

**TOWN OF PINE RIVER**  
**ZONING ORDINANCES**

## **TABLE OF CONTENTS**

SECTION	1.0	<b><u>Introduction</u></b>
	1.1	Authority
	1.2	Purpose
	1.3	Intent
	1.4	Abrogation and Greater Restrictions
	1.5	Interpretation
	1.6	Severability
	1.7	Repeal
	1.8	Title
	1.9	Effective Date
SECTION	2.0	<b><u>General Provisions</u></b>
	2.1	Jurisdiction
	2.2	Compliance
	2.3	Zoning Permit
	2.4	Site Restrictions
	2.5	Use Restrictions
	2.6	Trailers and Mobile Homes
	2.7	Junk Vehicles
	2.8	Reduction and Joint Use
	2.9	Violations
	2.10	Penalties
SECTION	3.0	<b><u>Zoning Districts</u></b>
	3.1	Establishment
	3.2	Zoning Map
	3.3	R-1 Residential District
	3.4	R-2 Rural District
	3.5	S-1 Subdivision District
	3.6	B-1 Business District
	3.7	M-1 Industrial District
	3.8	M-2 Quarrying District
	3.9	A-1 Agricultural District
	3.10	P-1 Public and Semipublic District
	3.11	Animals
	3.12	Special Exception Permit
SECTION	4.0	<b><u>Conditional Uses</u></b>
	4.1	Permit
	4.2	Application
	4.3	Review and Approval
	4.4	Public and Semipublic Use
	4.5	Residential Uses
	4.6	Industrial and Agricultural Uses

	4.7	Mineral Extraction
	4.8	Recreational Uses
SECTION	5.0	<u>Traffic, Parking, and Access</u>
	5.1	Traffic Visibility
SECTION	6.0	<u>Modifications</u>
	6.1	Height
SECTION	7.0	<u>Signs</u>
	7.1	Permit Required
	7.2	Signs Excepted
	7.3	General Requirements
	7.4	Signs Permitted
	7.5	Traffic
	7.6	Driveway Reflectors
	7.7	Existing Signs
SECTION	8.0	<u>Nonconforming Uses, Structures, and Lots</u>
	8.1	Existing Nonconforming Uses
	8.2	Abolishment or Replacement
	8.3	Existing Nonconforming Structures
	8.4	Changes and Substitutions
SECTION	9.0	<u>Zoning Administrator</u>
	9.1	Administrative Duties
	9.2	Enforcement Duties
SECTION	10.0	<u>Town Plan Commission</u>
	10.1	Establishment
	10.2	Compliance
	10.3	Membership
	10.4	Organization
	10.5	Powers
	10.6	Hearings on Conditional Uses
	10.7	Appeals
SECTION	11.0	<u>Town Board and Appeals</u>
	11.1	The Controlling Entity
	11.2	Powers
	11.3	Appeals and Applications
	11.4	Hearings
	11.5	Findings
	11.6	Decision
	11.7	Review by Court of Record
	11.8	Board of Appeals

SECTION 12.0 Changes and Amendments

- 12.1 Authority
- 12.2 Initiation
- 12.3 Petitions
- 12.4 Hearings
- 12.5 Town Board's Action
- 12.6 Protest

SECTION 13.0 Definitions

SECTION 14.0 Towers and Antennas

- 14.1 Statement of Intent
- 14.2 Definitions
- 14.3 Applicability
- 14.4 General Provisions
- 14.5 Permitted Uses
- 14.6 Permitting Requirements
- 14.7 Removal of Abandoned Antennas and Towers
- 14.8 Conflicting Ordinances and Effective Date

# **SECTION 1.0**

## SECTION 1.0 INTRODUCTION

### 1.1 Authority

These regulations are adopted under the authority granted by Section 60.62, 61.35 and 62.23 of the Wisconsin Statutes. Therefore, the Town Board of the Town of Pine River, Wisconsin, does ordain as follows:

### 1.2 Purpose

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community while protecting property rights. It shall not be the purpose of this Ordinance to modify, change, or preclude an existing use in this Township. By way of example and without limitation, such residential users or subdivisions shall not object to agricultural practices that include spreading manure, the smell or noise of livestock, or the vibration or noise of machinery.

### 1.3 Intent

The Town of Pine River will strive to preserve its quality of life and meet the broad needs of our growing community. We will promote thoughtfully planned housing and commercial development along with agricultural and recreational enterprises that meet the needs of our diverse population while minimizing their impact on our rural landscape and natural resources. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation. The Town of Pine River will not enforce private restrictive covenants.

### 1.4 Abrogation and Greater Restrictions

Subject to Section 8 herein, it is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

### 1.5 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

### 1.6 Severability

In any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court or competent

jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.7 Repeal

All other ordinance or parts of ordinances of the Town of Pine River inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.8 Title

This Ordinance shall be known as the "TOWN OF PINE RIVER ZONING ORDINANCE".

