

Article C: Nonconforming Uses and Structures; Special and Conditional Uses; Environmental Impact Analysis; Handicap-Disability Permits (D)7/31/2012

Sec. 13-1-40 Nonconforming Uses and Structures.

- (a) **General Provision.** The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of this Chapter, including the routine maintenance of such a building or structure, may be continued, subject to subsections (b)-(j). (A)7/31/2012; (A)10/31/2017)
- (b) **Definitions.** In this section, the following terms are defined as follows: (©)7/31/2012)
- (1) **“Nonconforming Use”** means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance. (©)7/31/2012; (D)10/31/2017-(1); (A)10/31/2017)
- (2) **“Nonconforming Structure”** means a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance. (©)7/31/2012; (A)10/31/2017)
- (c) **Non-Shoreland Nonconforming Uses.** (A)7/31/2012)
- (1) **Burden of Proof.** A property owner claiming a nonconforming use and exemption from application regulations shall prove by a preponderance of the evidence that:
- The use was legally established.
 - The use predated zoning provisions with which it does not comply.
 - The use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property in which case no vested right to continue use shall have been acquired.
- (2) **Prohibited Expansion.** The alteration of, or addition to, or repair in excess of fifty percent (50%) of the assessed value of any non-shoreland existing building, premises, structure or fixture for the purpose of carrying on a nonconforming use is prohibited. (see Sec. 59.69 (10) (am) Wis. Stats.) (©©)7/31/2012)

- (3) **Exceptions to Prohibited Expansion.** If the alteration, addition or repair of a non-shoreland building or structure with a nonconforming use is prohibited because it is in excess of fifty percent (50%) of the assessed value of the existing building, premises, structure or fixture, the property owner may still make the proposed alteration, addition or repair if: (A)7/31/2012
- a. A nonconforming use is permanently changed to a conforming use.
 - b. The property owner appeals the determination of the Planning and Zoning Administrator(s) and County Board of Adjustment or the Circuit Court finds in favor of the property under Sec. 59.694(4) or 59.597(10), Wis. Stats. (A)7/30/2013
 - c. The property owner successfully petitions to have the property rezoned by amendment of this Chapter and Sec. 59.69(5)(e), Wis. Stats.
- (4) **Discontinuance.** If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Chapter. (A)7/31/2012
- (5) **Temporary Structures.** If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced. (A)7/31/2012
- (6) **Nuisances.** Uses that are nuisances shall not be permitted to continue as nonconforming uses. (A)7/31/2012
- (d) **Non-Shoreland Nonconforming Structures.** (A)7/31/2012
- (1) **Intent.** As specified in the following paragraphs, it is the intent of these provisions to balance the public objectives of this Chapter with the interests of owners of nonconforming buildings and structures by:
 - a. Treating buildings and structures, which are most nonconforming and therefore most contrary to the objectives of this Chapter, more restrictively than buildings and structures which are more nearly in compliance with the provisions of this Chapter.
 - b. By allowing the improvement or limited expansion of principal buildings and structures essential to the reasonable use of a property provided the adverse effects of such improvements or expansion are adequately mitigated.
 - (2) **Improvement or Expansion of Non-Shoreland Nonconforming Structures.** Non-shoreland nonconforming structures may be improved internally, externally, or expanded provided that: (A)12/15/202009; (A)12/13/2011; (A)7/31/2012

- a. A structure that is nonconforming as to structural or dimensional standards may not be expanded or enlarged so as to increase its dimensional nonconformity.
 - b. Where practicable, additions to non-shoreland nonconforming structures shall conform to all applicable provisions of this Chapter.
(A)7/31/2012)
 - c. The lifetime total of all expansions shall not exceed fifty percent (50%) of the structure's footprint that existed at the time the structure became nonconforming; an owner shall provide documentation of the footprint of a structure at the time it became nonconforming, and any expansion shall be documented by recorded affidavit; and (A)7/31/2012)
 - d. The property owner obtains a land use permit. (D)5/29/2018); (©5/29/2018)
- (3) **Non-shoreland Nonconforming Buildings and Structures in Planned Unit Developments, Condominium Developments, or other Developments.** Nonconforming buildings and structures in planned unit developments, condominium developments, or other developments, including multiple unit dwellings, hotels, motels and resorts, that are not on shoreland lots shall be subject to paragraphs (d)(1) and (d)(2) above.
(©)7/31/2012)
- (e) **Shoreland Nonconforming Uses.** (©)7/31/2012)
- (1) **Compliance with Nonconforming Structure Provisions.** Any shoreland building, structure, premises or fixture that constitutes a nonconforming use and is also a nonconforming structure must adhere to the provisions set forth in subsection (f) for nonconforming shoreland structures.
(©)7/31/2012)
 - (2) **Prohibited Expansion.** The alteration of, or addition to, or repair in excess of fifty percent (50%) of the assessed value of any existing building, premises, structure or fixture for the purpose of carrying on a nonconforming use is prohibited. (see Sec. 59.69(10) (am) Wis. Stats.)
(©)7/31/2012)
 - (3) **Exceptions to Prohibited Expansion.** If the alteration, addition or repair of a shoreland building or structure with a nonconforming use is prohibited because it is for the purpose of carrying on a nonconforming use and is in excess of fifty percent (50%) of the assessed value of the existing building, premises, structure or fixture, the property owner may still make the proposed alteration, addition or repair if the property owner meets all provisions set forth in subsection (f) for nonconforming shoreland structures and: (©)7/31/2012)
 - a. The alteration, addition or repair is not for the purpose of carrying on a nonconforming use. (©)7/31/2012)

