

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39<sup>th</sup> AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
APRIL 7, 2014**

**AGENDA**

1. Call to Order.
2. Roll Call.
3. Consider the minutes of the March 24, 2014 Plan Commission meeting.
4. Correspondence.
5. Citizen Comments.
6. New Business.
  - A. **PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING TEXT AMENDMENTS** related to Commercial Communication Structures including: **1)** to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type; **2)** to create Section 420-29 J related to fees for a Commercial Communication Structure Permits; **3)** to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures; **4)** to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3; **5)** to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following Zoning Districts: B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3; **6)** to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and **7)** to delete the definition of "Commercial Communication Structures" as listed in Section 420-152.
7. Adjourn.

It is possible that members and possibly a quorum of members of other governmental bodies of the municipality may be in attendance in the above stated meeting to gather information; no action will be taken by any other governmental body except the governing body noticed above.

**The Village Hall is handicapped accessible. If you have other special needs, please contact the Village Clerk, 9915 39<sup>th</sup> Avenue, Pleasant Prairie, WI (262) 694-1400.**

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
6:00 P.M.  
March 24, 2014**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on March 24, 2014. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Jim Bandura; John Braig; Judy Juliana; and Bill Stoebig (Alternate # 1). Andrea Rode (Alternate #2) was excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie-Harris, Community Development Director; Tom Shircel, Assistant Village Administrator and Peggy Herrick, Assistant Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE MARCH 10, 2014 PLAN COMMISSION MEETING.**

Don Hackbarth:

So moved approval.

John Braig:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JOHN BRAIG TO APPROVE THE MINUTES OF THE MARCH 10, 2014 PLAN COMMISSION MEETING AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**
- 5. CITIZEN COMMENTS.**

Tom Terwall:

Since both of the items on the agenda tonight are matters for public hearing, we would ask that you hold your comments on those two specific items until the public hearing is held. However, if you wish to raise an issue not on the agenda now would be your opportunity to speak. We'd ask that you step to the microphone and begin by giving us your name and address. Anybody wishing to speak under citizens' comments?

Michael Serpe:

Before we go any further just for the Plan Commission's benefit, Kris Keckler is our new Trustee, and he's sitting next to Steve.

Tom Terwall:

Welcome. I understand you're related to Kip, is that correct?

Kris Keckler

Yeah, father and brother.

**6. NEW BUSINESS.**

**A. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #14-08 FOR AMENDMENTS TO THE VILLAGE COMPREHENSIVE PLAN as a result of the Village no longer being certified for the Farmland Preservation Program by the State of Wisconsin.**

Jean Werbie-Harris:

Mr. Chairman, I'd ask if both items A and B can be brought up at the same time. I'll be making one presentation for both items.

Tom Terwall:

We need a motion.

John Braig:

So moved.

Judy Juliana:

Second.

Tom Terwall:

**MOVED BY JOHN BRAIG AND SECONDED BY JUDY JULIANA TO COMBINE THE ITEMS A AND B FOR PUBLIC HEARING PURPOSES, HOWEVER WE'LL STILL MAINTAIN TWO SEPARATE VOTES. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**B. PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING TEXT AND MAP AMENDMENTS as a result of the Village no longer being certified for the Farmland Preservation Program by the State of Wisconsin: 1) to repeal Section 420-101 entitled, "A-1 Agricultural Preservation District"; 2) to repeal Section 420-14 entitled, "Amendments to Agricultural Preservation Districts"; 3) to amend the following Sections to remove references to the A-1 District and the recently repealed A-4 District and ALHO Districts: Section 420-38 D (6) related to Performance Standards; Section 420-39 C related to pet and animal regulations; Sections 420-49 A and B related to other parking requirements; Sections of 420-86 B related to detached accessory building standards; Section 420-145 H related to notices of conditional uses granted; Section 420-148 B (2) related to conditional use standards for airstrips, landing fields and hangars for personal or agricultural-related uses; Section 420-148 B (20) related to conditional use standards for community living arrangements; and Section 420-148 B (123) related to conditional use standards for wind energy conversion systems; 4) to amend section 420-87 B related to decks to clarify that these regulations refer to properties zoned in the Agricultural or Residential Districts and to clarify street setbacks required; 5) to delete the basic zoning district "A-1 Agricultural Preservation District" from Section 420-100 A (1); 6) to amend Section 420-139 B (8) related to the average street setback and to remove the reference to the A-1 District and add a reference to the AGO District; and 7) to rezone portions of the property located at 6109 85th Street from A-1, Agricultural Preservation District to A-2, General Agricultural District.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, we have two items on the agenda this evening. Both are public hearings that will be held at the same time. The first is a consideration of Plan Commission Resolution #14-08 for amendments to the Village's comprehensive plan as a result of the Village no longer being certified for the Farmland Preservation Program by the State of Wisconsin.

The second item is consideration of several zoning text and map amendments as a result of the Village no longer being certified in the Farmland Preservation Program by the State: 1) to repeal Section 420-101 entitled A-1 Agricultural Preservation District; 2) to repeal Section 420-14

entitled Amendments to Agricultural Preservation Districts; 3) to amend the following sections to remove the references to the A-1 District and the recently repealed A-4 District and ALHO Districts: Section 420-38 D (6) related to Performance Standards; Section 420-39 C related to pet and animal regulations; Sections 420-49 A and B related to other parking requirements; Sections of 420-86 B related to detached accessory building standards; Section 420-145 H related to notices of conditional uses granted; Section 420-148 B (2) related to conditional use standards for airstrips, landing fields and hangars for personal or agricultural-related uses; Section 420-148 B (20) related to conditional use standards for community living arrangements; and Section 420-148 B (123) related to conditional use standards for wind energy conversion systems; 4) to amend Section 420-87 B related to decks to clarify that these regulations refer to properties zoned in the Agricultural or Residential Districts and to clarify street setbacks required; 5) to delete the basic zoning district A-1 Agricultural Preservation District from 420-100 A (1); 6) to amend Section 420-139 B (8) related to the average street setback and to remove the reference to the A-1 District and add a reference to the AGO District; and 7) to rezone portions of the property located at 6109 85th Street from A-1, Agricultural Preservation District to A-2, General Agricultural District.

Again, as I mentioned, these items are related and will be discussed at one time, separate action being required.

On February 10, 2014, the Plan Commission adopted Plan Commission Resolution #14-05 to initiate amendments to the Village's Comprehensive Plan, the Village zoning ordinance, both text and map, as a result of the Village no longer being certified for the Farmland Preservation Program by the State of Wisconsin.

The Wisconsin's Farmland Preservation Program under Chapter 91 of the Wisconsin Statutes was signed into law as 2009 Wisconsin Act 28. The Act had three main components. First, it updated the State's current Farmland Preservation Program; second, it gave the ability for farmers and local units of government to establish voluntary Agricultural Enterprise Areas; and finally it provided a State program to help with the purchase of agricultural conservation easements.

Pursuant to Section 91.10 of the Statutes, Kenosha County, is authorized to prepare and adopt a Farmland Preservation Program Plan. An agreement exists between Kenosha County and the Wisconsin Department of Agriculture, Trade and Consumer Protection known as DATCP for the County to submit a Farmland Preservation Plan and to certify that plan under 91.16 of the Statutes, and that was to be done by December 31, 2011. Adoption of a certified Farmland Preservation Plan makes farmers and landowners eligible to participate in the State tax credit programs, agricultural enterprise areas and the purchase of agricultural conservation easement program.

The Kenosha County Farmland Preservation Plan was prepared by the Kenosha County Department of Planning & Development with input from, and with the oversight of, the Farmland Preservation Advisory Committee, which included representation from the Village of Pleasant Prairie, myself, and a number of open houses and meetings were held on that plan. The plan contains data, maps, goals, objectives and policies required by and in accordance with the State Statutes. On September 19, 2011, the Village Board adopted Ordinance #11-25 to update the original 1981 County Farmland Preservation Plan as a component of the Village's Comprehensive Plan.

