to promote the health and safety of the general public by establishing minimum standards for the siting of antennas, towers, and other structures necessary to provide mobile and radio broadcast services in Manitowoc County. This ordinance is intended to enhance the ability to efficiently and effectively provide mobile and radio broadcast services.

20.04 Jurisdiction and Scope.

- (1) This ordinance applies to all mobile and radio broadcast service facilities and structures located outside the limits of any incorporated city or village within the boundaries of Manitowoc County.
- (2) This ordinance does not apply to any federally-licensed amateur radio facility or structure, receive-only antenna, or temporary mobile or broadcast service facility or structure used to provide public information coverage during an emergency or other news event.
- (3) Any other provision of this ordinance notwithstanding, a mobile or radio broadcast service facility or structure that is located within 3 statute miles of the boundary of the Manitowoc County Airport must comply with the requirements of Manitowoc County Code Chapter 11, Part IV, Airport Approach Protection Ordinance.

20.05 Relation to Other Ordinances.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

20.06 Definitions.

In addition to the definitions contained in Wis. Stat. §§ 66.0404 and 66.0406, which are incorporated herein by reference, for purposes of this ordinance:

“Alternative tower structure” means any man-made structure, such as a bell steeple, building, clock tower, light pole, silo, or water tower, which is used to support an antenna or to camouflage or conceal the presence of an antenna or tower.

“Board of Adjustment” means the Manitowoc County Board of Adjustment established pursuant to MCC § 8.19.

“Department” means the Manitowoc County Planning and Zoning Department.

“Department director” means the director of the Manitowoc County Planning and Zoning Department or the department director’s designee. Any reference in the Manitowoc County Code to a code administrator or a zoning administrator is deemed to be a reference to the department director.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission.

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

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas and includes, but is not limited to, guy towers, monopole towers, self-supporting lattice towers, and alternative tower structures used in providing mobile or radio broadcast services.

“Tower site” means the area surrounding a tower and any antenna, fencing, landscaping, lots, structure, supporting equipment, tower, or other object, equipment, or thing used in connection with the tower.

“Zoning permit” means a permit issued by the Manitowoc County Planning and Zoning Department pursuant to MCC § 8.50.

PART II. MOBILE SERVICES FACILITIES AND STRUCTURES.

20.07 Pre-existing Facilities and Structures.

- (1) Facilities and structures that were constructed prior to the effective date of this ordinance are not subject to this ordinance, except as provided herein.

- (2) A pre-existing facility or structure that is damaged by fire, storm, or other casualty or that requires replacement may be repaired, reconstructed, or replaced provided that the repaired, reconstructed, or replaced facility or structure complies with its original conditional use permit and the repaired, reconstructed, or replaced facility or structure does not exceed the height of the original facility or structure.
- (3) Any improvement to a pre-existing facility or structure that is inconsistent with the original conditional use permit or that increases the height of the original facility or structure must comply with this ordinance.

20.08 New Facilities and Structures.

- (1) A zoning permit is required for the construction of any new mobile service facility or structure.
- (2) The department will provide an applicant with a zoning permit application form upon request.
- (3) An applicant must submit a written application for a zoning permit to the department. The application must contain the following information:
 - (a) The name and business address of the applicant, along with the name of a contact person.
 - (b) The location of the proposed facility and structure.
 - (c) An explanation why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service capacity, coverage, and functionality; is technically infeasible; or is economically burdensome to the mobile service provider.
 - (d) A construction plan describing the proposed mobile service support structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.
 - (e) A site plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- (4) An application that contains all of the information required under this ordinance will be considered to be complete. If the department does not believe that the application

is complete, it shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (5) Within 90 days of receipt of a complete application, the department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the department may agree in writing to an extension of the 90 day period:
 - (a) Review the application to determine whether it complies with all applicable aspects of the county's zoning ordinances, subject to the limitations in Wis. Stat. § 66.0404.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, the written notification must set forth the substantial evidence that supports the decision.
- (6) The department 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. 20.08(3)c.
- (7) A party who is aggrieved by the department's final decision may bring an action in the circuit court.