- b. A nonconforming use is permanently changed to a conforming use. (©)7/31/2012)
 - c. The property owner appeals the determination of the Planning and Zoning Administrator(s) and County Board of Adjustment or the Circuit Court finds in favor of the property under Secs. 59.694(4) or 59.597(10), Wis. Stats. (©)7/31/2012)
 - d. The property owner successfully petitions to have the property rezoned by amendment of this Chapter and Sec. 59.69(5)(e), Wis. Stats. (©)7/31/2012)
- (4) **Discontinuance.** If a shoreland nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this Chapter. (©)7/31/2012)
- (5) **Temporary Structures.** If the shoreland nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced. (©)7/31/2012)
- (6) **Nuisances.** Uses that are nuisances shall not be permitted to continue as nonconforming uses. (©)7/31/2012)
- (f) **Shoreland Nonconforming Structures.** (A)12/13/2011); (©)7/31/2012)
- (1) **Shoreland Setback.** Except as provided in paragraphs (f)(4), (f)(5a) and (f)(5b) below, a setback of seventy-five (75) feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures. (©)7/31/2012); (A)10/31/2017)
- (2) **Nonconforming Structures Located Less than Thirty-five (35) Feet from the Ordinary High-Water Mark.** Structures located less than thirty-five (35) feet from the ordinary high-water mark may be rebuilt, maintained, repaired, replaced, restored, or remodeled within its footprint or expanded vertically provided that: (A)7/31/2012); (A)10/31/2017)
- a. The resulting structure shall not exceed thirty-five (35) feet in height, as defined in Ch. NR 115.05(1)(f), Wisconsin Administrative Code. (©)10/31/2017)
 - b. All other provisions of the Bayfield County Shoreland Zoning Ordinance shall be met. (©)10/31/2017)
 - c. If a nonconforming use of the structure has been discontinued for a period of twelve (12) months or more, any further use of the structure shall conform to this chapter. (©)10/31/2017)

- d. A lateral expansion is allowed to that portion of any structure that is beyond 75 feet of the ordinary high-water mark, provided the owner obtains a land use permit. (©©)10/31/2017)
- (3) **Nonconforming Structures Located Thirty-five (35) Feet or More but less than Seventy-five (75) Feet from the Ordinary High-Water Mark.** A nonconforming structure located thirty-five (35) or more feet but less than seventy-five (75) feet from the ordinary high-water mark may be rebuilt within its existing building envelope, expanded vertically, or expanded laterally provided that: (A)12/15/202009) (A)10/26/2010); (A)12/13/2011); (©©)7/31/2012); (A)10/31/2017); (A)2/27/2018)
- a. The resulting structure shall not exceed thirty-five (35) feet in height, as defined in Ch. NR 115.05(1)(f), Wisconsin Administrative Code. (A)7/31/2012)
- b. The property owner obtains a land use permit. (©)7/31/2012) (A)2/27/2018)
- c. All other provisions of the Bayfield County Shoreland Zoning Ordinance shall be met. (©)7/31/2012)
- d. If a non-conforming use of the structure has been discontinued for a period of twelve (12) months or more, any further use of the structure shall conform to this chapter. (©)7/31/2012); (A)10/31/2017)
- e. The lateral expansion is to a principal structure, is limited to a maximum of 200 square feet over the life of the structure, and no portion of the expansion is closer to the ordinary high-water mark than the closes point of the existing principal structure. However, the property owner must fulfil the mitigation requirements of paragraph (g) below. (©)10/31/2017)
- f. A lateral expansion is allowed to that portion of any structure that is beyond 75 feet of the ordinary high-water mark, provided the owner obtains a land use permit. (©)10/31/2017); (A)2/27/2018)
- (4) **Expansion of a Nonconforming Structure beyond the 75' setback.** Except as provided in paragraph (f) subs. (5a) and (5b) below, an existing structure that was lawfully placed when constructed but that does not comply with the required building setback under subs. (f)(1) may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements in subs. (f)(1) and that all other provisions of the Bayfield County Shoreland Zoning Ordinance are met. (©)7/31/2012); (A)10/31/2017)
- (5) **Additional Requirements for Nonconforming Buildings and Structures in Planned Unit Developments and Other Multiple Unit Developments.** (A)7/31/2012); (D)10/31/2017-(5)a-c); (A)10/31/2017)

