

Chapter 19.55 WIRELESS TELECOMMUNICATIONS FACILITIES

19.55.010 Purpose.

The purpose of this chapter is to provide a thorough and consistent set of standards for the siting and installation of wireless communications facilities in the various zoning districts in which they may be allowed, and more generally to protect the public health, safety, welfare, aesthetics and natural environment of the city in such a manner that does not unduly interfere with the placement and construction of said facilities. More specifically, the intent of this chapter is to:

- A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities through design and siting standards.
- B. Ensure that a business environment characterized by high service quality, competition and nondiscrimination prevails with regard to wireless telecommunication services in a manner consistent with the Federal Telecommunications Act of 1996.
- C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities that adequately protect the interests of the citizens of the city while minimizing the burden of compliance to service providers.
- D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height, location and operation of wireless telecommunications facilities in these areas, and by promoting their disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.
- E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers as an alternative to stand-alone, single-use, single-provider structures, and require good faith attempts for co-location of facilities.

(Ord. No. 1914A, 2-18-2016)

19.55.020 Applicability.

The requirements of this chapter shall apply to all new wireless telecommunications facilities that had not received a building permit prior to adoption of this chapter. Wireless telecommunications facilities, which pre-exist this chapter, or have been legally permitted prior to its adoption, shall not be required to meet the requirements contained herein. This chapter is not intended to regulate residential satellite dishes that are thirty-six inches or less in diameter, residential television antennas, or amateur radio facilities, which instead are regulated under Section 19.06.110. This chapter shall not be construed as to override additional or more stringent federal or state of Wisconsin requirements, including but not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal Communications Commission (FCC), or the Federal Aviation Administration (FAA).

(Ord. No. 1914A, 2-18-2016)

19.55.030 Areas where wireless telecommunication facilities allowed.

Chapter 19.15 to Chapter 19.48 identify the zoning districts in which wireless telecommunications facilities may be allowed, and what types of facilities are allowed as permitted or conditional uses. In no case shall a

wireless telecommunications facility be located in or on districts or sites listed on the State or National Register of Historic Places, or within environmental corridors, wetlands, floodplains, or critical species habitats mapped by the Southeastern Wisconsin Regional Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field surveys.

(Ord. No. 1914A, 2-18-2016)

19.55.040 Type of approval required.

In zoning districts where they are allowed, the first wireless telecommunications facility to be located on an alternative support structure and all new freestanding wireless communication facilities shall require a conditional use permit, and shall meet the standards in this chapter and Chapter 19.66 to obtain approval. In zoning districts where they are allowed, the second or greater wireless telecommunications facility to be located on an alternative support structure already supporting a wireless telecommunications facility or on a pre-existing wireless telecommunications facility shall be allowed as a permitted use, except that any addition or extension to an existing wireless telecommunications facility that adds more than ten feet to the overall height of the existing facility or alternative support structure shall require a conditional use permit. In zoning districts where wireless telecommunication facilities are allowed, wireless telecommunication support facilities shall be allowed as permitted accessory uses upon the establishment of the principal facility. All wireless telecommunication facilities and wireless telecommunication support facilities shall be subject to plan review in accordance with Chapter 19.63.

(Ord. No. 1914A, 2-18-2016)

19.55.050 Required application submittal information.

With the application for plan review or conditional use permit for a wireless telecommunications facility, the petitioner shall submit all information required under Section 19.63.020, along with the following additional information:

- A. The identity, legal status, signature and contact information of the carrier, service provider, petitioner, and landowner.
- B. FCC license and registration numbers if applicable.
- C. A report prepared by a Wisconsin licensed engineer certifying the structural design of the telecommunications facility of a new freestanding wireless telecommunications facility as proposed and its physical ability to accommodate, either initially or at some time in the future, a total of at least three antenna arrays for separate providers.
- D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not preclude the lessee from entering into sub-leases on the site at market rates with another co-locating provider(s) and includes the legal description and amount of property lease.
- E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of an affidavit of notification indicating that the airport operator and airport property owner have been notified via certified mail, along with copies of the determination of no hazard from the FAA or any other finds of the Wisconsin State Bureau of Aeronautics, such as they may apply.
- F. Proof of a satisfactory level of liability insurance coverage, with the city of Whitewater listed as an additional named insured party.
- G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage area of the proposed facility.

-
- H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility analysis that identifies at least three alternative sites, pre-existing freestanding wireless telecommunications facilities, and/or alternative support structures that could technically support a comparable level of service. The intent of this analysis is to present options to minimize the number, size, and adverse environmental impacts of wireless telecommunications facilities. The analysis shall specifically address the potential for co-location on pre-existing freestanding wireless telecommunications facilities and the use of alternative support structures. It shall also explain the rationale for selection of the proposed site in view of the relative merits of the alternatives. Approval of the project is subject to the plan and architectural review commission's determination that the chosen site is more advantageous than any other alternative site that is both technically feasible and available for use. The plan and architectural review commission may choose to independently verify the findings of the analysis at the applicant's expense.
 - I. For a wireless telecommunications facility that requires a conditional use permit, a performance bond in the amount of \$20,000.00 naming the city as obligee, as security for the potential future removal of abandoned or inactivated facilities.
 - J. For a wireless telecommunications facility that would be set back from any property line or, principal building a distance less than the height of the facility, including the height of any alternative support structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would not pose a threat to the public, existing principal buildings or adjacent properties in the event of failure.
 - K. The amount and location of any fuel proposed to be stored on site.
 - L. Any other information that the zoning administrator may deem necessary.