Kenosha County submitted the Kenosha County Farmland Preservation Plan to the State DATCP for final review and certification that indicated one property within the Village that the Village believed participated in the Farmland Preservation Program. However, the Kenosha County Farmland Preservation Plan was approved by DATCP without any preservation lands within the Village of Pleasant Prairie because we learned that no farmers were actively participating in the program. Furthermore, on January 10, 2014, the Village received a letter that's attached in your packets indicting that the Village is no longer certified for the Farmland Preservation Program for the tax year 2013 because there's no longer any participants.

As a result the Village is proposing to amend the Comprehensive Plan to note that as of December 31, 2012, the Village is no longer certified in the Farmland Preservation Program by the State of Wisconsin and to repeal the adoption of the Kenosha County Farmland Preservation Plan which is the 2011 update as a component of the Village's Comprehensive Plan. Specifically, the Comprehensive Plan amendments include and, again, these are changes that we are making to the Comprehensive Plan. Those that are identified in red on the overheads and on your screens identify the changes that we're making to the Comp. Plan.

1. In Chapter 6, page 206 of the Plan, it's entitled Soil Suitability for Agricultural Production, we are going to be amending that paragraph with that last sentence that says as of December 31, 2012, the Village is no longer certified for the Farmland Preservation Program by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.
2. In Chapter 6 on page 277 of the Plan, the following recommendation related to Agricultural Resources is being deleted: Continue to participate in and support the Wisconsin Farmland Preservation Program which provides income tax credits to eligible farmland owners in the Village.
3. The third change is in Chapter 9 of the Plan. The last sentence is being added to the second to the last paragraph as it relates to land use plan, background data and maps. And it's that same sentence as previously read with respect to the Village no longer being certified in the Preservation Program.
4. The Village's Comp. Plan is being adopted to delete Section 390-6 E of the Comprehensive Plan Ordinance that relates to the plan of 2011 update. So the Kenosha County Farmland Preservation Plan will no longer be listed as a plan.

And since the Village is no longer certified for the Farmland Preservation Program, the zoning ordinance as attached, both the text and the map, need to be amended, and the following amendments are being made.

1. To repeal Section 420-101 entitled A-1 Agricultural Preservation District.
2. To repeal Section 420-14 entitled Amendments to Agricultural Preservation Districts.
3. To amend all the sections, again, that I read previously into the record that were interwoven throughout the zoning ordinance that related to that A-1 District.

4. To amend section 420-87 B related to decks to clarify that these regulations refer to properties zoned in the Agricultural or Residential Districts with respect to street setbacks.
5. To delete the basic zoning district the A-1 District.
6. And this is related to average street setbacks to remove the reference to the A-1 District and add a reference to the AGO District.
7. To rezone portions of the property, again, the one last participating property in the Village that's no longer participating located at 6109 85th Street, rezone it from A-1, Agricultural Preservation District, to the A-2, General Agricultural District. Please note that any other portions of that property that are currently zoned C-1, Lowland Resource Conservancy District; FPO, Floodplain Overlay District or are located within the shoreland jurisdictional district will remain on that particular property.

So while the Village has had an A-1 District since 1984 when the Town of Pleasant Prairie adopted the zoning ordinance, we find that it is no longer necessary or needed. And, in fact, since we have no farmers participating within the State's Tax Credit Program any longer it was appropriate then to remove all the references in the zoning ordinance. We don't do this very often, but it's a necessary step so that we comply with everything within the Village's ordinance and the Comprehensive Plan. This is a matter for public hearing for both Items A and B.

Tom Terwall:

Is there anybody wishing to speak on these items? Anybody wishing to speak? Anybody wishing to speak? Hearing none I'll open it up to comment and questions.

Michael Serpe:

I'm a little in a fog on this. If a farmer would have participated in the preservation of his land could he ever get out of it, or would he have to stay in it for a certain time? How does that work?

Jean Werbie-Harris:

It was a 25 year program. And if he chose to get out of the program early then he would be responsible to reimburse the State some of the tax credit. Not all of them but a portion of the tax credit. It was a penalty if he got out early. But one by one I think that the farmers had been dropping out over the years. And Mr. McCalis was the only one that was left and wanted to be associated with the A-1 District. It really doesn't affect from our purposes and assessing office, it doesn't affect the value of his property or what he can do with his property as an agricultural use.

Don Hackbarth:

Mr. Chairman, I move we approve Resolution 14-8 the amendments to the Village Comprehensive Plan.

Michael Serpe:

Second.

Tom Terwall:

**ANY FURTHER COMMENTS? WE HAVE A MOTION BY DON HACKBARTH WITH A SECOND BY MIKE SERPE TO APPROVE RESOLUTION 14-08 AS PRESENTED. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. We need a motion now for Item B.

Wayne Koessl:

Mr. Chairman, I move we approve Item B and send a favorable recommendation to the Village Board to approve the zoning map and text amendments as presented.

John Braig:

I'll second it.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JOHN BRAIG TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AND TEXT AMENDMENTS AS PRESENTED. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**7. ADJOURN.**

John Braig:

Move adjournment.



Michael Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

Jean Werbie-Harris:

And just a reminder we do have a special Plan Commission meeting on Monday, April 7th.

**Meeting Adjourned: 6:15 p.m.**

A. **PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING TEXT AMENDMENTS** related to Commercial Communication Structures including: **1)** to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type; **2)** to create Section 420-29 J related to fees for a Commercial Communication Structure Permits; **3)** to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures; **4)** to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3; **5)** to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following Zoning Districts: B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3; **6)** to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and **7)** to delete the definition of "Commercial Communication Structures" as listed in Section 420-152.

**Recommendation:** Village staff recommends that the Plan Commission send a favorable recommendation to the Village Board to approve the Zoning Text Amendments as presented.

## VILLAGE STAFF REPORT OF APRIL 7, 2014

**CONSIDERATION OF SEVERAL ZONING TEXT AMENDMENTS** related to Commercial Communication Structures including: **1)** to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type; **2)** to create Section 420-29 J related to fees for a Commercial Communication Structure Permits; **3)** to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures; **4)** to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3; **5)** to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following Zoning Districts: B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3; **6)** to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and **7)** to delete the definition of "Commercial Communication Structures" as listed in Section 420-152.

*On February 10, 2014 the Village Plan Commission adopted Plan Commission Resolution #14-04 to initiate amendments to the Village Zoning Ordinance and to re-evaluate the Village's Commercial Communication Structure regulations related to the recent changes to State regulations.*

The 2013 Biennial Budget Act for the State of Wisconsin modified the regulatory powers of local governments in regard to cell phone towers as referred to in the Village Ordinances as Commercial Communication Structures. The new law specifies the manner in which a municipality can use zoning to regulate such facilities and lists specific regulations that a municipality may not apply.

The new law created in 2013 Act 20 states specifically that a municipality may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and standards a municipality must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a municipality may not impose on the construction or modification of a tower. The new law does not impact existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law, and building codes. See **attached** Legislative Memorandum dated December 9, 2013 and Section 66.0404 of the Wisconsin State Statutes entitled "*Mobile tower siting regulations*".

Based on these new requirements, the Village is proposing to amend the Village Zoning Ordinance related to Commercial Communication Structures to comply with the new regulations. The biggest change in the ordinance, as required by the new law, is that these facilities are allowed as a principal use in all zoning districts and as an accessory use in all business, manufacturing, institutional and PR-2 and PR-3 zoning districts. No longer is a conditional use permit required.

**PERMITS.** The proposed ordinance regulates the following and requires the issuance of a Commercial Communication Structure Permit (as specified in the proposed Section 420-22 A (7)). The ordinance amendments do not prohibit the issuance of building permits including electrical permits for any equipment structures.

- A "Class 1 collocation" is 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.