- a. **General Setback Requirements.** Buildings and structures in planned unit developments, condominium developments, or other developments, multiple unit dwellings, hotels, motels, or resorts, which are nonconforming with respect to shoreline setback shall be subject to the provisions of Sec. 13-1-40 (f) (1), (2) and (3) above, except that: (A)7/31/2012); (A)10/31/2017)
1. The expansions and improvements permitted under said provisions shall be permitted even if the development is nonconforming with respect to open space requirements. (A)7/31/2012); (D)10/31/2017-2.3); (A)10/31/2017)
- b. **Lots in Planned Unit Developments.** A non-riparian lot may be created provided that: (©)7/31/2012)
1. A plat or certified survey map including that lot within the planned unit development has been approved and recorded by the county; (©)7/31/2012)
 2. The planned unit development contains at least two (2) acres or two hundred (200) feet of frontage; and (©)7/31/2012)
 3. The reduced non-riparian lot sizes are allowed in exchange for larger shoreland buffers and setbacks on those lots adjacent to navigable waters that are proportional to and offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty. (©)7/31/2012)
- (6) ***Additional Requirements for Certain Nonresidential Buildings on Shoreland Lots.*** A non-conforming building or portion thereof which is not used for human habitation or a use ancillary thereto is subject to the provisions of paragraph (f) sections (1-4). (A)7/31/2012); (A)10/31/2012); (A)10/31/2017)
- (7) **Relocation of Nonconforming Principal Structure.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under paragraph (f)(1) may be relocated on the property provided all of the following requirements are met: (©)7/31/2012); (A)10/31/2017); (A)2/27/2018)
- a. The use of the structure has not been discontinued for a period of twelve (12) months or more. (©)7/31/2012)
 - b. The existing principal structure is at least thirty-five (35) feet from the ordinary high-water mark. (©)7/31/2012); (A)2/27/2018)
 - c. No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure. (©)7/31/2012)

- d. The county determines that no other location is available on the property to build a structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement in paragraph (f)(1). (©)7/31/2012); (A)10/31/2017)
 - e. The mitigation requirements of paragraph (g) below are complied with if the relocated structure is the principal structure. (©)7/31/2012); (A)10/31/2017); (A) 2/27/2018)
 - f. The county shall issue a permit that requires all other structures on the lot or parcel that do not comply with the shoreland setback requirement in subs. (f) paragraph (1) and are not exempt under NR 115.05(1)(b)1m, Wisconsin Administrative Code to be removed by the date specified in the permit. (©)7/31/2012)
 - g. All other provisions of the Bayfield County Shoreland Zoning Ordinance shall be met. (©)7/31/2012);(A)2/27/2018)
- (8) **Compliance with Most Restrictive Zone Standards.** Nonconforming buildings and structures which are located in more than one setback zone shall comply with the standards of the more restrictive zone. (A)7/31/2012); (D)10/31/2017-(9); (A)10/31/2017)
- (g) **Mitigation Measures.** As specified in the following provisions, the objective of these mitigation requirements is to compensate for adverse environmental effects when development is permitted to occur within designated shoreline setback areas. The mitigation measures shall be proportional to the amount and impacts of the activity being permitted in some circumstances, a storm water management plan may be the only and most critical proportional measure. A site plan and implementation schedule describing any required mitigation shall be submitted by the property owner or owner's authorized agent and approved by the Planning and Zoning Agency and/or Land and Water Conservation Department prior to issuance of the related land use permit(s). When the amount and impact of the activities being permitted merit mitigation measures beyond a storm water management plan, the mandatory mitigation measures shall include: (A)7/30/2013); (A)10/31/2017); (A)2/27/2018)
- (1) Evaluation and upgrading of any existing sanitary system on the subject property to comply with SPS 383, Wis. Adm. Code, and the Bayfield County Sanitary and Private Sewage Ordinance. (A)10/31/2017)
 - (2) Implementation of erosion and storm water runoff control measures in accordance with best management practices. (A)10/31/2017)
 - (3) The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Bayfield County Register of Deeds. (©)7/31/2012); (D)10/31/2017-d.); (A)10/31/2017)
 - (4) Accumulating at least four (4) points from among the following

proposed or current practices: (A)10/31/2017); (A)10/31/2017); (A)2/27/2018)

