

(18) Setbacks/Fall Zone/Critical Public Safety Communications Corridor/Wetlands

- (a) The setback or fall zone requirement for mobile service support structures is the height of the structure (e.g., tower) plus ten percent (10%).
- (b) If an applicant provides Door County with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required above, that setback or fall zone requirement does not apply to such a structure unless Door County provides the applicant with substantial evidence that the engineering certification is flawed.
- (c) All mobile service support structures and mobile service facilities shall meet the required shoreland setbacks. A lesser setback from the ordinary high-water mark shall be allowed only if the applicant demonstrates that there is no feasible alternative location outside of the shoreland setback area and best management practices to infiltrate or otherwise control storm water runoff from the structure are employed.
- (d) No mobile service support structures or mobile service facilities shall be located within any designated critical public safety communications corridor. The burden is on the applicant to demonstrate that the project will avoid interference to critical public safety communications. The objectives here are to: promote robust and reliable, and prevent or mitigate interference to, public safety communications (e.g., law enforcement, emergency medical, and fire) systems that provide critical safety-of-life communications services. This requirement reflects the minimum practical regulations that are necessary to accomplish that public health and safety objective.
- (e) No mobile service support structure or mobile service facility shall be permitted in wetlands.

(19) Site Development.

(a) Shared Use.

Mobile service sites shall be designed to promote sharing, such that space is reasonably available to collocators, including but not limited to parking areas, access roads, and utilities.

(b) Noise and Traffic.

Mobile service support structures or mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end, the following measures shall be implemented for mobile service support structures or facilities.

1. Noise-producing activities (e.g., construction) shall take place only on weekdays (Monday through Friday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair; and

2. Emergency power systems (e.g., backup generators and backup batteries), if present, shall be operated only during power outages, for testing, and maintenance purposes.

(c) Security and Signage.

1. Mobile service support structures and mobile service facilities shall be reasonably protected against unauthorized access.
2. Signs must be prominently displayed within the equipment compound prohibiting entry without authorization, warning of the dangers from electrical equipment and unauthorized climbing of the support structure (e.g., tower), and identifying the owner and telephone number for contact in case of emergency. No sign shall be larger than six (6) square feet.

(d) Driveways and Access.

1. Access to mobile service sites shall be by an all-weather gravel or paved driveway, not more than fifteen (15) feet wide, with a turnaround of the minimum size necessary to provide maneuverability for service and emergency vehicles.
2. All mobile service sites shall use existing access points and roads whenever possible. Sites that abut two (2) or more public roads shall gain access from the lowest-class road regardless of driveway length. The road classification hierarchy, in order from highest to lowest, shall be as follows: federal, state, county, town. The applicant shall seek and obtain approval for access from the entity having jurisdiction over the road.

(20) Ceased Operation, Removal, and Financial Assurance for Removal

(a) Restoration Requirement.

1. Any mobile service support structure or mobile service facility that has not been operated for a continuous period of twelve (12) months shall be considered to have ceased operation. Within six (6) months of the mobile services permit holder being notified that a mobile service support structure or related facility is considered to have ceased operation, the property shall be restored as herein required:
 - a. All mobile service support structures and mobile service facilities shall be removed from the property. If there are two or more users of a single mobile service support structure, then this provision shall not become effective until all operations of the mobile service support structure cease.
 - b. All building(s), supporting equipment, and foundations shall be removed to a depth of five (5) feet below the ground surface or, if the distance to bedrock is less than five (5) feet, to bedrock. All excavated areas shall be filled in with unconsolidated soil material, of which the top four (4) or

more inches shall be screened topsoil. The excavated areas shall be made level with the surrounding ground surface and shall be seeded or planted with native vegetation.

- c. A document showing the existence of any subsurface structure remaining below grade shall be recorded with the Door County Register of Deeds. Such recording shall accurately set forth the location and describe the remaining structure.
 - d. Any hazardous material, either in containers or spilled upon or in the ground, shall be removed and disposed of in a manner prescribed by applicable state and federal law.
2. If removal to the satisfaction of the Planning Department does not occur within six (6) months, the Zoning Administrator may order restoration utilizing the established financial assurance as provided under subsection 3.g, below, and salvage said mobile service support structure or facility.
 3. Subject to §66.0404(4)(i), Wis. Stats., as a condition of the issuance and validity of a permit, the applicant/permit holder shall file and maintain a financial assurance with the Planning Department. The financial assurance:
 - a. Shall be by an irrevocable letter of credit or performance bond.
 - b. Shall equal as closely as possible the cost to Door County of hiring a contractor to complete restoration as set forth in Section 14.01(20)(a)1. a. – d. above. This amount will initially be based on a written estimate of a qualified remover of said types of structures, or twenty thousand dollars (\$20,000), whichever is less, to guarantee that the mobile service support structure will be removed when no longer in use. The amount of financial assurance shall be reviewed periodically by the Planning Department to assure it equals outstanding restoration costs.
 - c. May be adjusted when required by the Planning Department. The Planning Department may notify the permit holder in writing that adjustment is necessary and the reasons for it (e.g., based upon prevailing or projected interest or inflation rates, or the latest cost estimates for restoration).
 - d. Shall be payable to Door County.
 - e. May not be cancelled by the surety or other holder or issuer except after not less than a ninety (90) day notice to the Planning Department in writing by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the permit holder shall deliver to the Planning Department a replacement proof of financial assurance. In the absence of this replacement financial assurance, operation of the mobile service facility shall cease until the time it is delivered and in effect.