20.09 Class 1 Collocation.

- (1) A zoning permit is required for a class 1 collocation.
- (2) The department will provide an applicant with a zoning permit application form upon request.
- (3) An applicant must submit a written application for a zoning permit to the department. The application must contain the following information:
 - (a) The name and business address of the applicant, along with the name of a contact person.
 - (b) The location of the affected facility and support structure.
 - (c) A construction plan describing the proposed modifications to the support structure and the equipment and network components, including antennas,

base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.

- (d) A site plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- (4) An application that contains all of the information required under this ordinance will be considered to be complete. If the department does not believe that the application is complete, it shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (5) Within 90 days of receipt of a complete application, the department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the department may agree in writing to an extension of the 90 day period:
 - (a) Review the application to determine whether it complies with all applicable aspects of the county's zoning ordinances, subject to the limitations in Wis. Stat. § 66.0404.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, the written notification must set forth the substantial evidence that supports the decision.
- (6) The department 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. 20.08(3)c.
- (7) A party who is aggrieved by the department's final decision may bring an action in the circuit court.

20.10 Class 2 Collocation.

- (1) A zoning permit is required for a class 2 collocation. A class 2 collocation is subject to the same requirements for the issuance of a zoning permit as any other commercial development or land use development.
- (2) The department will provide an applicant with a zoning permit application form upon request.

- (3) An applicant must submit a written application for a zoning permit to the department. The application must contain the following information:
 - (a) The name and business address of the applicant, along with the name of a contact person.
 - (b) The location of the affected facility and structure.
 - (c) A construction plan describing the proposed modifications to the support structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.
 - (d) A site plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- (4) An application that contains all of the information required under this ordinance will be considered to be complete. If the department does not believe that the application is complete, it shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (5) Within 45 days of receipt of a complete application, the department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the department may agree in writing to an extension of the 45 day period:
 - (a) Make a final decision whether to approve or disapprove the application.
 - (b) Notify the applicant, in writing, of its final decision.
 - (c) If the application is approved, issue the applicant the relevant permit.
 - (d) If the decision is to disapprove the application, the written notification must set forth the substantial evidence that supports the decision.
- (6) A party who is aggrieved by the department's final decision may bring an action in the circuit court.

PART III. RADIO BROADCAST SERVICES FACILITIES AND STRUCTURES.

20.11 Pre-existing Facilities and Structures.

- (1) Facilities and structures that were constructed prior to the effective date of this ordinance are not subject to this ordinance, except as provided herein.
- (2) A pre-existing facility or structure that is damaged by fire, storm, or other casualty or that requires replacement may be repaired, reconstructed, or replaced provided that the repaired, reconstructed, or replaced facility or structure complies with its original conditional use permit and the repaired, reconstructed, or replaced facility or structure does not exceed the height of the original facility or structure.
- (3) Any improvement to a pre-existing facility or structure that is inconsistent with the original conditional use permit or that increases the height of the original facility or structure must comply with this ordinance.

20.12 Application Procedure.

- (1) A conditional use permit and a zoning permit are required for:
 - (a) the modification of a pre-existing facility or structure if the modification is inconsistent with the original conditional use permit or increases the height of the original facility or structure; or
 - (b) the construction of any new radio broadcast service facility or structure.
- (2) The department will provide an applicant with a conditional use permit application form and a zoning permit application form upon request.
- (3) An applicant's conditional use permit application will be processed as provided for in MCC § 8.52.
- (4) An applicant must submit a written application for a zoning permit to the department. The application must contain the following information:
 - (a) The name and business address of the applicant, along with the name of a contact person.
 - (b) The location of the proposed facility and structure.
 - (c) A construction plan describing the existing or proposed facility and structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new facility and structure.

- (5) An application that contains all of the information required under this ordinance will be considered to be complete. If the department does not believe that the application is complete, it shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (6) Within 90 days of receipt of a complete application, the department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the department may agree in writing to an extension of the 90 day period:
 - (a) Review the application to determine whether it complies with all applicable aspects of the county's zoning ordinances, subject to the limitations in Wis. Stat. § 66.0404.
 - (b) Make a final decision whether to approve or disapprove the application.
 - (c) Notify the applicant, in writing, of its final decision.
 - (d) If the decision is to disapprove the application, the written notification must set forth the substantial evidence that supports the decision.
- (7) A party who is aggrieved by the department's final decision may appeal the action to the board of adjustment.

PART IV. UNIVERSAL REGULATIONS.