1.9 Effective Date

This Ordinance shall be effective after public hearing and special town meeting, adoption by the Town Board and approval by the County Board.



## **SECTION 2.0**



## SECTION 2.0 GENERAL PROVISIONS

### 2.1 Jurisdiction

The jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the Town of Pine River.

### 2.2. Compliance

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except minor structures and without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.

### 2.3 Zoning Permit

Applications for a zoning permit shall be made in duplicates to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following information:

Names and Addresses of the applicant, owner or the site, or contractor.

Description of the Site by metes and bounds; address of the site; type of structure; existing and proposed use of the structure or site; and the zoning district within which the site lies.

Plat of Survey prepared by the property owner showing the location, boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, turning areas and driveways; existing highway access restrictions; existing and proposed streets. If a new parcel is proposed of less than ten (10) acres, a survey by a registered land surveyor is required.

Proposed Sewage Disposal Plan showing that satisfactory, adequate, and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state board of health regulations. All lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Section Com 83 of the Wisconsin Administrative Code. Each application shall be accompanied by a soil absorption test map, unless a map for the site is already on file with the Zoning Administrator.

Proposed Water Supply Plan showing that safe and adequate water supply is available.

The Town takes no responsibility for water or septic failures for any property owners.

Description of possible air pollution, noise levels, vibration levels, or obnoxious odors.

Additional Information as may be required by the Town Plan Commission, Building, Zoning, or Health Administrator.

A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days. The permit shall expire within twelve (12) months unless substantial work has commenced. Work not completed within twenty-four (24) months shall be in violation of this Ordinance unless a new zoning permit has been granted.

Outbuildings. A zoning permit is not required for outbuildings one hundred fifty (150) square feet or less.

#### 2.4 Site Restrictions

No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Zoning Administrator by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Zoning Administrator, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Zoning Administrator may affirm, modify, or withdraw its determination of unsuitability.

All Lots shall abut upon a public street or roadway, or have easement access to a public street or roadway. Only one principal resident structure shall be located, erected, or moved onto a lot.

#### 2.5 Use Restrictions

The following use restrictions and regulation shall apply:

Principal Uses. Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.

Accessory Uses. Residential accessory uses shall not involve the conduct of any business, trade, or industry, except home occupation businesses. Accessory uses include:



Incidental repairs; storage or parking facilities; bus shelters; gardening; private swimming pools; and private emergency shelters.

Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Plan Commission in accordance with Section 4.0.

Unclassified or Unspecified Uses may be permitted by the Town Board in accordance with Section 11.0 after the Town Plan Commission has made a review and recommendation, provided that such uses are similar in character to the principal use permitted in the district.

Temporary Uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Board.

## 2.6 Trailers and Mobile Homes

The following regulations shall apply to trailers and mobile homes:

Residential Use. No person shall occupy a mobile home for living purposes unless a permit has been granted by the Town Plan Commission.

Non-residential Use. A mobile home not being used for living purposes and a trailer shall not be considered to be permissible as an accessory building. However, a trailer may be used as a temporary office on the premises during the time construction is actively underway. The parking of one unoccupied trailer (28 feet or less in length) is permitted in any garage or in a rear yard, provided that no living quarters are maintained in such trailer while so parked or stored in the R-1 districts. In A-1 districts, a property owner shall have no more than one storage trailer on average for each twenty (20) acres of land. In R-2 districts, a property owner shall have no more than one (1) storage trailer for each tax parcel of land.

Temporary Permit. The Town Plan Commission may, at its option, issue special written permits to the occupants of a mobile home. The permit shall expire one (1) year from the date of issuance, but may be renewed the additional periods for one (1) year.

Application for Permit. Application for the permit shall be made to the Zoning Administrator and shall state the name and address of the applicant, the location of the premises, name of the owner of the premises, explanation of the reasons why a permit is desired on this

location, proposed sewage disposal plan, and proposed water supply plan.

2.7 Junk Vehicles

Pursuant to Section 175.25(2), Wis. Stats., there shall be no accumulation or storage of junk vehicles within 750 feet of the center line of any county trunk, state trunk or federal highway, or within 500 feet of the center line of any Town road, except upon a permit issued by permission of the Town Board. A junk vehicle shall be defined as a vehicle that is incapable of operation or use upon a highway and which has no resale value, except as a source of parts or scrap.

2.8 Reduction and Joint Use

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

2.9 Violations

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, the Zoning Administrator, the Town Plan Commission, or any property owner who would be specifically damaged by such violation, may institute appropriate action or proceedings to enjoin a violation of this Ordinance.

2.10 Penalties

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit One Hundred Dollars (\$100.00) and costs of prosecution for each violation, and in default of payment of such forfeiture and costs. Each day a violation exists or continues shall constitute a separate offense. In the event the penalty and costs are not paid within thirty (30) days, the Town of Pine River may assess any and all penalties, including costs to the property owner on the property tax bill by approval of the Town Board. The citation shall be issued by the Zoning Administrator or as authorized by the Town Board.