[Note: A "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:

1. For structures with an overall height of 200 feet or less, increases in the overall height of the structure by more than 20 feet (as measured from the original permitted height) unless a greater height is necessary to avoid interference with an existing antenna.
  2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more (as measured from the original permitted height) unless a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
  3. For structures with an increase in the width of the support structure by 20 feet or more (as measured from the original permitted width), unless a larger area is necessary for collocation. The increase is measured at the level of the appurtenance added to the structure as a result of the modification,
  4. For increases in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
- A "Class 2 collocation" is 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 or does not need to engage in substantial modification.

If an applicant requests to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. If the service area is inadequate, the areas must be mapped where service is inadequate.

**REVIEW:** For a Class 1 collocation, which includes the siting of a new tower, the Village will process the application similar to a stipulated shoreland permit wherein a 20 day notice period to property owners within 300 feet of the proposed Class 1 collocation is required.

Both Class 1 and Class 2 collocations have specific timeframes required by State law for the Village to act on the application. If the application is not acted on in a timely manner pursuant to the State timelines, the application is automatically approved.

The Village shall within 90 days of its receipt of a complete application for a Class 1 collocation and 45 days for a Class 2 collocation, unless a time extension is agreed in writing, complete the following activities:

- Notify the owner within 10 days if the application is complete or if incomplete the list of items needed to be submitted to make an complete application.
- Review the application to determine whether it complies with all applicable aspects of the Village's zoning, building and fire codes and, subject to the limitations in this section.

- Make a final decision whether to approve or disapprove the application.
- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

Anyone who is aggrieved by the final decision of the Village under may bring an action in the Circuit Court of Kenosha County.

**STANDARDS:** Section 420-89 F sets forth the specific standards for commercial communication structures, including:

- If the site is located within the Airport Overlay District, then the Commercial Communication Structure shall comply with the requirements of a City of Kenosha Airport Overlay District Permit.
- A Commercial Communication Structure is allowed in any zoning district as a permitted principal use on lots that are a minimum of 1-acre in size and having a minimum lot frontage on a public street of 100 feet.
- A Commercial Communication Structure is allowed in any Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use provided that the lots and frontage on a public street meet the minimum lot area and frontage requirements of the underlying zoning district or 2.5 acre in size and having a minimum lot frontage on a public street of 100 feet; whichever is greater.
- A Commercial Communication Structure is allowed in any Agricultural, Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use if it is or when it is mounted on a principal building.
- All new freestanding mobile support structures constructed after January 1, 2014 shall be separated by a minimum of 2,640 feet, except where
  - collocation is not possible on the existing freestanding mobile support structure that would be within 2,640 feet of the new freestanding mobile support structure or
  - the proposed new freestanding mobile support structure is a camouflaged mobile service support structure, as defined in Subsection (B)(5).

In addition, existing freestanding mobile support structures constructed before January 1, 2014 may be reconstructed on the same site without meeting the 2,640 feet separation distance requirement.

- Setbacks and height requirements. The height of any commercial communication structure is measured from the base of the structure at grade to its highest point, including any associated aerials, projections or other attached apparatus. The setback distance shall be measured from the furthest extent of the tower, its aerials, guy wire anchor locations or other equipment or from the foundation of a building.
  - If located within any Institutional, Commercial or Manufacturing zoning district then the setback of any building/structure/equipment associated with a commercial communication structure shall meet the minimum setback requirements specified in the specific zoning district in which it is being located.
  - If located in any Residential, Park and Recreational or Agricultural zoning district then the setback of any building/structure/equipment associated with a commercial communication structure shall comply with the setback requirements specified in the B-1, Neighborhood Business District.

- Antennas, whips, panels, or satellite and/or digital dishes attached to an existing building shall not exceed the height allowed in the underlying zoning district.
- Antennas, whips, panels, or satellite and/or digital dishes attached to an existing structure, such as water towers, transmission towers, silos or other utility poles, shall not extend more than 20 feet above the existing height of said structure.
- Any building/structure/equipment associated with a commercial communication structure shall not be located within the 100-year floodplain.
- If an applicant provides the Village 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 in this subsection, then the required setback shall be reduced unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- Support structures shall be designed, engineered and constructed to handle multiple carriers.
- The building within the equipment compound shall be designed to complement with existing architecture in the area and the fenced equipment compound shall be landscaped with mature foundation plants designed to enhance the facility. Any equipment allowed to be located outside the building within the equipment compound shall be screened from sight by mature landscaping and shall be located or designed to minimize their visibility.
- Equipment compounds are required to be surrounded with a six (6) foot high, vinyl coated, chain-link fence pursuant to the requirements of Article XI of this chapter, unless otherwise approved by the Zoning Administrator.
- All equipment at the base of the tower, except a backup generator, is required to be located within a building that complies with the standards set forth in Section 420-57 H of the Zoning Ordinance (Construction Standards for all non-residential development)
- If required to be lit, red or white lights shall be non-flashing and non-pulsating, unless a different style of lighting is a required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.
- Backup generators if present, shall be operated only during power outages and for testing and maintenance purposes, shall be located within the equipment enclosure and screened from public view.
- The Village does not warrant any communication structure against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a commercial communication permit.
- Commercial Communication Structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.

**LIMITATIONS:** The Village may not do any of the following:

- Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.

- Charge a mobile radio service provider any recurring fee.
- Disapprove an application to conduct an activity based solely on aesthetic concerns.
- Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- Prohibit the placement of emergency power systems.
- Require that a mobile service support structure be placed on property owned by the Village.
- Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
- Limit the duration of any Commercial Communication Structure Permit that is granted.
- Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
- Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the Village in connection with the Village's exercise of its authority to approve the application.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Village to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competitive, economic, financial or other interest.
- Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation. Section 420-89 H sets forth the procedures for abandonment, removal and security for removal that does not exceed the \$20,000 limit.

The State law also sets forth maximum zoning permit fees—a maximum \$3,000 for a Class 1 collocation and not more than what is charged for a similar commercial zoning permit for a Class 2 collocation, which is \$140. (Section 420-29 of the zoning ordinance related to zoning fees is being amended to reflect these permit fees)

**ABANDONMENT.** Any commercial communication structure that is not operated for a continuous period of 12 months shall be considered abandoned. Time may be extended upon review and approval of the Zoning Administrator, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

- The owner of such mobile service support structure and facility shall remove such within 90 days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment.
- If removal to the satisfaction of the Village does not occur within 90 days, the Village may order removal utilizing the established security for removal as provided below and salvage.

- If there are two or more users of a single tower, then this provision shall not become effective until all operation of the tower cease. The owner shall notify the Zoning Administrator when the facility is no longer in operation.

**REMOVAL.** Commercial communication structures shall be removed once they are no longer in use and not a functional part of providing service and that it is the mobile service support structure owners responsibility to remove such structure(s) and restore the site to its original condition or a condition approved by the Zoning Administrator. This restoration shall include the removal of any subsurface structure or foundation including concrete used to support the structure down to 10 feet below the surface. After a communication structure is no longer in operation, the tower owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts. The commercial communication structure owner shall record a document with the Kenosha County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure. A copy of the recorded document shall be provided to the Village.

The owner of the commercial communication structure shall provide to the Village, prior to issuance of a commercial communication structure permit, a performance bond in the amount of \$20,000.00 or a bond equal to a written estimate from a qualified tower removal contractor to guarantee throughout the life of the structure that the structure will be removed when no longer in operation. The Village will be named as the obligee in the bond and must approve the bonding company.

**As a result of the new state requirements, the following Zoning Text Amendments (attached) are proposed:**

1. to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type;
2. to create Section 420-29 J related to fees for a Commercial Communication Structure Permits;
3. to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures;
4. to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3;
5. to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following zoning Districts: B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3;
6. to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and
7. to delete the definition of "Commercial Communication Structures" as listed in Section 420-152.

**Recommendations:**

Village staff recommends that the Plan Commission send a favorable recommendation to the Village Board to approve the Zoning Text Amendments as presented.