20.13 Applicability.

The standard regulations contained in this part are applicable to all mobile and radio broadcast service facilities and structures.

20.14 Emergency Communications Corridors.

- (1) An antenna or tower may not be located within an emergency communications corridor, which is defined as the area within an existing line-of-sight communications path that is used by a government or military entity to provide services essential to protect public safety.
- (2) Manitowoc County provides emergency communications services that are essential to protect public safety using facilities at the following locations:

MANITOWOC COUNTY COMMUNICATIONS FACILITIES			
SITE	ELEVATION (FEET AT BASE)	NAD 83 LATITUDE DEG/MIN/SEC	NAD 83 LONGITUDE DEG/MIN/SEC
Cato	933.63	44°06'59.7200"N	87°51'33.6926"W
Cleveland	709.50	43°54'43.6021"N	87°45'35.7555"W
Franklin	891.84	44°10'52.0009"N	87°50'25.9638"W
Kiel	920.46	43°44'47.4850"N	88°02'18.2792"W
Liberty	964.98	44°00'35.6622"N	87°53'28.5993"W
Maribel	865.00	44°16'36.3979"N	87°48'21.9014"W
Manitowoc	607.00	44°05'15.7699"N	87°39'34.6892"W
Two Creeks	654.66	44°16'12.6567"N	87°33'08.4903"W
Two Rivers	633.32	44°11'16.1745"N	87°35'32.8609"W

- (3) Each of the following pairs of communications towers delineate a protected county emergency communications corridor:
- (a) Franklin and Cato;
 - (b) Franklin and Liberty;
 - (c) Franklin and Maribel;
 - (d) Franklin and Two Creeks;
 - (e) Franklin and Two Rivers;
 - (f) Liberty and Cato;
 - (g) Liberty and Cleveland;
 - (h) Liberty and Kiel;
 - (i) Manitowoc and Cato;
 - (j) Manitowoc and Cleveland;
 - (k) Manitowoc and Franklin;
 - (l) Manitowoc and Liberty;
 - (m) Manitowoc and Two Creeks;

- (n) Manitowoc and Two Rivers;
- (o) Two Creeks and Maribel; and
- (p) Two Creeks and Two Rivers.

20.15 Federal Requirements.

Each mobile and radio broadcast service facility and structure must meet or exceed all applicable regulations and standards of the FAA, FCC, and any other federal agency with authority over the facility and structure that are in effect at the time the facility or structure is placed in service.

20.16 Markings.

A tower or antenna may not be used to display any advertising, but may display identifying information, such as call letters, frequencies, or FCC registration numbers, if required by federal or state law, regulation, rule, or order.

20.17 Removal.

- (1) An applicant for a permit under this ordinance must submit a copy of a signed agreement between the owner of the antenna, tower, and supporting equipment, facilities, and structures and the owner of the property on which the antenna, tower, and supporting equipment, facilities, and structures are located that sets forth the arrangement for the removal of any abandoned antenna, tower, and supporting equipment, facilities, and structures. The agreement must provide for it to be binding on all future owners or successors in interest of the antenna, tower, and supporting equipment, facilities, and structures.
- (2) An antenna or tower that is not used for a continuous 12-month period will be deemed abandoned. If 2 or more antennas are collocated on a single tower, the tower will not be deemed abandoned so long as at least one antenna remains in use.
- (3) The department director may issue a notice of abandonment to the owner of an antenna or tower and the owner of the property on which an antenna or tower is located if the department director determines an antenna or tower is abandoned. The notice will specify each antenna, tower, and any equipment, facilities, or structures that must be removed.
- (4) The owner of an abandoned antenna or tower or of the property on which the antenna or tower is located must remove the abandoned antenna or tower and equipment, facilities, or structures within 90 days of receipt of a notice of abandonment.

- (5) The notice of abandonment will be withdrawn if the antenna or tower owner provides information to the department director within 30 days from the date of the notice showing that the antenna or tower has not been abandoned.
- (6) If the abandoned antenna, tower, and supporting equipment, facilities, and structures are not removed, the department director may remove and salvage them at the property owner's expense. If the salvage proceeds are insufficient to cover the cost of removal, the cost of removal will become a lien against the property on which the antenna, tower, and supporting equipment, facilities, and structures were located.

20.18 Security.

Each mobile and radio broadcast service facility and structure must be protected by security measures sufficient to deter the general public from obtaining access to the facility and structure.