## **SECTION 3.0**



## SECTION 3.0 ZONING DISTRICTS

### 3.1 Establishment

In recognition of the close vicinity of the Town to the City of Merrill, and in recognition of the intent to keep the rural nature of the Town, particularly in the eastern part of the Township, for the purposes of this Ordinance, the Town of Pine River is hereby divided into the following eight zoning districts:

- R-1 Residential District
- R-2 Rural District
- S-1 Subdivision District
- B-1 Business District
- M-1 Industrial District
- M-2 Quarrying District
- A-1 Agricultural District
- P-1 Public and Semipublic District

Boundaries of these Districts are hereby established as shown on a map entitled "Town of Pine River Zoning Map", dated October 27, 2005, which accompanies and is part of this Ordinance. Such boundaries shall be construed to follow: corporate limits; thread of streams or rivers; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended, unless otherwise noted on the Zoning Map.

### 3.2 Zoning Map

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the Town Board Chairman and Town Clerk and shall be available to the public in the offices of the Town Clerk and Zoning Inspector.

Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

### 3.3 R-1 Residential District:

#### Principal Use

One-family dwellings

#### Permitted Uses

Home occupation business and animal raising as described in Section 3.11

#### Conditional Uses

As provided in Section 4

<u>Lot</u>	Area	Minimum one acre
<u>Yards</u>	Street	Minimum 75 ft. from road centerline
	Side	Minimum of 25 ft. total for both sides from the property boundary to the foundation, with a minimum of 10 ft. per side

#### 3.4 R-2 Rural District:

<u>Principal Use</u>		One-family dwellings
<u>Permitted Uses</u>		Home occupation business, animal raising as described in Section 3.11, small scale farming and recreational uses
<u>Conditional Uses</u>		As provided in Section 4
<u>Lot</u>	Area	Minimum five acres
<u>Yards</u>	Street	Minimum 75 ft. from road centerline
	Side	Minimum of 25 ft. total for both sides from the property boundary to the foundation, with a minimum of 10 ft. per side

#### 3.5 S-1 Subdivision District:

<u>Principal Use</u>		One-family dwellings
<u>Permitted Uses</u>		Home occupation business and animal raising as described in Section 3.11
<u>Conditional Uses</u>		As provided in Section 4
<u>Lot</u>	Area	As allowed per subdivision plat
<u>Yards</u>	Street	Minimum 75 ft. from road centerline
	Side	Minimum of 25 ft. total for both



sides from the property  
boundary to the foundation, with  
a minimum of 10 ft. per side

3.6 B-1 Business District:

Zoning permits for business use may be granted as conditional uses in accordance with Section 4. This provision is not required for a home occupation business. The Town reaffirms, in its entirety, its Nudity Ordinance, as if fully contained herein.

3.7 M-1 Industrial District. Zoning permits for industrial uses may be granted as conditional uses in accordance with Section 4. Zoning permits shall be required for any modification to existing or new industry, notwithstanding that the property may currently be zoned M-1 Industrial.

3.8 M-2 Quarrying District. Quarrying districts shall be as Lincoln County and the State of Wisconsin, including any ordinances, statutes, administrative code, or rules or regulations thereof.

In addition, quarry, metallic or non-metallic mineral extraction operation, including sand and gravel mix for manufacture of concrete and asphalt products, shall require a permit from the Town of Pine River. The Town may grant a conditional use permit subject to the provisions of Section 4, further taking into consideration the access onto Town roads from an operation, odor and vibrations of the operation to the surrounding neighborhood, hours of operation, use and wear and tear of the Town roads, bridges and culverts. The Town may require a bond or line of credit for the duration of the operation to cover expenses incurred by the Town of Pine River to maintain or repair roads, bridges and culverts damaged as a result of the operation.

3.9 A-1 Agricultural District:

Principal Uses. Dairying, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, stables and truck farming.

Permitted Uses. Home occupation business, animal raising as described in Section 3.11, farming, and recreational uses.

<u>Farm</u>	Frontage Area	Minimum 100 ft.
<u>Yards</u>	Street	Minimum 100 ft. from road centerline
	Rear	Minimum 50 ft.

Side

Minimum 50 ft.

This provision does not preempt requirements for lands claiming the Farmland Preservation Credit.

A division of land within the A-1 Agricultural District shall be subject to the Subdivision/Land Division Ordinance of the Town of Pine River. Any divisions of land for use other than the principal uses for agriculture stated herein shall be subject to the lot size requirements for R-1 or R-2 Districts.

3.10 P-1 Public and Semipublic District:

Principal Uses. Park, arboretums, playgrounds, golf courses, fishing, wading, swimming, beaches, boat landings, skating, sledding, snow mobile trails, sustained yield forestry, wildlife preserves, soil and water conservation, water measurement and water control facilities.

Conditional Uses. All structures; see Sections 4.4 and 4.8.