- a. Restoration or maintenance of a shoreline vegetation protection area within twenty-five (25) feet of the ordinary high-water mark (OHWM) (1 point). (A)10/31/2017)
 - b. Restoration or maintenance of a shoreline vegetation protection area within forty (40) feet of the OHWM (2 points). (A)10/31/2017)
 - c. Restoration or maintenance of a shoreline vegetation protection area within seventy-five (75) feet of the OHWM (3 points). (A)10/31/2017)
 - d. Restoration of native vegetation along both side yards (1 point).
 - e. Removal of nonconforming accessory buildings from the shore setback area (1 point per building). (A)10/31/2017)
 - f. Use of exterior building materials or treatments that are inconspicuous and blend with the natural setting the site (½ point). (A)10/31/2017)
 - g. Other practices agreed upon by the Planning and Zoning Agency (seawall removal, removal of excessive dockage and mooring, removal of artificial sand beaches, etc.) (Points as determined by the Planning and Zoning Agency). (A)7/30/2013); (D)10/31/2017-7); (A)10/31/2017)
- (h) **Wetland Setbacks.** A nonconforming principal building or structure whose only nonconformity is its setback from a wetland not adjoining or constituting a part of a navigable water or from an intermittent stream may be improved and expanded upon the issuance of a land use permit to the same extent as if it were a conforming structure provided that: (A)7/31/2012); (D)10/31/2017-(8); A)10/31/2017)
- (1) The use of the structure has not been discontinued for a period of twelve (12) months or more. (@@)7/31/2012); (A)10/31/2017)
 - (2) The addition or expansion does not increase the nonconformity. (A)7/31/2012); (A)10/31/2017)
- (i) **MAINTENANCE, REPAIR, REPLACEMENT OR VERTICAL EXPANSION OF STRUCTURES THAT WERE AUTHORIZED BY VARIANCE.** A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion beyond the existing footprint may be allowed if the

expansion is necessary to comply with applicable state or federal requirements.
(©)10/31/2017); (D)2/27/2018-(1)&(2); (A)2/27/2018)

Sec. 13-1-41 Conditional Uses. (©)6/1/1976); (©)8/27/2002)**(a) General Provisions.** (©)6/1/1976); (©)8/27/2002); (A)3/27/2012)

- (1) **Purpose.** Some uses may be necessary or desirable in a particular zoning district, but certain conditions may need to be imposed to make them compatible with the basic uses in that district or an adjoining district. Uses classified as conditional uses are allowed only after consideration by the Planning and Zoning Committee and by meeting conditions that make the use compatible with other allowable uses within the district. (©)3/27/2012)
- (2) **Authority.** The Planning and Zoning Committee has been established pursuant to Section 59.69 (2) of the Wisconsin Statutes and assumes thereby, all responsibilities, duties and powers as provided therein. (©)3/27/2012);

(b) Procedure. (©)8/27/2002)

- (1) **Notice of Application.** Upon receipt of an application for a conditional use permit, the Planning and Zoning Agency shall give written notice thereof to all adjoining landowners and owners of land within 300 feet of the proposed use (whose names and addresses shall be included in the application) and the town clerk of the town in which the property is located, and the town clerk of any other town within 300 feet of the proposed use, and shall request the town board's recommendation with respect to the application on a form provided by the Planning and Zoning Agency for that purpose. Such notice shall be sent by first class mail at least seven (7) days prior to a regularly scheduled town board meeting to be held prior to the Planning and Zoning Committee hearing and/or meeting at which the application is to be considered, Adjoining landowners, owners of land within 300 feet of the proposed use, or any citizen shall be given a deadline of noon of the day prior to the next regularly scheduled Planning and Zoning Committee Meeting to respond thereto. The Town shall be given a deadline of noon of the day of the next regularly scheduled Planning and Zoning Committee Meeting to respond thereto. For good cause shown, the Planning and Zoning Committee may grant the town additional time to respond. (©)6/1/1976); (©)8/27/2002); (A)9/30/2004); (A)3/27/2012); (A)12/10/2013); (A)2/27/2018)
- (1a) **In the Shoreland.** The Planning and Zoning Agency shall send written notice to the appropriate office of the Department of Natural Resources at least 10 days prior to any hearing on a proposed variance or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review and shall also send the same office copies of any decision on a variance or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance. (©)10/31/2017); (A)2/27/2018); (A)5/28/2019)