WISCONSIN LEGISLATIVE COUNCIL  
INFORMATION MEMORANDUM

**New Law Relating to Local Regulation of Cell Phone  
Transmission Towers**

The 2013 Biennial Budget Act modified the regulatory powers of local governments in regard to cell phone towers. The new law specifies the manner in which a political subdivision can use zoning to regulate cell phone towers and lists specific regulations that a political subdivision may not apply.

**OVERVIEW**

The primary tool used by political subdivisions of the state to regulate the siting and construction of cell phone transmission towers, and other land uses, is zoning. Zoning serves to separate incompatible land uses by segregating them in zones, such as residential, commercial, and industrial zones. A typical zoning ordinance identifies land uses that are prohibited in a particular zone, those that are permitted, and those that are permitted subject to a conditional use permit. For example, cell phone towers are a land use that, under prior law, might have been prohibited in a residential zone but allowed, subject to a conditional use permit, in other zones. Note that not all political subdivisions have zoning ordinances, and those with zoning ordinances vary considerably in how they regulate various land uses.

Two other tools available to political subdivisions to regulate cell phone towers are building codes and other, non-zoning police-power regulations, such as license requirements. Again, not all political subdivisions require building permits; it is not known how many have enacted other police-power regulations, but it is presumed to be very few.

The new law created in 2013 Act 20 states specifically that a political subdivision may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and standards a political subdivision must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a political subdivision may not impose on the construction or modification of a tower. Significant among these, it specifies that a political subdivision may not prohibit the placement of cell phone towers in particular locations within the political subdivision, meaning essentially that it may not designate cell phone towers as a prohibited use in any zone.

The new law does not disturb existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law, and building codes.

## **APPLICABILITY**

The new law applies to local regulation of three types of projects, all for the installation of various types of cell phone transmission facilities:

- Projects requiring construction of a new tower.
- Projects requiring substantial modification of an existing tower and facilities, but not construction of a new tower. Projects of this type are referred to as “class 1 collocations.”
- Projects requiring neither construction of a new tower nor substantial modification of an existing tower and facilities. Projects of this type are referred to as “class 2 collocations.”

The new law defines “substantial modification” as a project that does any of the following:

- For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.
- 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.
- Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

The law defines “permit” as “a permit, other than a building permit, or other approval required by a political subdivision” for one of these types of projects. It defines “political subdivision” as a city, village, town, or county.

The new law specifies that a county ordinance to regulate the construction of a new tower or a class 1 collocation applies only in the unincorporated areas of the county, but not in any town that has such an ordinance in effect. It does not include a parallel provision regarding the applicability of county ordinances regulating class 2 collocations.

## **PERMITTED REGULATIONS AND REQUIRED PROCESSES**

The new law specifies the regulations a political subdivision may impose on cell phone transmission towers and facilities, and the process a political subdivision must follow in reviewing an application for a permit.

### ***PROJECTS REQUIRING NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS***

The new law treats a project requiring substantial modification of an existing tower and facilities the same as a project requiring construction of a new tower.

#### ***Permitted Regulations***

The new law specifies that a political subdivision may enact a zoning ordinance to regulate any of the following:

- The construction of cell phone towers.

- The substantial modification of existing towers and facilities (class 1 collocations).

However, it specifies that a political subdivision may only regulate these activities as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to the activities and may not be enforced against them.<sup>1</sup>

### ***Required Processes***

The new law requires that an ordinance prescribe the application process for obtaining a permit or approval. The ordinance must require that an application include all of the following:

- The name and business address of, and the contact individual for, the applicant.
- The location of the proposed or affected tower.
- The location of the proposed facilities.
- A construction plan that describes the proposed new tower and facilities or the proposed modifications to the existing tower and facilities.
- If an application is to construct a new tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement attesting to one of the following regarding collocation within the area in which the applicant needs to site the new facilities (termed the applicant's "search ring"):
  - Collocation would not result in the same mobile service functionality, coverage, and capacity.
  - Collocation is technically infeasible.
  - Collocation is economically burdensome to the mobile service provider.

The new law specifies that an application is complete if it contains all the information described above; by implication, a political subdivision may not require any additional information from an applicant. If a political subdivision does not believe that an application is complete, it must notify the applicant of this in writing, within 10 days of receiving the application. The notice must specify in detail the information that was lacking from the application. The applicant may refile the application as many times as is needed to complete it.

Within 90 days of receiving a complete application, a political subdivision must do all of the following:

- Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in the new law, zoning ordinances.
- Make a final decision whether to approve or disapprove the application.

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<sup>1</sup> The law appears to contemplate that a political subdivision will require a person engaging in one of these activities to obtain a conditional use permit, since the language does not allow treating them as prohibited uses. However, a political subdivision could elect to treat them as permitted uses.

- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.

If the political subdivision fails to comply with these requirements by the 90-day deadline, the application is considered approved, except that the political subdivision and the applicant may agree to extend the deadline.

A political subdivision may disapprove an application if the applicant refuses to evaluate the feasibility of collocation within its “search ring” and to provide the sworn statement required in the application.

A party that is aggrieved by the political subdivision’s final decision may appeal the decision to the circuit court for the county in which the project was proposed. This appears to allow the aggrieved party to appeal to circuit court without first exhausting administrative reviews at the level of the political subdivision.

### ***Limitations***

The new law specifies that a zoning ordinance does not apply to a particular structure if the applicant provides the political subdivision with an engineering certification showing that the structure is designed to collapse in a smaller area than the setback or fall zone area required in the ordinance. However, the political subdivision may apply the ordinance to the structure if it provides the applicant with substantial evidence that the engineering certification is flawed.

### ***PROJECTS REQUIRING NEITHER NEW CONSTRUCTION NOR SUBSTANTIAL MODIFICATIONS***

As noted earlier, the new law refers to projects that involve neither new construction nor substantial modifications of towers as “class 2 collocations.”

### ***Permitted Regulations***

The new law specifies that a class 2 collocation is a permitted use under a zoning ordinance. It also provides that class 2 collocations are subject to the same building permit requirements as other commercial development or land use development.<sup>2</sup> Again, the law specifies that a political subdivision may only regulate class 2 collocations as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to class 2 collocations and may not be enforced against them.

### ***Required Processes***

The new law specifies a process for the review of “an application for a permit to engage in a class 2 collocation.”<sup>3</sup> The process is a simplified version of the process for other projects, described above. It differs from that process in the following ways:

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<sup>2</sup> The provisions of the new law relating to construction of a new tower or a class 1 collocation do not include a similar statement, but the review process does require the political subdivision to determine whether the proposed project complies with its building code.

<sup>3</sup> As noted above, a class 2 collocation is a permitted use under a zoning ordinance, so there can be no conditional use permit to apply for. Further, building permits are excluded from the definition of “permit,” so the procedures described here do not apply to a building permit application. Consequently, it appears that the new law contemplates that a political subdivision may require a person engaging in a class 2 collocation to apply for a

- Only the first three items of information (identifying the business and the location of the project) are required for an application.
- The political subdivision must inform the applicant of deficiencies in the application within five days of receiving the application, rather than 10 days.
- The political subdivision must complete its actions within 45 days of receiving a complete application as opposed to 90 days, and the list of actions it must complete is slightly different:
  - Make a final decision whether to approve or disapprove the application.
  - Notify the applicant, in writing, of its final decision.
  - If the decision is to approve the application, issue the applicant the relevant permit.
  - If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- The application is not considered automatically approved if the political subdivision does not take final action within the specified time frame.

### **LIMITATIONS ON POLITICAL SUBDIVISIONS' ACTIONS**

Under the new law, a political subdivision may not do any of the following with regard to the construction of a new cell phone tower or a class 1 or class 2 collocation:

- Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.
- Enact an ordinance prohibiting the placement of a cell phone tower in particular locations within the political subdivision.
- Charge a cell phone service provider a fee in excess of one of the following amounts:
  - For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by the political subdivision for a building permit for any other type of commercial development or land use development.
  - For a permit for construction of a new tower or a class 1 collocation, \$3,000.
- Charge a cell phone service provider any recurring fee for a project covered by the law.
- Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of cell phone service permits or applications.