3.11 Animals:

For all districts, the maximum capacity of animals shall be one (1) animal unit per acre, unless a nutrient management plan is approved by the Town Plan Commission or Town Board. One (1) animal unit is the equivalent of 1,000 lbs. of animal, whatever the species. 4-H and FFA users shall be exempt from this Ordinance.

A nutrient management plan is designed to properly address excess nutrients that are produced. Examples include, without limitation, obtaining permission to locate manure on neighboring property, composting or sale to gardeners.

3.12 Special Exception Permit:

Any owner may petition the Town for relief from the lot size provisions of this Ordinance by special exception permit directly to the Town Board, with the requirements of notice to adjacent land owners. A smaller lot size may be permitted by the Town Board consistent with the purpose and intent of the provisions of this Zoning Ordinance.

## **SECTION 4.0**



## SECTION 4.0 CONDITIONAL USES

### 4.1 Permit

The Town Plan Commission may authorize the Zoning Administrator to issue a conditional use permit after review and a public hearing, provided that such conditional use and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

### 4.2 Application

Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the information requested under Section 2.3.

### 4.3 Review and Approval

The Town Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, turning area, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems, and the proposed operation.

Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Town Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in Section 11.0.

### 4.4 Public and Semipublic Uses

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

Governmental and Cultural Uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all districts.

Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.

Public, Parochial, and Private Elementary and secondary schools and churches provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

Cemeteries and crematories in the A-1 District provided all principal structures and uses are not less than fifty (50) feet from any lot line.

4.5 Residential Uses

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

Clubs, fraternities, lodges, and meeting places of a non-commercial nature provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

Rest Homes, nursing homes, homes for the aged, clinic, and children's nurseries provided all principal structures and uses are not less than fifty (50) feet from any lot line.

4.6 Industrial and Agricultural Uses

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

Animal Hospitals provided the lot area is not less than three (3) acres, and all principal structures and uses are not less than one hundred (100) feet from any residential district.

Fur Farms in the A-1 District provided they are not offensive or adverse to the value of the neighborhood.

Commercial Raising, propagating, boarding, or butchering of animals, such as dogs, mink, rabbits, foxes, goats, and pigs; the commercial production of eggs; and the hatching, raising, fattening, or butchering of fowl in the A-1 District.

Industry. All industry shall be by conditional use consistent with the provisions of 4.1 and Section 4.

4.7 Mineral Extraction

Mineral extraction operations including, washing, crushing, hot mix, asphalt production, and other processing are conditional uses and may be permitted in the M-2 District provided:

The Application for the conditional use permit shall include: an adequate description of the operation; a list of equipment, machinery, and structures to be used; the source, quantity, and disposition of

water to be used, the time of operation; a topographical map of the site showing existing contours with minimum vertical contour interval of five (5) feet, trees, proposed and existing access roads, and the depth of all existing and proposed excavations.

The Restoration Plan shall be provided to the Town.

The Conditional Use Permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period not to exceed two (2) years. Modifications of additional conditions may be imposed upon application for renewal.

Town Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality. The Town may require a surety in a form and type approved by the Town Attorney to insure compliance of the terms of the conditional use permit.

#### 4.8 Recreational Uses

The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hunting, pools, riding academies, skating rinks, sport fields, swimming pools, and zoological and botanical gardens in the P-1 District provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary.



## **SECTION 5.0**



## SECTION 5.0 TRAFFIC, PARKING, AND ACCESS

### 5.1 Traffic Visibility

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2½) feet and ten (10) feet within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.

In the Case of Arterial Streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

## **SECTION 6.0**

## SECTION 6.0 MODIFICATIONS

### 6.1 Height

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modifications shall be in accord with the following:

Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.

Special Structures, such as gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.

Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.

Communication Structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

## **SECTION 7.0**

## SECTION 7.0 SIGNS

### 7.1 Permit Required

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs excepted in Section 7.2 and without being in conformity with the provisions of this Ordinance. The sign shall also meet all the structural requirements of the Building Code.

### 7.2 Signs Excepted

All signs and banners require permits except as follows:

Private Property Signs four feet (4') high and eight feet (8') wide or less, located on private property, are allowed without a permit in all districts subject to the other regulations of Section 7. The top of any sign shall be no more than fifteen feet (15') above ground level.

Official Signs, such as traffic control, parking restrictions, information, and notices.

Political signs on private property shall be allowed.

### 7.3 General Requirements

No sign shall be illuminated by any source of light that is not shielded to prevent glare illumination of residential property other than that of the sign owner; nor shall the glare of any light source be so directed as to impair the safety of moving vehicles.

No signs, except of a public nature normal to public right-of-ways, shall be permitted within any public right-of-way without approval in writing from the jurisdictional governmental unit.

### 7.4 Signs Permitted

Signs and banners may be permitted in Business and Industrial Districts as conditional uses in accordance with Section 4.0 if a Conditional Use Permit is obtained.