- f. Shall be released only upon the Planning Department's certification of successful completion of necessary restoration measures. The permit holder must notify the Planning Department, by filing a notice of completion, that restoration is complete. The Planning Department will inspect the site that was the subject of the notice of completion to determine if restoration has been carried out in accordance with Section 14.01(20)(a)1. a. – d. above. Within sixty (60) days after the notice of completion is filed, the Planning Department will issue a written determination that: it is not possible to assess whether restoration is complete due to weather conditions, soil conditions, or other relevant factors; restoration is not complete; restoration is complete in part; or restoration is fully complete.
 - g. Shall be forfeited if restoration is not completed as required by Section 14.01(20) (a)1. a. – d. above.
4. The permit holder may change financial assurance. This may not be done more than once a year unless required by an adjustment imposed pursuant to Section 14.01(20)(a)3.c. above. The permit holder shall give the Planning Department at least sixty (60) days' notice prior to changing financial assurance and may not actually change financial assurance without the prior written approval of the Planning Department.
 5. Any person who obtains a permit from the Planning Department for two (2) or more sites may elect, at the time the second or subsequent permit is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each site. When an applicant/permit holder elects to post a single financial assurance in lieu of separate financial assurances for each site, no financial assurances previously posted on individual sites shall be released until the new financial assurance has been accepted by the Planning Department.
 6. The financial assurance requirements do not apply to support structures and facilities wholly owned and operated by, or for the sole benefit or use of, the state, county or a municipality.
 7. This financial assurance requirement is deemed competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the County of Door which fall into disuse.

(21) Administration, Appeal, and Enforcement.

(a) Administration.

The Planning Department is empowered and responsible to administer this Chapter, issue permits as appropriate under this Chapter, and perform all other duties within the scope of this Chapter. All duties shall be the responsibility of a Zoning Administrator, except as otherwise specified.

(b) Appeals.

A party who is aggrieved by the final decision of the County to approve or disapprove an application hereunder may only pursue the remedy set forth in §66.0404(2)(f), Wis. Stats. or §66.0404(3)(d), Wis. Stats.

(c) Violations.

It shall be unlawful to site, construct, install, reconstruct, improve, extend, enlarge, relocate, or convert any support structure or related facility in violation of the provisions of this Chapter. It shall also be unlawful to fail to obtain a permit.

(d) Enforcement, Penalties, and Remedies for Violation.

Door County may enforce this Chapter by any lawful enforcement method deemed appropriate and necessary, including the following:

1. Issuance of a citation under §66.0113, Wis. Stats. and Ch. 35, §35.01, Door County Code.
2. Filing a summons and complaint, seeking injunctive relief, monetary penalties, and any other remedy allowed by law.
3. A monetary penalty of not less than one hundred and fifty dollars (\$150) per day and not more than five hundred dollars (\$500) per day for each offense. Each day of continued violation constitutes a separate offense.
4. Allowable assessments, costs, fees, penalties, and surcharges.

(e) Nonexclusivity.

1. Enactment of this Chapter does not preclude the County from enacting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
2. The issuance of a citation or filing of a summons and complaint hereunder shall not preclude the County or any other person or entity from proceeding under any other law, ordinance, regulation or order or by any other enforcement method to enforce any law, ordinance, regulation or order.

14.02 RADIO BROADCAST SERVICE FACILITIES

(1) Authority. Section 14.02 is adopted pursuant to §§59.03, 59.54, and 66.0406, Wis. Stats.

(2) Applicability. Section 14.02 applies in the unincorporated areas of Door County ("County").

(3) Purpose. The purpose of Section 14.02 is to regulate the placement, construction, or modification of radio broadcast service facilities, subject to the provisions and limitations of §66.0406, Wis. Stats.