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determination that the activity is, in fact, a class 2 collocation; that is to say, a determination that the political subdivision will not require a conditional use permit for the activity. This Information Memorandum assumes that it is an application for this type of approval to which the process described here applies.

- Disapprove an application based solely on aesthetic concerns.
- Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation.
- Prohibit the placement of emergency power systems.
- Require that a cell phone tower be placed on property owned by the political subdivision.
- Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- Condition approval of such activities on the agreement of the owner of the facilities to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.
- Limit the duration of any permit that is granted.
- Require an applicant to construct a distributed antenna system instead of either constructing a new tower or using collocation.
- Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.
- Require that a mobile cell phone tower or facilities have or be connected to backup battery power.
- Impose a setback or fall zone requirement for a cell phone tower that is different from a requirement that is imposed on other types of commercial structures.
- Consider a project to be a substantial modification if the project adds more than 20 feet to the height of a tower that is not more than 200 feet tall but the greater height is necessary to avoid interference with an existing antenna.
- Consider a project to be a substantial modification if the project adds 20 feet or more to the diameter of the tower but the greater diameter is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
- Limit the height of a cell phone tower to under 200 feet.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the

applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by David L. Lovell, Principal Analyst, on December 9, 2013.

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**WISCONSIN LEGISLATIVE COUNCIL**

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**Ord. #14-\_\_**

**ORDINANCE TO AMEND THE VILLAGE ZONING ORDINANCE RELATED TO COMMERCIAL COMMUNICATION STRUCTURES IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY, WISCONSIN**

**BE IT ORDAINED** by the Village Board of Trustees of the Village of Pleasant Prairie, Kenosha County, Wisconsin, that the following Section of the Village Zoning Ordinance are hereby amended as follows:

1. **To create Section 420-22 A (7) of the Village Zoning Ordinance related to adding a Commercial Communication Structure Permit as a permit type to read as follows:**
  - (7) Commercial communication structure permit. No person shall construct, modify, alter, place, move, enlarge or reconstruct a commercial communication structure that requires a commercial communication structure permit for the project pursuant to this chapter unless a valid commercial communication structure permit has been issued and such permit has neither been suspended or revoked.
  
2. **To create Section 420-29 J related to fees for a Commercial Communication Structure Permit to read as follows:**
  - J. Commercial Communication Structure Permit.
    - (1) A Class 1 collocation or the siting and construction of a new mobile service support structure and facilities: \$3,000
    - (2) A Class 2 collocation or any other modifications to a mobile service facility not classified as a substantial modification: \$140
  
3. **To repeal and recreate Section 420-89 of the Village Zoning Ordinance related to Commercial Communication Structures to read as follows:**

420-89 Commercial communication structures.

  - A. Purpose and intent. The Village may enact a zoning ordinance under s. 62.23 of the Wisconsin State Statutes to regulate commercial communication structures as defined herein.
    - (1) The purpose of this section is to regulate commercial communication structures subject to the provisions and limitations of this section and s. 66.0404 of Wisconsin State Statutes.
    - (2) This section is intended to:
      - (a) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure, consistent with the Federal Telecommunications Act of 1996 and Wisconsin State Statute 66.0404, is provided to serve the community, as well as serve as an important and effective part of the Village's law enforcement, fire, rescue and emergency response network.



- (b) Provide a process for obtaining necessary permits for commercial communication structures while at the same time protecting the interests of Village citizens.
  - (3) This section is not intended to regulate residential communication structures. Residential communication structures are subject to compliance with Section 420-90 of this chapter.
- B. Definitions. The definitions set out below shall apply to this section and shall control with respect to commercial communication structures in the event of any inconsistency between these definitions and the definitions set forth in Article XXI of this chapter.
- (1) "Airport Overlay District Permit" means a permit or site plan approval from the City of Kenosha pursuant to Section 13 of the City of Kenosha Zoning Ordinance related to any land in the Village of Pleasant Prairie within the established approach, overflight of height overlay districts.
  - (2) "Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
  - (3) "Application" means an application for a permit under this section to engage in an activity specified in subsection D (1) or subsection E (1)
  - (4) "Building permit" means a permit issued by the Village that authorizes an applicant to conduct construction activity that is consistent with the Village's building code.
  - (5) "Camouflaged mobile service support structure" means a mobile service support structure that is used for the purpose of making it less obtrusive and/or more aesthetically pleasing with appropriate materials and/or coloration that conceals the structure by making it more difficult to see in that it blends in with the surrounding landscape. A water tower, transmission tower and a silo are examples of camouflaged mobile support structure.
  - (6) "Class 1 collocation" means 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.
  - (7) "Class 2 collocation" means 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 or does not need to engage in substantial modification.
  - (8) "Collocation" means Class 1 or Class 2 collocation or both.
  - (9) "Commercial Communication Structure" includes the mobile service support structure and the mobile service facility as defined in this section.
  - (10) "Commercial Communication Structure Permit" means a permit, other than a building permit, or approval issued by the Village 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.
    - (d) The construction of a mobile service facility.

- (11) "Distributed antenna system" means 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.
- (12) "Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
- (13) "Existing structure" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Village.
- (14) "Fall zone" means the area over which a mobile service support structure is designed to collapse.
- (15) "Mobile service" has the meaning given in 47 USC 153 (33).
- (16) "Mobile service facility" means 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.
- (17) "Mobile service provider" means a person/company who/that provides mobile service.
- (18) "Mobile service support structure" means a freestanding structure that is designed to support a mobile service facility.
- (19) "Propagation Map" means a map that shows signal strength and other engineering evidence from the proposed site in relation to existing and other proposed mobile service support structures.
- (20) "Public utility" has the meaning given in s. 196.01 (5).
- (21) "Search ring" means 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.
- (22) "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 in the overall height of the structure by more than 20 feet (as measured from the original permitted height) unless a greater height is necessary to avoid interference with an existing antenna.
  - (b) For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more (as measured from the original permitted height) unless a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
  - (c) For structures with an increase in the width of the support structure by 20 feet or more (as measured from the original permitted width), unless a larger area is necessary for collocation. The increase is measured at the level of the appurtenance added to the structure as a result of the modification,

- (d) For increases in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
  - (23) "Support structure" means 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.
  - (24) "Utility pole" means a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01 (1d); public utility, as defined in s. 196.01 (5); telecommunications utility, as defined in s. 196.01 (10); political subdivision; or cooperative association organized under ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in s. 182.017 (1g) (cq); video service, as defined in s. 66.0420 (2) (y); for electricity; or to provide light.
- C. Commercial communication structure permit required. No person shall construct, repair, replace, install, enlarge, or alter any commercial communication structure, as defined by this section, unless a valid permit for said structure has first been issued pursuant to this section and such permit has neither expired nor been suspended or revoked. If work has commenced or is completed without proper permits, the Village may take the appropriate action to prosecute the violation of this chapter. See § 420-22 of this chapter for additional information related to a zoning permit for a commercial communication structure, including but not limited to preconditions, application requirements, incomplete applications, approval or denial of an application, issuance of a permit, binding nature of application, acceptance of permit conditions, time limits, assignment, inspections required, suspension, revocation or voiding a permit, circularity, plan changes, plans on file, invalid permits and disclaimer.
- D. New construction or a Class 1 collocation.
- (1) Subject to the provisions and limitations of this section, the Village has enacted this section of the zoning ordinance under s. 62.23 of the Wisconsin State Statutes to regulate and require the issuance of a Commercial Communication Structure Permit for any of the following activities:
    - (a) The siting and construction of a new mobile service support structure and facilities.
    - (b) Class 1 collocation.
  - (2) Applications for a Commercial Communication Structure Permit for activities described in subsection D (1) (a) are made on forms obtained from the Village's Community Development Department. Except as otherwise specifically provided in this section, each applicant shall accurately and legibly complete the application form and shall file it along with 10 full size sets of the plans and other materials and information identified below, one set in which all such plan sheets reduced to fit 11 inches by 17 inches for easy handling, together with the Commercial Communication Structure Permit fee, which shall be payable at the time of application. (Required fees are set out in Article V of this chapter.) The Village follows Wis. States. Section 66.0404 (2) (c) and prefers an application include the following:
    - (a) Name, address, telephone number and fax number (and cell phone number and e-mail address, if applicable) of the applicant and of the

project manager or principal contact individual for purposes of the application.

