

TOWN OF NIAGARA
COMMUNICATIONS TOWER REGULATIONS ORDINANCE
Ordinance # 2021-3-A

SECTION I – TITLE

This ordinance is entitled the Town of Niagara Mobile Tower Siting Ordinance.

SECTION II – PURPOSE

The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities;

(2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and

(3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

SECTION III – AUTHORITY

The Town of Niagara Town Board has the specific authority under ss. 60.61 and 66.0404, Wis. Stats., to adopt and enforce this ordinance.

SECTION IV – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

SECTION V – DEFINITIONS

- A. All definitions contained in s. 66.0404(1) are hereby incorporated by reference.
- B. Town- Town of Niagara or Niagara Town Board
- C. "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.
- D. "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 engage in substantial modification.
- E. "Collocation" means class 1 or class 2 collocation or both.

SECTION VI - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by

lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VII – SITING AND CONSTRUCTION OF ANY NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES

A. Application Process

1. A town Conditional Use and building permit is required for the siting and construction of any new mobile service support structure and facilities.
2. A written permit application must be completed by any applicant and submitted to the town Zoning Administrator. The application must contain the following information:
 - a. The name and business address of, and the contact individual, for the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The parcel number of the proposed mobile service facility.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. The Zoning Administrator shall submit to the Planning Commission the completed applications for review and a public hearing.
3. A permit application will be provided by the Zoning Administrator upon request to any applicant.
4. If an applicant submits to the Zoning Administrator an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Zoning Administrator shall consider the application complete. If the town does not believe that the application is complete, the town 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. Within 90 days of its receipt of a complete application, the Zoning Administrator shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town 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 political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - 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.
6. The Zoning Administrator may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
7. If an applicant provides the Zoning Administrator 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 set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
8. The fee for the permit-is determined by the Fee Ordinance fee can be waived by the Town of Niagara Town Board if they deem it may contribute to the economic growth of the community and/or said tower enhances the general health, safety or welfare of the citizenry.

SECTION VIII – CLASS 1 COLLOCATION

A. Application Process

1. A town conditional use and building permit is required for a class 1 collocation. A class 1 collocation is a "conditional use" in the town obtainable with this permit. The permit requirements should be consistent with respects to all Town of Niagara Zoning ordinances.
2. A written permit application must be completed by any applicant and submitted to the town Zoning Administrator. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. 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. A conditional use permit is required.
 - e. 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. A conditional use permit is required.
 - f. 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.

3. A permit application will be provided by the town Zoning Administrator upon request to any applicant.
4. If an applicant submits to the town Zoning Administrator an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town Zoning Administrator shall consider the application complete. If the town Zoning Administrator does not believe that the application is complete, the town Zoning Administrator 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. A copy of said notice shall be given to the Planning Commission and Town Board
5. Within 90-days of its receipt of a complete application, the town Zoning Administrator shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town Zoning Administrator 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 political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - 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.
6. The Zoning Administrator may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
7. If an applicant provides the town 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 set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
8. The fee for the permit is determined by the Fee Ordinance This fee can be waived by the Niagara Town Board if they deem it may contribute to the economic growth of the community and/or said tower enhances the general health, safety or welfare of the citizenry.

SECTION IX – CLASS 2 COLLOCATION

A. Application Process

1. A class 2 collocation requires the issuance of a town building permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The parcel number of the proposed mobile service facility.
3. A permit application will be provided by the town upon request to any applicant.
4. A class 2 collocation is subject to the same requirements for the issuance of a conditional use and building permit to which any other type of commercial development or land use

development is subject. The permit requirements should be consistent with respects to all Town of Niagara zoning ordinances.

5. If an applicant submits to the town Zoning Administrator an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the Zoning Administrator shall consider the application complete. If any of the required information is not in the application, the Zoning Administrator 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.

6. Within 45-days of its receipt of a complete application, the Zoning Administrator shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town Zoning Administrator may agree in writing to an extension of the 45-day period:

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

7. The fee for the permit is determined by the Fee Ordinance. This fee can be waived by the Niagara Town Board if they deem it may contribute to the economic growth of the community and/or said tower enhances the general health, safety or welfare of the citizenry.

SETBACKS/FALL ZONE - A setback requirement (fall zone) to be based on the height of the proposed support structure, and the setback requirement not be a distance that is greater than the height of the proposed structure.

The planning commission may recommend Special Conditions as required by the town
Out of Service towers and structures shall be removed and parcel returned to its original state. A demolition (razing) permit shall be obtained by the Town Zoning Administrator

Private TV, satellite dishes and ham radio towers to be exempt from this ordinance.

The Citation Ordinance shall be implemented for all infractions.

Special Fees may be assessed as stated in the Fee Ordinance and approved by the Town Board.

SEVERABILITY

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

This ordinance become effective upon passage and publication. Passed this 16th day of March, 2021

Mark DeClark, Chairman

Ronald Neuens, Supervisor

David Sanicki, Supervisor

Attested by Dawn Johnson, clerk