- (2) **Additional Information.** At the request of the Planning and Zoning Agency the applicant may be required to provide such additional information as the Planning and Zoning Agency deems necessary for adequate review and consideration of the application by the Planning and Zoning Committee, and may be required to meet with the Planning and Zoning Agency for such purpose prior to consideration of the application by the Planning and Zoning Committee. Such additional information may include, without limitation: (©)6/1/1976); (©)8/27/2002); (A)3/27/2012); (A)2/27/2018)
- a. A plan of the area showing contours, soil types, normal high water mark, groundwater conditions, bedrock, slope and vegetative cover. (©)6/1/1976); (©)8/27/2002)
 - b. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping. (©)6/1/1976); (©)8/27/2002)
 - c. Site plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations thereof. (©)6/1/1976); (©)8/27/2002)
 - d. The estimated number of persons to be living near or using the site, the estimated cost for providing public services. (©)6/1/1976); (©)8/27/2002)
 - e. Specifications for areas of proposed filling, grading, lagooning or dredging. (©)6/1/1976); (©)8/27/2002)
 - f. Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter. (©)6/1/1976); (©)8/27/2002)
- (3) **Hearing.** After the deadline specified in paragraph 1 above and prior to acting upon an application, the Planning and Zoning Committee shall hold a public hearing on an application; notice of which shall be given by Class 2 notice. (©)8/27/2002); (A)9/20/2004); (A)3/27/2012)
- (4) **Decision of the Planning and Zoning Committee.** (©)8/27/2002); (A)3/27/2012)
- a. The Planning and Zoning Committee shall act upon an application at a public meeting of the Planning and Zoning Committee following the public hearing thereon: (©)6/1/1976); (©)8/27/2002); (A)3/27/2012)
 - b. **Use of Bayfield County Land Use Plan and Comprehensive Plan.** The Bayfield County Land Use Plan and Comprehensive Plan will be used as a guide and tool in making informed zoning decisions, by the Planning and Zoning Committee. (©)6/1/1976); (©)8/27/2002); (A)5/31/2005); (A)3/27/2012)
- (c) **Decision Making Considerations.** The Planning and Zoning Committee shall act upon an application and review and base its decision on the following: (©)3/27/2012)

- (1) Zoning Ordinance and all other applicable laws. (©)3/27/2012)
- (2) Consistency with Town Comprehensive Plan (more specific detail) (©)3/27/2012)
- (3) Consideration of the Town Board Recommendation (©)3/27/2012)
- (4) Consistency with County Comprehensive and Land Use Plan (general overview) (©)8/27/2002); (A)3/27/2012)
- (5) Relevant Public Input (©)3/27/2012)
- (6) Consideration of the Departmental file report and site specifics (©)3/27/2012)
- (7) The maintenance of safe and healthful conditions. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (8) The community or general welfare and economic impacts of the proposal. (©)8/27/2002); (©)3/27/2012)
- (9) The prevention of the overcrowding of a natural resource, such as a lake, river or stream. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (10) The prevention and control of water pollution (including sedimentation), air pollution and noise. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (11) Existing topographic, drainage features and vegetative cover on the site. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (12) The location of the site with respect to floodplains and floodways of rivers or streams. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (13) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (14) The location of the site with respect to existing or future access roads. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (15) The amount of liquid wastes to be generated and the adequacy of the proposed waste disposal systems and water supply systems. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (16) The demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities, etc., which would be affected by the proposed use and the adequacy of existing services to meet the increased demand. (©)6/1/1976); (©)8/27/2002); (©)3/27/2012)
- (17) The potential impact of the proposed use on other lands and land uses in the vicinity and the extent to which it would be compatible or incompatible therewith. (©)8/27/2002); (©)3/27/2012)