(Ord. No. 1914A, 2-18-2016)

19.55.060 Co-location and use of alternative support structures.

- A. In its review of alternative sites considered by the petitioner, the plan and architectural review commission shall prioritize reasonable alternatives that involve co-locating the new facility on an existing freestanding wireless telecommunications facility or locating the new facility on an alternative support structure, such as a tall building, water tower, smokestack, or electrical transmission tower. Co-location or use of an alternative support structure shall not be required on any facility or structure not structurally designed to accommodate a new wireless telecommunications facility.
- B. All freestanding wireless telecommunication facilities issued a conditional use permit after the effective date of this chapter, known hereinafter as "host facilities," shall make available space for the co-location of telecommunications antennas or antenna arrays for at least two additional competing wireless telecommunications providers, including space for wireless telecommunication support facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate, to the satisfaction of the plan and architectural review commission, that the placement of the additional antennas or equipment would impair or disrupt, for a significant period of time, the service provided by the host facility.
- C. Where a wireless telecommunication facility provider proposes to utilize an alternative support structure, the provider shall make available space for the co-location of telecommunications antennas or antenna arrays for at least two additional competing wireless telecommunications providers to the extent practical, and shall thereafter be considered a host facility. If the plan and architectural review commission determines based on evidence supplied by the applicant that the proposed facility or alternative support structure is not structurally sound or not otherwise appropriate for additional antennas or arrays, the commission may waive this requirement.

-
- D. All new wireless telecommunication facilities and sites shall be designed to promote sharing of both tower space and ancillary facilities such as access roads, parking areas, buildings, and utilities.
 - E. The owner or operator of the host facility shall make co-location space reasonably available to other competing providers at prevailing market lease rates for the industry. Failure to comply with this provision shall be grounds for revocation of the conditional use permit.
 - F. Alternative support structures must be at least fifty feet in height to be considered for the addition of a wireless telecommunication facility, not including the height of any architectural projections. The plan and architectural review commission may deny the placement of numerous wireless telecommunication facilities on a single alternative support structure if it determines that such placement would have a negative aesthetic, architectural, public safety, or operational impact.
 - G. Wireless telecommunications facilities located on alternative support structures shall be considered accessory uses.

(Ord. No. 1914A, 2-18-2016)

19.55.070 Structural, design and aesthetic standards.

All wireless telecommunications facilities shall be designed and sited in such a manner to minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

- A. Compliance with All Applicable Restrictions. All wireless telecommunications facilities shall comply with all city, state and federal regulations, restrictions, codes, standards and power density limits, including other city zoning ordinance standards.
- B. Materials. Wireless telecommunications facilities shall be constructed of metal or other nonflammable material, and freestanding facilities shall be self supporting monopoles or lattice towers, unless otherwise permitted by the plan and architectural review commission. Material color shall blend with surroundings.
- C. Placement. All wireless telecommunications facilities and support facilities shall be located and installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing topography and vegetation to minimize visual impact on surrounding properties and public rights-of-way. No wireless telecommunication facility shall be placed in a location that would physically obstruct or otherwise interfere with the full use of other wireless telecommunication facilities, residential satellite dishes, residential television or radio antennas, or amateur radio facilities.
- D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines and principal buildings on the site shall equal the height of the wireless telecommunications facility, including the height of any alternative support structure. A reduced setback below this minimum may be considered by the plan and architectural review commission based on submittal of a structural engineering analysis demonstrating that the facility would not pose a threat to the public, existing principal buildings, or adjacent properties in the event of failure. All wireless telecommunications support facilities shall be set back from property lines the same distance as required for principal buildings in the zoning district.
- E. Height. The maximum height above existing grade for any freestanding wireless telecommunications facility, including all antennas, shall be two hundred and fifty feet. Any wireless telecommunications facility mounted on an alternative support structure may extend no greater than fifty feet above the height of an alternative support structure that is less than two hundred feet in height, or no greater than ten feet above the height of an alternative support structure that is two hundred feet in height or

greater. The plan and architectural review commission may approve waivers to such height limitations if necessary to facilitate co-location of facilities.

- F . Signage. No commercial message or signage shall be allowed at or on any wireless telecommunications facility, wireless telecommunications support facility, or site used for a wireless telecommunications facility.
- G . Driveways. Access driveways shall be surfaced in accordance with the requirements of Section 19.51.110.
- H . Landscaping and Fencing. The site including the wireless telecommunications facility shall be attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon planting and shall be located on the outside of any required fencing. The base of all freestanding wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant provides other acceptable improvements designed to secure the base of the facility (tower) from public access.

(Ord. No. 1914A, 2-18-2016)

19.55.080 Abandonment and removal.

Any wireless telecommunications facility not continuously operating for a period of twelve months shall be considered abandoned and shall be removed (along with its wireless telecommunication support facilities) within ninety days of receiving an order to remove from the zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit holder. In the event that the permit holder fails to remove the facility, the city may cash the required performance bond and remove the facility and all support facilities itself.

(Ord. No. 1914A, 2-18-2016)

19.55.090 Compliance.

- A. All wireless telecommunications facilities granted site plan or conditional use permit approval after the effective date of this chapter shall remain in compliance with approved plans, conditions of approval, the provisions of this chapter as they existed at the time of permit approval, and applicable standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.
- B. The permit holder for all wireless telecommunications facilities granted conditional use permit approval after the effective date of this chapter shall file an annual report with the zoning administrator demonstrating continued compliance with approved plans, conditions of approval, the provisions of this chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability insurance policy required under Section 19.55.050 shall remain in effect for at least two years from the date the annual report is submitted. Such report shall be filed within thirty days of the original month of conditional use permit approval.
- C. Failure to comply with subsections A. and B. above may be grounds for revocation of the permit, penalties pursuant to Section 19.75.080, or both.

(Ord. No. 1914A, 2-18-2016)