### 7.5 Traffic

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

7.6 Driveway Reflectors

No driveway reflectors shall be placed within fifty feet (50') of the road right-of-way unless they are two inches (2") or less in diameter.

7.7 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure; and the provisions of Section 8.0 shall apply.

## **SECTION 8.0**



## SECTION 8.0 NONCONFORMING USES, STRUCTURES, AND LOTS

### 8.1 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued, although the use does not conform with the provisions of this Ordinance; however:

Only That Portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order, or so as to comply with the provisions of this Ordinance.

### 8.2 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. The total structural repairs or alterations of a non-conforming building shall not, during its lifetime, exceed fifty percent (50%) of the assessed value of the building unless permanently changed to a conforming use. This provision is pursuant to Section 62.23(7)(h), Wis. Stats.

### 8.3 Existing Nonconforming Structures

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued, although its size or location does not conform with the lot width, lot area, yard, parking and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order, or so as to comply with the provisions of this Ordinance.

### 8.4 Changes and Substitutions

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Town Board has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Town Board.

## **SECTION 9.0**

## SECTION 9.0 ZONING ADMINISTRATOR

### 9.0 Administrative Duties

The Zoning Administrator, and any deputies that have been appointed by the Town Board, shall issue zoning applications, maintain records of this Ordinance and the Zoning Map, provide a public information service, make recommendations to the Town Plan Commission on applications for zoning permits, and meet with the Town Plan Commission.

### 9.2 Enforcement Duties

The Zoning Administrator, and any duly appointed deputies, shall investigate all complaints, give notice of violations, and enforce the provisions of this Ordinance. The Zoning Administrator and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection after making a reasonable attempt to notify landowner.

# **SECTION 10.0**

## SECTION 10.0 TOWN PLAN COMMISSION

### 10.1 Establishment

Pursuant to Section 60.62(4) the Town of Pine River shall have a Town Plan Commission for the purpose of developing and maintaining a comprehensive plan, promoting compatible development, aesthetics, stability of property values, and to prevent impairment or depreciation of existing developments. The existing Town Plan Commission shall be given the powers as stated herein.

### 10.2 Compliance

No zoning permit shall be granted without the Zoning Administrator's approval. Small accessory structures are exempt unless the Zoning Administrator requests a determination by the Town Plan Commission.

### 10.3 Membership

The Town Plan Commission shall consist of five members of the township appointed by the Town Board Chairperson subject to the confirmation of the Town Board. The Town Board Chairperson may appoint himself or herself to the Commission and may appoint other Town elected or appointed officials to the Commission, except the Commission shall always have at least one citizen member who is not a Town official.

Term. The members of the Town Plan Commission shall be appointed to a 3-year term, to be staggered to the extent possible.

Chairman: The Town Board Chairperson shall select the presiding officer of the Town Plan Commission.

Secretary: The Secretary shall be selected by majority vote of the members of the Town Plan Commission.

Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointments.

Vacancies shall be filled for the unexpired term in the same manner as appointments for the full term.

### 10.4 Organization

The Town Plan Commission shall organize and adopt rules for its own government in accordance with the provisions of this Section and Section 62.23, Wisconsin Statutes.



Meetings shall be held at the call of the chairperson or when requested by the Zoning Administrator and shall be open to the public.

Minutes shall be kept showing all actions taken and shall be a public record. The grounds for every decision shall be stated.

Quorum shall be three (3) members, and all actions shall require the concurring vote of at least three (3) members.

10.5 Powers

The Town Plan Commission shall have the following power:

Hear and Decide applications for zoning permits.

Approve or deny conditional use in accordance with Section 4.0.

Make Recommendations on subdivisions as provided in Section 14.0, Wis. Stats.

Request applicant to furnish additional information.

Access to all areas within the jurisdiction of the Town of Pine River, subject to reasonable advance notice to the landowner.

10.6 Hearings on Conditional Uses

The Town Plan Commission shall schedule a reasonable time and place for the hearing and cause notice to be mailed to the applicant and all adjacent land owners, Zoning Administrator, and the parties in interest at least five (5) days prior to the hearing. The applicant may appear in person, by agent, or by attorney.

10.7 Appeals

Any person or persons aggrieved by any decisions of the Town Plan Commission may appeal the decision to the Board of Appeals. Such appeal shall be filed with the Town Clerk within thirty (30) days after filing of the decision with the Zoning Administrator.

# **SECTION 11.0**



## SECTION 11.0 TOWN BOARD AND APPEALS

### 11.1 The Controlling Entity

Pursuant to Section 62.23(7)(e), Wis. Stats., any party aggrieved by decision of the Zoning Administrator or the Town Plan Commission regarding a zoning permit or conditional use permit, may appeal that decision, ruling or order to the Town Board, the Town Board reserving the right to grant conditional uses, and exceptions to the provisions of this Zoning Ordinance in harmony with the purpose and intent of the Zoning Ordinance.