- (b) Whether the applicant is the owner of the subject real property and, if not, either proof of the applicant's legal interest in the subject real property (e.g., accepted offer to purchase, lease, etc., which may be appropriately redacted to preserve confidential information) or written authorization signed by the owner for the applicant to act as the owner's agent in connection with the application.
- (c) Name, address, and telephone number (and fax number, cell phone number and e-mail address, if applicable) of each owner, developer, user or occupant of the site other than the applicant.
- (d) Street address or location of the subject site.
- (e) Area of the subject site in acres or square feet.
- (f) Tax parcel number(s) of any lot(s) or parcel(s) included within the site.
- (g) Current zoning district(s) of the site.
- (h) Whether the site is located within the Airport Overlay District and requires an Airport Overlay District Permit from the City of Kenosha and proper approvals/permits have been obtained.
- (i) Whether the site is served by public sanitary sewer and public water supply and, if not, where the closest public sanitary sewer and public water facilities are located relative to the site.
- (j) All current principal and accessory uses of the site, whether they are proposed to be continued, and all proposed principal and accessory uses of the site.
- (k) The gross floor area and height of each existing building on the site and whether it is proposed to be continued, and the gross floor area and height of each proposed structure or building.
- (l) A detailed written operational plan description of the proposed project or activity giving rise to the need for plan approval.
- (m) An inventory, propagation map and a listing of all of the applicant's existing towers and antennas which are located within the Village boundaries and within 2,650 feet of the exterior of the Village boundaries. The inventory shall specify the location, antennae height, and structure type of each of the applicants existing towers currently in operation, and an indication of the ability of the existing structures to accommodate additional collocation antennas.
- (n) Plans indicating security measures (i.e. access, fencing, lighting, cameras, knox padlock, etc.).
- (o) If the application is to substantially modify an existing support structure, 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.
- (p) If the application is to construct a new mobile service support

structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

- (q) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. If the service area is inadequate, map the areas where service is inadequate.
- (r) All plans shall comply with the plan requirements described in Section 420-57 of this chapter specifically including:
  - [1] All plan sheets shall comply with the general standards set forth in Section 420-57 B of this chapter.
  - [2] Title sheet pursuant to Section 420-57 D of this chapter;
  - [3] Survey pursuant to Section 420-57 E of this chapter;
  - [4] Site plan pursuant to Section 420-57 F of this chapter;
  - [5] Grading and drainage plan pursuant to Section 420-57 G of this chapter;
  - [6] Construction plan pursuant to Section 420-57 H of this chapter;
  - [7] Lighting plan pursuant to Section 420-57 I of this chapter;
  - [8] Landscape and open space plan pursuant to Section 420-57 J of this chapter;
  - [9] Signage plan pursuant to Section 420-57 K of this chapter;
  - [10] Performance standard compliance plan pursuant to Section 420-57 M of this chapter; and
  - [11] Additional requirements pursuant to Section 420-57 N of this chapter.
- (s) With respect to any nonconforming structure on the site, proof of legal nonconforming structure status (that the structure and each addition to it was legal when it was built);
- (t) For both Class 1 and Class 2 collocations, provide written approval to the Village from any Homeowners Association or Commercial Owner's Association having review and approval authority.
- (u) A description of all local, county, state and federal permits or approvals relating in any way to land use, buildings, development control, land division, environmental protection, sewer service, water service, stormwater management, streets and highways or fire protection that are required for or with respect to the project or activity for which site and operational plan approval is sought and an

appropriate citation to the controlling statute, regulation or other law regarding each such permit or approval; and

- (v) A list of all documents, materials or information attached to the application form.
- (3) Waiver. The Village Zoning Administrator may waive in writing any application requirement which is not necessary for the effective review and determination of the application. Such waivers may be issued at a pre-application conference or at any time during the application or review process. A pre-application conference with the Zoning Administrator or other Village zoning staff members is required for the purpose of discussing the application requirements, as they apply to a particular proposed project or activity, and potential waivers of such requirements.
  - (4) Complete Application. If the Village does not believe that the application is complete, the Village 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 an application as often as necessary until it is complete.
  - (5) Notice. Within 10 days of its receipt of a complete application, the Village shall mail notice by first class mail to the last known address of the applicant, the owner of the subject lot or site, the owners of all real property located within 300 feet of said property (interested parties). Failure of any person to receive actual notice of the request shall not invalidate any action taken by the Village. Interested parties may submit written comments to the Zoning Administrator regarding the application within 20 days from the date that the written notice is mailed.
  - (6) Review. Within 90 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village 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 Village's zoning, building and fire codes and, subject to the limitations in this section.
    - (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, include with the written notification substantial evidence which supports the decision.
    - (e) The Village may hire expert consultants to review any technical information submitted with the application. Costs incurred by the Village will be billed to the applicant, except the applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
  - (7) The Village may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under subsection D (2) (n).

- (8) A party who is aggrieved by the final decision of the Village under subsection D (6) (b) may bring an action in the Circuit Court of Kenosha County.
  - (9) Upon completion of the project, a letter of compliance shall be submitted by the applicant to the Village Zoning Administrator to verify the work has complied with all Village conditions and was completed pursuant to the approved permit. The applicant shall also provide any updated name and contact information for the tower representative.
  - (10) If the Village has in effect an ordinance that applies to the activities described under subsection D (1) and the ordinance is inconsistent with s 66.0404 of Wisconsin State Statutes then that portion of this section does not apply to, and may not be enforced against, the activity.
- E. Class 2 collocation on existing support structures and other modifications.
- (1) Subject to the provisions and limitations of this section, the Village has enacted this section of the zoning ordinance under s. 62.23 to regulate and require the issuance of a Commercial Communication Permit for the following activities:
    - (a) A Class 2 collocation.
    - (b) Any other modifications to a mobile service facility not classified as a substantial modification.
  - (2) Complete Application. The Village follows Wis. Stats. 66.0404 (3) (b) and prefers than an applicant seeking a Commercial Communication Structure Permit to engage in any activity listed in subsection E (1) submit an application containing all of the information required under subsection D (2) and (3). If any of the required information is not in the application, the Village 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.
  - (3) Review. Within 45 days of its receipt of a complete application, the Village shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Village 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 Commercial Communication Structure Permit.
    - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
    - (e) The Village may hire expert consultants to review any technical information submitted with the application. Costs incurred by the Village will be billed to the application, except the applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
  - (4) A party who is aggrieved by the final decision of the Village under subsection E (3) (a) may bring an action in the Circuit Court of Kenosha County.

- (5) Upon completion of the project, a letter of compliance shall be submitted by the applicant to the Village Zoning Administrator to verify the work has complied with all Village conditions and was completed pursuant to the approved permit. The applicant shall also provide any updated name and contact information for the tower representative.