- (d) Upon consideration of the factors listed in subparagraph c, the Planning and Zoning Committee may grant the application, deny the application, grant the application with or without conditions that it deems necessary in furthering the purpose of this Chapter, or grant the application in part, with or without conditions, and deny it in part. Any conditions in addition to those required elsewhere in this Chapter, may include, duration, property ownership, hours of operation, parking restrictions, limits regarding; equipment, product lines, livestock, employees, etc. without limitation, requirements for type of shorecover, increased setbacks and yards, specified sewage disposal and water supply facilities, parking and signs, type of construction, granting or denial of lake access and boat docks to off-lake developments, The Planning and Zoning Committee may also require that any permit or license required for the proposed use from another governmental entity or agency be obtained before the issuance of a conditional use permit. The Planning and Zoning Agency; shall notify the applicant in writing of the Planning and Zoning Committee's decision within fifteen (15) days thereafter. (®)3/27/2012); (A)2/27/2018)
- (e) The Planning and Zoning Committee shall state its reasons and rationale for its decision in writing. (©)3/27/2012)
- (f) **Compliance.** If a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted, and prior to the issuance of the permit the Planning and Zoning Agency shall record with the Bayfield County Register of Deeds an affidavit prepared by the Planning and Zoning Agency setting forth the terms and conditions of the permit and a legal description of the property to which they pertain. The terms and conditions of the permit shall be binding upon and inure to the benefit of all current and future owners of such property unless otherwise expressly provided by the permit, or unless the permit terminates under subsection (d) of this section. The recording fee for the affidavit shall be paid by the applicant to the Planning and Zoning Agency within ninety (90) days after notice thereof has been sent to the applicant by the Agency. If the applicant fails to do so, the Conditional Use Permit shall not be issued and the Planning and Zoning Committee's approval thereof shall become null and void. (®)6/1/1976); (A)3/13/2002); (A)5/28/2002); (A)5/31/2005); (A)3/27/2012); (A)2/27/2018)
- (g) **Termination.** (A)3/27/2012)
- (1) A conditional use permit shall automatically terminate 12 months from its date of issuance if the authorized building activity, land alteration or use has not begun within such time. (©)9/26/2000); (®)8/27/2002)
 - (2) If a conditional use is discontinued for 36 consecutive months, the conditional use permit authorizing it shall automatically terminate, and any future use of the building, structure, or property to which the permit pertained shall conform to this Chapter.
 - (3) Conditional uses with conditions shall be reviewed periodically by the Planning and Zoning Agency. Where such a use does not continue in

conformity with the conditions of the original approval the permit shall be terminated and such noncompliance shall constitute a violation under this Chapter. (A)7/30/2013); (A)2/27/2018)

(h) **Bonding.** (©©)6/1/1976); (©©)8/27/2002); (A)3/27/2012)

- (1) A bond, cash deposit or other security may be required by the Planning and Zoning Committee as a condition for the issuance of a conditional use permit to secure compliance with the conditions of the permit. (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013)
- (2) The form and amount of such security shall be at the discretion of the Planning and Zoning Committee and may be equal to, but not exceed, the amount estimated to cover the costs of meeting those conditions it secures. (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013)
- (3) The applicant may file with the Planning and Zoning Committee a request for release of the security at such time as the applicant believes that all conditions have been satisfactorily met. Such request shall include the name and address of the applicant, the conditional use permit number, and a legal description of the area for which the release is requested. Upon receipt of such a request: (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013)
 - a. The Planning and Zoning Agency shall inspect the designated lands and publish a Class 2 notice of the request, specifying a 30-day period for filing of objections thereto with the Planning and Zoning Agency. (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013) (A)2/27/2018)
 - b. The Planning and Zoning Committee shall hold a public hearing on any objections filed within the 30-day time period, and determine on the basis of the request, the Planning and Zoning Agency's inspection, and any objections and hearing thereon, whether the conditions have been sufficiently complied with for release of all or a part of the security. If the request is denied in whole or in part, the Committee shall provide the applicant with written reasons for its decision, including a statement of what further actions must be taken for the request to be granted. If the request is granted, the security shall be released in accordance with the Committee's decision. (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013) (A)2/27/2018)
- (4) Nothing in this subsection shall be construed to infringe upon the Planning and Zoning Committee's authority to take appropriate actions on bonds, or other security, including forfeiture of all or part of the security for cause. (©©)6/1/1976); (©©)8/27/2002); (A)7/30/2013)

(i) **Refilings; Reconsiderations and Rehearings.** (©2/28/17)

- (1) **Refiling Rule.** No Conditional Use Permit that has been previously acted upon by the Committee shall be considered upon a new application unless one or more of the following applies: (©2/28/17)

- a. Thirty-Six (36) consecutive calendar months have expired from the date of the final decisions denying the earlier application. (©2/28/17)
 - b. The application does not contain the original or a substantially similar request for specific use. (©2/28/17)
 - c. Substantial change in the use of adjacent property has occurred since the previous application was heard. (©2/28/17)
 - d. The previous application was closed without a hearing because the applicant was not present at the time such situation/circumstance was scheduled for a meeting and the applicant demonstrates to the satisfaction of the Committee that his or her absence was due to excusable neglect. (©2/28/17)
 - e. There is a claim that there should be a rehearing based upon newly discovered evidence. A rehearing will only be granted on this basis when all of the following apply: (©2/28/17)
 1. The evidence has come to the moving party's notice after the initial hearing. (©2/28/17)
 2. The moving party's failure to discover the evidence earlier did not arise from lack of diligence in seeking to discover it. (©2/28/17)
 3. The evidence is material and not cumulative. (©2/28/17)
 4. The new evidence would probably change the result. (©2/28/17)
- (2) **Reconsideration.** There shall be no reconsideration of any Planning and Zoning Committee decision approving or denying a conditional use permit except that the Planning and Zoning Committee, by its own motion and by a simple majority vote taken at the hearing in which a decision to grant or deny a conditional use permit is made, or at very next meeting of the Committee, shall be sufficient to reconsider a previous decision. If the Planning and Zoning Committee decides to reconsider the granting or denial of a conditional use permit after the close of the hearing at which the original grant or denial is voted upon, the case will be placed on the agenda for the next regular meeting/hearing and notice given as required for an original hearing. (©2/28/17)
- (3) **Closure of Application.** An application will be considered as heard and closed at such time as the Committee approves or rejects an application or appeal by motion. No subsequent request for reconsideration by the applicant shall be considered. (©2/28/17)
- (4) **Filing fee(s) for a refiling** will not be refunded in the event the Committee or Board decides to deny the application. (©2/28/17)