### 11.2 Powers

The Town Board shall have all of the following powers regarding the Zoning Ordinance:

Special Exception Permit. To hear all petitions for a special exception permit regarding the lot size provisions in any zoning district pursuant to Section 3.11.

Variance for Setback. To hear and decide a request for a variance from the setback rules for any lots three (3) acres in size or smaller, upon Town Plan Commission review and recommendation. The Town shall notify the adjacent landowner of the affected lot line at least ten (10) days before discussion by the Town Plan Commission.

Fees. All fees shall be set by the Town Board and may be amended from time to time as deemed necessary.

Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or by any determination, except variances, made by the Zoning Administrator or Town Plan Commission.

Conditional Use and Zoning Permits. To hear and grant appeals for conditional use and zoning permits and special exception permits, as will not be contrary to the public interest and the request can be made without significant harm to the Ordinance objectors.

Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Plan Commission has made a review and recommendation.

Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses, provided no structural alterations are to be made and the Town Plan Commission has made a review

and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Plan Commission has made a review and recommendation.

Temporary Uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, are compatible with the neighboring uses, and the Town Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Town Board, and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.

Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issue of a permit.

Assistance. The Board may request assistance from other Town officers, departments, commissions, and boards.

Oaths. The chairman may administer oaths and compel the attendance of witnesses.

### 11.3 Appeals and Applications

Appeals from the decision of the Zoning Administrator or the Town Plan Commission concerning the literal enforcement of this Ordinance may be made by any person aggrieved, or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the secretary within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator or Town Plan Commission. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and application shall include the following:

Name and Address of the appellant or applicant and all adjacent property owners.

Additional Information required by the Town Plan Commission or Zoning Administrator.



11.4 Hearings

The Town Board shall fix a reasonable time and place for the hearing, give public notice thereof at least ten (10) days prior, and shall give due notice to the parties in interest, to all adjacent property owners abutting the subject property, to the Zoning Administrator, and to the Town Plan Commission. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

11.5 Findings

No special exception or conditional use permit shall be granted by the Town Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

Absence of Detriment. That the permit will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

11.6. Decision

The Town Board shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and the Town Plan Commission.

Conditions may be placed upon any zoning permit ordered or authorized by this Board.

Variances, Substitutions, or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

11.7 Review by Court of Record

Any person or persons aggrieved by any decision of the Town Board may present to the court of record a petition duly verified setting forth that decision is illegal and specifying the ground of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

11.8 Board of Appeals

Establishment. There shall be hereby established a Board of Appeals for the purpose of hearing appeals regarding granting

the purposes and intent of the Zoning Ordinance.

Membership. The Board of Appeals shall consist of five (5) members appointed by the Town Chairman and confirmed by the Town Board.

Terms shall be for three (3) years, except for those first appointed, one shall serve for one (1) year, two shall serve for two (2) years, and two shall serve for three (3) years.

Compensation. The Town Board shall designate the compensation for the members.

The Chairman of the Board of Appeals shall be designated by the Town Chairman.

An alternate member may be appointed by the Town Chairman for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest.

A Zoning Administrator shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

Organization. The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance, pursuant to Section 63.23(7)(e), Wis. Stats., for the purposes granted in this section regarding review of variances. Appeals to the Board of Appeals shall follow the same procedure as given in Section 11.3 through 11.7, herein.

The Town Board shall hold a public hearing upon each recommendation, giving at least ten (10) days prior notice by publication at least three (3) times during the preceding thirty (30) days, listing the time, place, and the changes or amendments proposed. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of any municipality within one thousand (1000) feet and property owners within one-half mile of any land to be affected by the proposed change of amendment.

12.5 Town Board's Action

Following such hearing and after careful consideration of the Town Plan Commissions' recommendations, the Town Board shall vote on the passage of the proposed change or amendment.

The Town Plan Commissions' Recommendations may only be overruled by majority of the full Town Board's membership.

12.6 Protest

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of twenty (20) percent or more of the areas of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of majority of the full Town Board membership.

# **SECTION 13.0**



## SECTION 13.0 DEFINITIONS

For the purpose of this chapter, shall be interpreted as follows: words used in singular number include the plural number; and words in plural number include the singular number. The word "shall" is mandatory and not permissive. All distances unless otherwise specified shall be measured horizontally. All terms not specifically defined shall herein shall be as defined in the most recent addition of Webster's dictionary.

### Accessory Use or Structure

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

### Addition

An enlargement of an existing structure.

### Alley

A special public right-of-way affording only secondary access to abutting properties.

### Arterial Street

A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial street, highways, and parkways.

### Basement

A structure partially or wholly underground.

### Building

Any structure having a roof supported by three (3) or more walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

### Building Use

Necessarily implies the employment of one or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and is generally related to commercial and industrial engagements.

### Cemetery

Land use for the burial of the dead and dedicated for cemetery purposes.



Certified Survey Map

A plat of four or less plots, prepared by a registered land surveyor, in compliance with the provisions of § 236.34, Wis. Stats.