F. Standards for Commercial Communication Structures.

- (1) If the site is located within the Airport Overlay District, then the Commercial Communication Structure shall comply with the requirements of an Airport Overlay District Permit.
- (2) A Commercial Communication Structure is allowed in any zoning district as a permitted principal use on lots that are a minimum of 1-acre in size and having a minimum lot frontage on a public street of 100 feet.
- (3) A Commercial Communication Structure is allowed in any Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use provided that the lots and frontage on a public street meet the minimum lot area and frontage requirements of the underlying zoning district or 2.5 acre in size and having a minimum lot frontage on a public street of 100 feet; whichever is greater.
- (4) A Commercial Communication Structure is allowed in any Agricultural, Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use if it is or when it is mounted on a principal building.
- (5) All new freestanding mobile support structures constructed after January 1, 2014 shall be separated by a minimum of 2,640 feet, except where
  - (a) collocation is not possible on the existing freestanding mobile support structure that would be within 2,640 feet of the new freestanding mobile support structure or
  - (b) the proposed new freestanding mobile support structure is a camouflaged mobile service support structure, as defined in Subsection (B)(5).

In addition, existing freestanding mobile support structures constructed before January 1, 2014 may be reconstructed on the same site without meeting the 2,640 separation distance requirement.

- (6) Setbacks and height requirements. The height of any commercial communication structure is measured from the base of the structure at grade to its highest point, including any associated aerials, projections or other attached apparatus. The setback distance shall be measured from the furthest extent of the tower, its aerials, guy wire anchor locations or other equipment or from the foundation of a building.
  - (a) If located within any Institutional, Commercial or Manufacturing zoning district then the setback of any building/structure/equipment associated with a commercial communication structure shall meet the minimum setback requirements specified in the specific zoning district in which it is being located.
  - (b) If located in any Residential, Park and Recreational or Agricultural zoning district then the setback of any building/structure/equipment associated with a commercial communication structure shall comply



with the setback requirements specified in the B-1, Neighborhood Business District.

- (c) Antennas, whips, panels, or satellite and/or digital dishes attached to an existing building shall not exceed the height allowed in the underlying zoning district.
  - (d) Antennas, whips, panels, or satellite and/or digital dishes attached to an existing structure, such as water towers, transmission towers, silos or other utility poles, shall not extend more than 20 feet above the existing height of said structure.
  - (e) Any building/structure/equipment associated with a commercial communication structure shall not be located within the 100-year floodplain.
  - (f) If an applicant provides the Village 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 in this subsection, then the required setback shall be reduced unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- (7) Support structures shall be designed, engineered and constructed to handle multiple carriers.
  - (8) The building within the equipment compound shall be designed to complement with existing architecture in the area and the fenced equipment compound shall be landscaped with mature foundation plants designed to enhance the facility. Any equipment allowed to be located outside the building within the equipment compound shall be screened from sight by mature landscaping and shall be located or designed to minimize their visibility.
  - (9) Equipment compounds are required to be surrounded with a six (6) foot high, vinyl coated, chain-link fence pursuant to the requirements of Article XI of this chapter, unless otherwise approved by the Zoning Administrator.
  - (10) All equipment at the base of the tower, except a backup generator, is required to be located within a building that complies with the standards set forth in Section 420-57 H of this chapter.
  - (11) If required to be lit, red or white lights shall be non-flashing and non-pulsating, unless a different style of lighting is required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.
  - (12) Backup generators if present, shall be operated only during power outages and for testing and maintenance purposes, shall be located within the equipment enclosure and screened from public view.
  - (13) The Village does not warrant any communication structure against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a commercial communication permit.
  - (14) Commercial Communication Structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities.

Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.

- G. Limitations. With regard to an activity described in subsection D (1) or subsection E (1), the Village may not do any of the following:
- (1) Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
  - (2) Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.
  - (3) Enact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the Village
  - (4) Charge a mobile radio service provider any recurring fee for an activity described in subsection D (1) or subsection E (1).
  - (5) Disapprove an application to conduct an activity described under subsection D (1) or subsection E (1) based solely on aesthetic concerns.
  - (6) Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
  - (7) Prohibit the placement of emergency power systems.
  - (8) Require that a mobile service support structure be placed on property owned by the Village.
  - (9) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
  - (10) Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
  - (11) Limit the duration of any Commercial Communication Structure Permit that is granted.
  - (12) Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
  - (13) Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
  - (14) Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the Village in connection with the Village's exercise of its authority to approve the application.
  - (15) Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Village to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competitive, economic, financial or other interest.
- H. Abandonment, removal and security for removal.
- (1) Abandonment. Any commercial communication structure that is not operated for a continuous period of 12 months shall be considered abandoned. Time

may be extended upon review and approval of the Zoning Administrator, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

- (a) The owner of such mobile service support structure and facility shall remove such within 90 days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment.
- (b) If removal to the satisfaction of the Village does not occur within 90 days, the Village may order removal utilizing the established security for removal as provided below and salvage.
- (c) If there are two or more users of a single tower, then this provision shall not become effective until all operation of the tower cease. The owner shall notify the Zoning Administrator when the facility is no longer in operation.

(2) Removal. It is the express policy of the Village and this section that commercial communication structures be removed once they are no longer in use and not a functional part of providing service and that it is the mobile service support structure owners responsibility to remove such structure(s) and restore the site to its original condition or a condition approved by the Zoning Administrator. This restoration shall include the removal of any subsurface structure or foundation including concrete used to support the structure down to 10 feet below the surface. After a communication structure is no longer in operation, the tower owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts. The commercial communication structure owner shall record a document with the Kenosha County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure. A copy of the recorded document shall be provided to the Village.

(3) Security for removal. The owner of the commercial communication structure shall provide to the Village, prior to issuance of a commercial communication structure permit, a performance bond in the amount of \$20,000.00 or a bond equal to a written estimate from a qualified tower removal contractor to guarantee throughout the life of the structure that the structure will be removed when no longer in operation. The Village will be named as the obligee in the bond and must approve the bonding company.

I. Severability. If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or its applications of this section that can be given effect without the invalid provision or application, and to this end the provision of this section are severable.

4. **To create Section 420-102 B (26) related to commercial communication structures in the A-2 District to read as follows:**

(26) Commercial Communication Structures (as a principal or accessory use per § 420-89)

5. **To create Section 420-103 B (7) related to commercial communication structures in the A-3 District to read as follows:**

(7) Commercial Communication Structures (as a principal or accessory use per § 420-89)

6. **To create Section 420-105 B (1) (e) related to commercial communication structures in the R-1 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
7. **To create Section 420-106 B (1) (e) related to commercial communication structures in the R-2 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
8. **To create Section 420-107 B (1) (e) related to commercial communication structures in the R-3 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
9. **To create Section 420-108 B (1) (e) related to commercial communication structures in the R-4 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
10. **To create Section 420-109 B (1) (e) related to commercial communication structures in the R-4.5 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
11. **To create Section 420-110 B (1) (e) related to commercial communication structures in the R-5 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
12. **To create Section 420-111 B (1) (e) related to commercial communication structures in the R-6 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)
13. **To create Section 420-112 B (1) (b) related to commercial communication structures in the R-7 District to read as follows:**
  - (b) Commercial Communication Structures (per § 420-89)
14. **To create Section 420-113 B (1) (b) related to commercial communication structures in the R-8 District to read as follows:**
  - (b) Commercial Communication Structures (per § 420-89)
15. **To create Section 420-114 B (1) (b) related to commercial communication structures in the R-9 District to read as follows:**
  - (b) Commercial Communication Structures (per § 420-89)
16. **To create Section 420-115 B (1) (b) related to commercial communication structures in the R-10 District to read as follows:**
  - (b) Commercial Communication Structures (per § 420-89)
17. **To create Section 420-116 B (1) (b) related to commercial communication structures in the R-11 District to read as follows:**
  - (b) Commercial Communication Structures (per § 420-89)
18. **To create Section 420-117 B (1) (d) related to commercial communication structures in the R-12 District to read as follows:**
  - (e) Commercial Communication Structures (per § 420-89)