- (4) **Intent.** Section 14.02 is intended to accomplish, to the greatest degree possible, the following:
- (a) Promote and protect public health, safety, and general welfare.
 - (b) Minimize or eliminate the adverse public health or safety effects of the siting and construction of radio broadcast service facilities, through the minimum practical regulations that are necessary to accomplish these objectives.
 - (c) Reasonably accommodate radio broadcast services.
 - (d) Not prohibit, or have the effect of prohibiting, the provision of radio broadcast services.
- (5) **Application and Permit.**
- (a) A permit is required for radio broadcast service facilities.
 - (b) The application process, fee and charges, application review, permit grant, and permit transferability, for radio broadcast service facilities shall be the same as set forth in Sections 14.01(13) – (16) above.
- (6) **Denial of Placement, Construction, or Modification of Radio Broadcast Service Facilities.**
- (a) If the Planning Department denies a request by any person to place, construct, or modify radio broadcast service facilities, the denial may be based only on public health or safety concerns.
 - (b) The Planning Department must provide the requester with: a written denial of the requester's request; and substantial written evidence which supports the reasons for the Planning Department's action.
- (7) **Structural, Design, and Environmental Standards; Setbacks, Fall Zone, Critical Public Safety Communications Corridor, Wetlands; Site Development and Ceased Operation, Removal, and Financial Assurance For Removal**
- (a) The foregoing are, subject to the limitations set forth in §66.0406(2)(a) – (b) Wis. Stats., as set forth in Sections 14.01(17) – (20) above.
- (8) **Administration, Appeal, and Enforcement.**
- (a) The foregoing are as set forth in Section 14.01(21) above.
- (9) **Definitions.**
- (a) To the extent that there are no irreconcilable conflicts, the definitions for this section include those set forth in Section 14.01(12).

- (b) Where the language in Section 14.01 refers to mobile service support structures or mobile service facilities said language shall be interpreted in regard to administration of Section 14.02 as referring to radio broadcast services or radio broadcast service facilities.
- (c) **Radio Broadcast Services:** 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 public.
- (d) **Radio Broadcast Service Facilities:** The commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services.

14.03 OTHER COMMUNICATIONS SERVICES SUPPORT STRUCTURES AND RELATED FACILITIES

- (1) **Authority.** Section 14.03 is adopted consistent with §§59.03, 59.54, and 59.69, Wis. Stats., and, to the extent it is applicable, the Federal Telecommunications Act of 1996.
- (2) **Applicability.** Section 14.03 applies in the unincorporated areas of Door County.
- (3) **Purpose.** The purpose of Section 14.03 is to regulate the placement, construction, or modification of wireless communications services support structures and related facilities except those described in §§66.0404 and 66.0406, Wis. Stats.
- (4) **Intent.** Section 14.03 is intended to accomplish, to the greatest degree possible, the following:
 - (a) Preserve Door County's authority over zoning and land use decisions for other communications services support structures and related facilities.
 - (b) Promote and protect public health, safety, and general welfare.
 - (c) Minimize or eliminate the adverse public health or safety effects of other communications services support structures and related facilities through the minimum practical regulations that are necessary to accomplish these objectives.
 - (d) Encourage collocation to the extent technologically feasible, and engage in cooperative efforts with providers to chart the potential overlap of desirable locations, in order to minimize the number of structures and facilities to be sited.
 - (e) To not unreasonably discriminate among providers of functionally equivalent services.
 - (f) To not regulate in a manner that prohibits or has the effect of prohibiting the provision of these other communications services.

(5) Application and Permit.

- (a) A permit is required for the placement, construction, or modification of other communications service support structures and related facilities.
- (b) The application process, fee and charges, application review, permit grant, and permit transferability, for other communications service support structures and related facilities are consistent with that set forth in Sections 14.01(13) – (16) above.

(6) Denial of Placement, Construction, or Modification of Other Communications Service Support Structures and Related Facilities.

- (a) Door County must act on applications within a reasonable period of time.
- (b) Door County must make any denial of an application in writing supported by substantial evidence in a written record

(7) Structural, Design, and Environmental Standards; Setbacks, Fall Zone, Critical Public Safety Communications Corridor, Wetlands; Site Development and Ceased Operation, Removal, and Financial Assurance For Removal

- (a) The foregoing are consistent with that set forth in Sections 14.01(17) – (20) above.

(8) Administration, Appeal, and Enforcement.

- (a) The foregoing are consistent with that set forth in Section 14.01(21) above.

(9) Definitions.

- (a) To the extent that there are no irreconcilable conflicts, the definitions for this section include those set forth in Sections 14.01(12).
- (b) Where the language in Section 14.01 refers to mobile service support structures or mobile service facilities said language shall be interpreted in regard to administration of Section 14.03 as referring to wireless communications services support structures and related facilities other than those described in §§66.0404 and 66.0406, Wis. Stats.
- (c) **Other Communications Services Support Structures:** Wireless communications services support structures and related facilities except those described in §§66.0404 and 66.0406, Wis. Stats.