Club

Building and facilities owned or operated for social, educational or recreational purposes, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

Conditional Use

The land uses which are of a special nature and shall be approved by the Town Plan Commission or Town Board and authorized by the issuance of a Conditional Use Permit.

Conditional Use Permit

A discretionary permit, granted by the Town Planning Commission or Town Board, under the notice and hearing procedures of this Ordinance, upon application by the owner, and to which various conditions of use are attached by the Town Planning Commission or Town Board.

District

Any section of area covered by this chapter within which the zoning regulations are uniform.

Dog Kennel

A facility for keeping or boarding of dogs for a fee.

Drainage System

One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Dwelling

A detached building designed or used exclusively as a residence or sleep place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

Dwelling, Single Family

A detached building designed for and not occupied by more than one family.

Easement

An interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

#### Farm

A parcel of land used for growing farm products, such as vegetables, trees and grain, as well as the raising of the usual farm poultry and farm animals, such as horses, cattle, sheep, buffalo, swine and fur bearing animals.

#### Home Occupation

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principle use of the premises, except home occupation does not include manufacturing, automotive or heavy equipment repair, or on-site retail sales exceeding ten percent (10%) of gross sales.

#### Lot

A parcel of land occupied or capable of being occupied by structures and/or consistent with the provisions of this chapter.

#### Lot Lines

The lines bounding a lot as defined herein.

#### Mobile Home

A detached single-family dwelling unit designed for long term occupancy and containing sleeping accommodations; flush toilet, a tub or shower bath; and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems, wheels removed and placed on a permanent type foundation.

#### Permit, Land Use

A permit issued for the placement of any permanent structure on a parcel, or to authorize the use of land. "Zoning permit" and "land use permit" are used interchangeably.

#### Setback From Highway

The minimum horizontal distance from the centerline of a highway or its right-of-way line to the nearest part of the structure, measured at right angles to the centerline or the right-of-way line.

#### Special Exceptions

See "Conditional Uses".

#### Structure

Anything constructed or erected, the use of which requires a more or less permanent location on the ground.

Structural Alterations

Any change in the supporting members of a building or any substantial change in the roof structure or in exterior walls.

Subdivision

Any property subdivided pursuant to the State of Wisconsin Subdivision Rules and regulations.

Trailer

A unit designed for towing and transportation of goods by a semi. A trailer does not include camper or fifth wheel units designed for camping and seasonal use.

Unnecessary Hardship

That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with restrictions governing the area, setback, frontage or density unnecessarily burdensome or unreasonable in light of the purpose of this chapter.

Variance

An authorization granted by the Town Board to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

Vehicle

Every device in, upon or by which any person or property is or may be transported.

## **SECTION 14.0**



## SECTION 14.0 TOWERS AND ANTENNAS

### 14.1 Statement of Intent

The purpose of this Ordinance is to establish guidelines for the siting of towers and antennas. The intent of this Ordinance is to:

- (a) encourage the location of towers in non-residential areas and minimize the total number of towers throughout the Town;
- (b) encourage collection of new and existing tower sites;
- (c) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (d) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- (e) enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively and efficiently.

### 14.2 Definitions

- (a) "Alternative tower structure" shall mean manmade structures such as clock towers, water towers, buildings, bell steeples, light poles, and similar alternative designed mounting structures that camouflage or conceal the presence of towers and antennas.
- (b) "Antenna" shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electro-magnetic waves, digital signals, radio frequencies, wireless telecommunication signals, including but not limited to directional antennas, such as panels, microwave and satellite dishes and omni-directional antennas, such as whip antennas.
- (c) "Collocation" shall mean the location of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or alternative tower structure.
- (d) "FAA" shall mean the Federal Aviation Administration.
- (e) "FCC" shall mean the Federal Communications Commission.



- (f) "Governing authority" shall mean the governing authority of the Town (Town Board, Planning and Zoning Commission, Zoning Administrator).
- (g) "Height" shall mean, when referring to a tower or other structure, the distance measured from the ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- (h) "Personal Communications Services (PCS)" shall mean a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 322, and as the same may be amended from time to time.
- (i) "Personal wireless service facilities" shall mean transmitters, antenna structures, and other types of installations used to provide personal wireless services.
- (j) "Pre-existing towers and antennas" shall have the meaning set forth in Section 3(d) of this Ordinance.
- (k) "Residential zoning", for the purposes of this Ordinance, shall mean a district that has residential lot sizes of five (5) acres or less.
- (l) "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The terms includes personal communication service towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.
- (m) "Tower Site" shall mean the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

#### 14.3 Applicability

No permit is required for the following uses:

- (a) Installing an antenna or tower on any existing structure (such as a tower, building, sign, light pole, water tower, or other free-standing nonresidential structure), and provided additional antenna or tower adds no more than twenty feet (20') to the height of said existing structure.