Sec. 13-1-41A. Special Uses.

- (a) **Classes of Special Uses.** There are two classes of special uses, Class A special uses (designated as “S-A” in Sec. 13-1-62) and Class B special uses (designated as “S-B” in Sec. 13-1-62).
- (b) **Procedure.**
- (1) **Class A Special Use Applications.**
- a. Upon filing an application for a Class A special use permit, with the Planning and Zoning Agency, the applicant shall give written notice thereof to the town clerk of the town in which the property is located, and shall request the town board’s recommendation with respect to the application on a form provided by the Planning and Zoning Agency for that purpose. (A)7/30/2013) (A)2/27/2018)
- b. The Planning and Zoning Agency may proceed to issue a Class A special use permit without review by the Planning and Zoning Committee if all of the following conditions are met: (A)7/30/2013); (A)2/27/2018)
1. The town board has recommended approval of the application in writing.
2. The Planning and Zoning Agency determines, after considering the factors listed in Sec. 13-1-41, that the permit may be granted without conditions, or with conditions agreeable to the applicant. (A)7/30/2013); (A)2/27/2018)
- c. If both of the conditions in (1) b. have not been met within thirty (30) days of the filing of the application, the application shall be considered pursuant to the procedure for consideration of Class B Special Use Permit Applications set forth in paragraphs (2) through (5) of this subsection, and a Class B permit fee shall be required, provided that the applicant’s payment of the Class A permit fee shall be credited towards the Class B permit fee.
- (2) **Class B Special Use Applications.** Upon receipt of an application for a Class B special use permit, the Planning and Zoning Agency shall give written notice thereof to all adjoining landowners (whose names and addresses shall be included in the application) and the town clerk of the town in which the property is located, and shall request the town board’s recommendation with respect to the application on a form provided by the Planning and Zoning Agency for that purpose. Such notice shall be sent by first class mail at least seven (7) days prior to a regularly scheduled town board meeting to be held prior to the Planning and Zoning Committee hearing and/or meeting at which the application is to be considered. Adjoining landowners, owners of land within 300 feet of the proposed use, or any citizens shall be given a deadline of noon the day

prior to the next regularly scheduled Planning and Zoning Committee Meeting to respond thereto. The town shall be given a deadline of noon of the day of the next regularly scheduled Planning and Zoning Committee meeting. For good cause shown, the Planning and Zoning Committee may grant the town additional time to respond. (A)7/30/2013); (A)12/10/2013); (A)2/27/2018)

- (3) **Planning and Zoning Committee Review.** Applications for Class B special uses and applications for Class A special uses not meeting the criteria of paragraph (1)b above shall be acted upon by the Planning and Zoning Committee after the time period for receiving objections and town board recommendations has expired. A public hearing on the application shall not be required but may be held at the discretion of the committee upon a Class 1 or Class 2 notice of the hearing as determined by the committee. (A)7/30/2013)
 - (4) **Basis for Decision; Conditions.** The Planning and Zoning Committee's decision on an application shall be based on a consideration of the factors listed in Sec. 13-1-41. The committee may attach such conditions to the permit as it determines to be necessary to further the purpose of this Chapter. (A)7/30/2013)
 - (5) **Conditional Use Requirements.** If, after taking into account the factors listed in Sec. 13-1-41 and the purposes of this Chapter, the Planning and Zoning Committee determines that the potential impact of a proposed special use is sufficient to warrant application of the requirements for a conditional use, the committee may apply such requirements to the proposed special use. (A)7/30/2013)
- (c) **Compliance.** If a special use permit is approved with conditions, an appropriate record shall be made of the land use and structures permitted, and prior to the issuance of a Class B permit the Planning and Zoning Agency shall record with the Bayfield County Register of Deeds an affidavit prepared by the Planning and Zoning Agency setting forth the terms and conditions of the permit and a legal description of the property to which they pertain. The terms and conditions of a special use permit of either class shall be binding upon and inure to the benefit of all current and future owners of the property to which it pertains unless otherwise expressly provided by the permit, or unless the permit terminates under subsection (d) of this section. The recording fee for the affidavit shall be paid by the applicant to the Planning and Zoning Agency within ninety (90) days after notice thereof has been sent to the applicant by the Agency. If the applicant fails to do so, the Class B Permit shall not be issued and the Planning and Zoning Committee's approval thereof shall become null and void.(A)7/30/2013);(A)5/27/2014); (A)2/27/2018)
- (d) **Termination.**
- (1) A special use permit shall automatically terminate 12 months from its date of issuance if the authorized building activity, land alteration or use has not begun within such time.