20.19 Setbacks.

- (1) Each mobile and radio broadcast service facility and structure must meet or exceed all applicable setback requirements.
- (2) A tower or support structure must be setback from the nearest property line by a distance that is at least equal to its height. If the applicant provides the department with an engineering certification showing that the tower or support structure is designed to collapse within a smaller area, this requirement will not apply unless the department provides the applicant with substantial evidence that the engineering certification is flawed.

20.20 Zoning Regulations.

- (1) An antenna or tower may be considered as either a principal or an accessory use. The presence of an existing structure on or a different existing use for a lot does not preclude the installation of an antenna or tower on the lot as an accessory use.
- (2) For the purpose of determining whether the installation of an antenna or tower complies with zoning regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot will be used even if the antenna or tower is located on a smaller leased parcel within a lot.
- (3) An antenna or tower that is constructed or installed in compliance with this ordinance will not constitute the expansion of a nonconforming structure or use.

PART V. ADMINISTRATION AND ENFORCEMENT

20.21 Administration.

- (1) This ordinance will be administered by the department director.
- (2) **Inspection Authority.** A person shall, as a condition of any application for a permit and any permit issued pursuant to this ordinance, grant the department director permission to enter upon any lands specified in the application or permit, in order to determine compliance with this ordinance. If permission to enter lands is not given, entry may be gained pursuant to Wis. Stat. sec. 66.0119.
- (3) **Citation Authority.** The department director may issue a citation for any violation of this ordinance.
- (4) **Referral Authority.** The department director may refer a violation of this ordinance to the corporation counsel for legal action.
- (5) **Other Enforcement Means.** Nothing in this section may be construed to prevent the county from using any other lawful means to enforce this ordinance.

20.22 Permit Fees and Other Charges.

- (1) The permit fee for siting and construction of each new mobile service facility or structure is \$3,000.
- (2) The permit fee for each class 1 collocation is \$3,000.
- (3) The permit fee for each class 2 collocation is \$75.
- (4) The permit fee for each radio broadcast services facility or structure is \$3,000.
- (5) An applicant is responsible for paying all fees and expenses charged by a third-party consultant retained by the department to review a mobile or radio broadcast services application or permit, except that the department is responsible for the third-party consultant's travel expenses. An applicant's failure to pay a third-party consultant's fees and expenses, other than travel expenses, is grounds to deny an application or revoke a permit

20.23 Violations.

- (1) It is unlawful for any person to construct, install, modify, or locate any mobile or radio broadcast services facility or structure in violation of any provision of this ordinance or to otherwise violate any provision of this ordinance.

- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a county agent, board, commission, committee, department, employee, officer, or official acting in an official capacity under this ordinance.
- (3) A separate offense is deemed committed on each day that a violation occurs or continues.
- (4) The failure of any agent, board, commission, committee, department, employee, officer, or official to perform any official duty imposed by this code will not subject the agent, board, commission, committee, department, employee, officer, or official to the penalty imposed for a violation of this code unless a penalty is specifically provided.

20.24 Penalties.

- (1) A person will, upon conviction for a violation of this ordinance, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation and may be ordered to take such action as is necessary to abate the offense, including discontinuing the use and removing any antenna, building, support structure, or tower within a specified time.
- (2) The minimum and maximum forfeitures specified in this section are doubled each time that a person is convicted for the same violation of this ordinance within any 24 month period.
- (3) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- (4) In the event an offense is not abated as ordered, Manitowoc County may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.

HISTORY

07/20/1999: Created by Ord. No. 1999-2000-61 and published July 30, 1999 effective upon approval by town board.

12/18/2001: Sec. 20.06(1p) created by Ord. No. 2001/2002-156 effective December 27, 2001.

10/16/2007: Sec. 20.15 repealed and recreated, sec. 20.155 created, and sec. 20.16 repealed and recreated by Ord. No. 2007/2008-74 effective October 25, 2007.

10/18/2011: Sec. 20.105 created by Ord. No. 2011/2012-59 effective October 24, 2011.

07/16/2013: Sec. 20.105 amended by Ord. No. 2013/2014-37 effective August 1, 2013.

02/18/2014: Ch. 20 repealed and recreated by Ord. No. 2013/2014-88 effective March 1, 2014.