- (b) *Public Property.* Antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this Ordinance, provided a license of lease authorizing such antenna or tower has been approved by the governing authority.
- (c) *Amateur Radio and Receive-Only Antennas.* This Ordinance shall not govern any tower, or installation of any antennas, that is under seventy feet (70') in height and is owned and operated by a federally licensed amateur radio operator or is used exclusively for receive-only antennas.
- (d) *Pre-existing Towers and Antennas.* Any tower or antenna for which a permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance.

#### 14.4 General Provisions

- (a) *Principle or Accessory Use.* Antennas and towers may be considered either principle or accessory use. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a new tower or antenna complied with district development regulations, including but not limited to setback requirements, lot coverage requirements, or other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) *Aesthetics:*
  - 1. Towers shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA, be painted a light gray so as to reduce visual obtrusiveness and blend in to the natural setting and built environment.
  - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment



must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

- (c) *Federal Requirements.* All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal Government with the authority to regulate towers and antennas. Proof of compliance shall be provided to the Town governing body.

#### 14.5 Permitted Uses

- (a) *Permit.* An administratively approved permit is required from the Town for the following permitted uses:

1. *Antennas.* Locating an antenna that adds not more than twenty feet (20') to the height of an alternative tower structure, including placement on additional buildings or supporting equipment used in connection with said antenna, shall be permitted use in all zoning districts.

2. *Towers.* Locating a tower, including placement of additional buildings or supporting equipment used in conjunction with said tower, shall be a conditional use in all districts.

3. *Buildings.* Buildings used for the exclusive use of housing antenna and tower equipment shall be no larger than one hundred fifty (150) square feet per antenna.

- (b) Construction of towers in residential zoning districts is not recommended. Residential zoning districts, for purposes of this Ordinance, shall mean a zoning district that provides for lot sizes of five (5) acres or less.

#### 14.6 Permitting Requirements

Applicants for permitted or conditional use permits shall adhere to the following:

- (a) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer as required by the Town at applicant's expense.
- (b) *Information Required.* Each applicant requesting a permit under this Ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and scaled by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, proof of compliance with Federal Requirements and other information deemed by the governing authority to be necessary to assess compliance with this Ordinance.
- (c) *Factors Considered in Granting Permits.* The governing authority shall consider the following factors in determining whether to issue a permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the intent of this Ordinance is thereby better served.
  - 1. Height of proposed tower;
  - 2. Proximity of tower to residential structures and residential district boundaries;
  - 3. Nature of uses on adjacent and nearby properties;
  - 4. Surrounding topography;
  - 5. Surrounding tree coverage and foliage;
  - 6. Design of the tower, with particular reference to design characteristics that have the effect of accommodating other uses and reducing or eliminating visual obtrusiveness;
  - 7. Proposed ingress and egress; and
  - 8. Availability of suitable existing towers and other structures.
- (d) *Availability of Suitable Existing Towers or Other Structures.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's



proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
3. Existing towers or structures do not have the sufficient structural strength to support the applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(e) *Accommodation of Other Users (Collocation):*

1. Any proposed telecommunication tower and tower site shall be designed structurally, electrically, and in all respects, to accommodate collocation of both the applicant's antenna(s) and comparable antenna(s) for at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
2. The holder of a permit for a tower shall allow collocation for at least two (2) additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made access to such tower and tower site



economically unfeasible, then the permit shall become null and void.

- (f) *Setbacks and Separations.* The following setbacks and separation requirements shall apply to all towers and antennas for which a special permit is required; provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the intent of this Ordinance would be better served hereby.

1. Towers shall be set back a distance equal to the height of the tower from any residential structure or public road.

2. Towers, guy wires, and accessory facilities must satisfy the minimum zoning district setback requirements.

3. Towers over ninety feet (90') in height shall not be located within one-quarter (1/4) of a mile from any existing tower that is over ninety feet (90') in height.

- (g) *Security Fencing.* Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.

- (h) *Landscaping.* The following requirements shall govern the landscaping surrounding towers; however, the governing authority may waive such requirements if the intent of this Ordinance would be better served thereby.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the security fencing. Responsibility for compliance rests with the Lessee.

2. Lessee shall maintain the leased property and the standard buffer as in (h) 1 above.

3. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

4. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some

cases, such as towers sited on large wood lots, natural growth around the property perimeter may be a sufficient buffer.

#### 14.7 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:

- (a) The owner of such antenna or tower, or owner(s) of the property where the tower site is located, shall remove said antenna and/or tower, including all supporting equipment and building(s), within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If removal to the satisfaction of the governing authority does not occur within said ninety (90) days, the governing authority may remove and salvage said antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (b) The applicant for a permit under this Ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s), and supporting equipment and building(s) detailing requirements for the abandonment and subsequent removal based on the provisions of Section 14.7. Said agreement shall also identify that said agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna, and all supporting equipment and building(s).

#### 14.8 Conflicting Ordinances and Effective Date

All parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall be in full force and effect from and after its date of publication.