19. **To create Section 420-118 B (4) related to commercial communication structures in the B-1 District to read as follows:**
- (4) Commercial Communication Structures (as a principal or accessory use per § 420-89)
20. **To amend Section 420-118 D (2) related to commercial communication structures in the B-1 District to read as follows:**
- (2) Miscellaneous uses. The following miscellaneous uses may be permitted as conditional uses in the B-1 District:
    - ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building.~~
    - (b) Electric power substation or gas metering substation (only as a principal use on its own lot).
    - ~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~
    - (d) Transmission line (electric power or natural gas).
    - (e) Utility substation building (only as a principal use on its own lot).
21. **To create Section 420-119 B (4) related to commercial communication structures in the B-2 District to read as follows:**
- (4) Commercial Communication Structures (as a principal or accessory use per § 420-89)
22. **To amend Section 420-119 D (3) related to commercial communication structures in the B-2 District to read as follows:**
- (3) Miscellaneous uses. The following miscellaneous uses may be permitted as conditional uses in the B-2 District:
    - ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building.~~
    - (b) Electric power substation or gas metering substation (only as a principal use on its own lot).
    - ~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~
    - (d) Transmission line (electric power or natural gas).
    - (e) Utility substation building (only as a principal use on its own lot).
23. **To create Section 420-120 B (3) related to commercial communication structures in the B-3 District to read as follows:**
- (3) Commercial Communication Structures (as a principal or accessory use per § 420-89)
24. **To amend Section 420-120 D (3) related to commercial communication structures in the B-3 District to read as follows:**
- (3) Miscellaneous uses. The following miscellaneous uses may be permitted as conditional uses in the B-3 District:

- ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building.~~
- (b) Electric power substation or gas metering substation (only as a principal use on its own lot).
- ~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~
- (d) Transmission line (electric power or natural gas).
- (e) Utility substation building (only as a principal use on its own lot).

25. **To create Section 420-121 B (3) related to commercial communication structures in the B-4 District to read as follows:**

- (3) Commercial Communication Structures (as a principal or accessory use per § 420-89)

26. **To amend Section 420-121 C (2) related to commercial communication structures in the B-4 District to read as follows:**

- (2) Miscellaneous uses. The following miscellaneous uses may be permitted as conditional uses in the B-4 District:

- ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building (as either a principal use or an accessory use).~~
- (b) Restaurants or gasoline stations open to the public during hours not routinely allowed pursuant to Subsection J(1) below.
- (c) Electric power substation or gas metering substation.
- ~~(d) Freestanding commercial communication structure (only as a principal use on its own parcel).~~
- (e) Transmission line (electric power or natural gas).
- (f) Utility substation building (only as a principal use on its own parcel).

27. **To create Section 420-122 B (3) related to commercial communication structures in the B-5 District to read as follows:**

- (3) Commercial Communication Structures (as a principal or accessory use per § 420-89)

28. **To amend Section 420-122 D (1) related to commercial communication structures in the B-5 District to read as follows:**

- (1) Principal uses:

- ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal office building.~~
- (b) Electric power substation or gas metering substation (only as a principal use on its own lot).
- ~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~
- (d) Transmission line (electric power or natural gas).

(e) Utility substation building (only as a principal use on its own lot).

29. **To delete Section 420-122 D (2) (a) related to commercial communication structures in the B-5 District:**

(a) ~~Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal office building.~~

30. **To create Section 420-123 B (7) related to commercial communication structures in the M-1 District to read as follows:**

(7) Commercial Communication Structures (as a principal or accessory use per § 420-89)

31. **To delete Section 420-123 D (2) (a) and (c) related to commercial communication structures in the M-1 District:**

~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building (as either a principal use or an accessory use).~~

~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~

32. **To delete Section 420-124 D (4) (a) and (c) related to commercial communication structures in the M-2 District:**

~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building (as either a principal use or an accessory use).~~

~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~

33. **To amend Section 420-125 B related to commercial communication structures in the M-3 District to read as follows:**

B. Principal uses. ~~No principal uses shall be permitted in the M-3 Mineral Extraction and Landfill District, and all uses within this district shall be conditional uses.~~

(1) Commercial Communication Structures (as a principal or accessory use per § 420-89)

34. **To create Section 420-125.1 B (3) related to commercial communication structures in the M-4 District to read as follows:**

(3) Commercial Communication Structures (as a principal or accessory use per § 420-89)

35. **To delete Section 420-125.1 D (1) related to commercial communication structures in the M-4 District**

~~(1) Commercial communication antennas, whips, panels or other similar transmission or reception devices mounted on a principal building (as either a principal use or an accessory use).~~

36. **To create Section 420-125.2 B (3) related to commercial communication structures in the M-5 District to read as follows:**
- (3) Commercial Communication Structures (as a principal or accessory use per § 420-89)
37. **To delete Section 420-125.2 E (3) (a) and (c) related to commercial communication structures in the M-5 District:**
- ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building (as either a principal use or an accessory use).~~
- ~~(c) Freestanding commercial communication structure (only as a principal use on its own lot).~~
38. **To create Section 420-126 B (18) related to commercial communication structures in the I-1 District to read as follows:**
- (18) Commercial Communication Structures (as a principal or accessory use per § 420-89)
39. **To delete Section 420-126 D (21) (a) and (c) related to commercial communication structures in the I-1 District:**
- ~~(a) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building.~~
- ~~(c) Freestanding commercial communication structure.~~
40. **To create Section 420-127 B (4) related to commercial communication structures in the PR-1 District to read as follows:**
- (4) Commercial Communication Structures (per § 420-89)
41. **To create Section 420-127.1 B (8) related to commercial communication structures in the PR-2 District to read as follows:**
- (8) Commercial Communication Structures (as a principal or accessory use per § 420-89)
42. **To delete Section 420-127.1 D (5) related to commercial communication structures in the PR-2 District:**
- (5) ~~Commercial communication structures~~
43. **To create Section 420-127.2 B (12) related to commercial communication structures in the PR-3 District to read as follows:**
- (12) Commercial Communication Structures (as a principal or accessory use per § 420-89)
44. **To delete Section 420-127.2 D (2) related to commercial communication structures in the PR-3 District:**
- ~~(2) Commercial communication structures~~



45. **To create Section 420-128 D (5) related to commercial communication structures in the C-1 District to read as follows:**
- (5) Commercial Communication Structures (per § 420-89) unless otherwise prohibited by law, provided that the activity does not involve filling, flooding, draining, dredging, ditching, tilling or excavation.
46. **To create Section 420-129 B (7) related to commercial communication structures in the C-2 District to read as follows:**
- (7) Commercial Communication Structures (per § 420-89)
47. **To amend Section 420-130 D related to commercial communication structures in the C-3 District to read as follows:**
- D. Principal uses. ~~The maintenance, repair and replacement of, or addition to, existing residential dwellings existing at the effective date of this chapter, provided that any addition or modification meets all setback requirements.~~
- (1) Commercial Communication Structures (per § 420-89) unless otherwise prohibited by law, provided that the activity does not involve filling, flooding, draining, dredging, ditching, tilling or excavation.
48. **To delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures:**
- ~~(17) Commercial communication antennas, whips, panels or other similar transmission or reception devices (but no towers) mounted on a principal building (as either a principal use or an accessory use) in the M-1, M-2, B-1, B-2, B-3, B-4 or B-5 District shall comply with the applicable requirements of § 420-89 of this chapter.~~
- ~~(17.1) Commercial communication structures (as either a principal use or an accessory use) in the M-1, M-2, I-1, PR-2 and PR-3 Districts shall comply with the applicable requirements of § 420-89 of this chapter.~~
49. **To delete the definition of "Commercial Communication Structures" as listed in Section 420-152**
- ~~COMMERCIAL COMMUNICATION STRUCTURES Commercial radio transmission, receiving or relay towers and/or antennas, including, without limitation, cellular telephone towers, emergency communication towers, satellite and/or digital dishes and any associated equipment and buildings.~~

**Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

VILLAGE OF PLEASANT PRAIRIE

ATTEST:

\_\_\_\_\_  
John P. Steinbrink  
Village President

\_\_\_\_\_  
Jane M. Romanowski  
Village Clerk

Posted: \_\_\_\_\_

08-commercial comm