- (2) If a special use is discontinued for 36 consecutive months, the special use permit authorizing it shall automatically terminate, and any future use of the building, structure, or property to which the permit pertained shall conform to this Chapter.
- (3) Special uses with conditions shall be reviewed periodically by the Planning and Zoning Agency. Where such a use does not continue in conformity with the conditions of the original approval the permit shall be terminated and such noncompliance shall constitute a violation under this Chapter. (A)7/30/2013); (A)2/27/2018)
- (e) **Refilings; Reconsiderations and Rehearings.** (©2/28/17)
- (1) **Refiling Rule.** No Special Use Permit that has been previously acted upon by the Committee shall be considered upon a new application unless one or more of the following applies: (©2/28/17)
- a. Thirty-Six (36) consecutive calendar months have expired from the date of the final decisions denying the earlier application. (©2/28/17)
 - b. The application does not contain the original or a substantially similar request for specific use. (©2/28/17)
 - c. Substantial change in the use of adjacent property has occurred since the previous application was heard. (©2/28/17)
 - d. The previous application was closed without a hearing because the applicant was not present at the time such situation/circumstance was scheduled for a meeting and the applicant demonstrates to the satisfaction of the Committee that his or her absence was due to excusable neglect. (©2/28/17)
 - e. There is a claim that there should be a rehearing based upon newly discovered evidence. A rehearing will only be granted on this basis when all of the following apply: (©2/28/17)
 - 1. The evidence has come to the moving party's notice after the initial hearing. (©2/28/17)
 - 2. The moving party's failure to discover the evidence earlier did not arise from lack of diligence in seeking to discover it. (©2/28/17)
 - 3. The evidence is material and not cumulative. (©2/28/17)
 - 4. The new evidence would probably change the result. (©2/28/17)
- (2) **Reconsideration.** There shall be no reconsideration of any Planning and Zoning Committee decision approving or denying a special use permit

except that the Planning and Zoning Committee, by its own motion and by a simple majority vote taken at the hearing in which a decision to grant or deny a special use permit is made, or at very next meeting of the Committee, shall be sufficient to reconsider a previous decision. If the Planning and Zoning Committee decides to reconsider the granting or denial of a special use permit after the close of the hearing at which the original grant or denial is voted upon, the case will be placed on the agenda for the next regular meeting/hearing and notice given as required for an original hearing. (©2/28/17)

- (3) **Closure of Application.** An application will be considered as heard and closed at such time as the Committee approves or rejects an application or appeal by motion. No subsequent request for reconsideration by the applicant shall be considered. (©2/28/17)
- (4) **Filing fee(s) for a refiling** will not be refunded in the event the Committee or Board decides to deny the application. (©2/28/17)

Sec. 13-1-42 Environmental Impact Analysis.

- (a) **Purpose.** The purpose of an Environmental Impact Analysis is to evaluate proposed actions very carefully in order to assure safe, healthful, productive and aesthetically pleasing surroundings and to discourage ecologically unsound practices. An E.I.A. should inform public decision makers and private individuals of the environmental and economic effects of actions that have been proposed, increase the exchange of information among interested parties, lead environmentally and economically sound projects, and be used as a planning tool for broad aspects of decision making.
- (b) **Uses Requiring an E.I.A.** An Environmental Impact Analysis shall be required for:
- (1) Any subdivision consisting of twenty-five (25) lots or more.
 - (2) Any resort, condominium, planned unit development, motel, hotel or multi-unit dwelling.
 - (3) Any mobile home park, campground or camping resort.
 - (4) Any junk or salvage yard.
 - (5) Post-exploration phase of mining of mineral deposits as required by Section 13-1-25(b).
 - (6) Metallic mining.
 - (7) Nonmetallic mining in a shoreland zone after June 1st, 2007.
 - (8) Any solid waste disposal or landfill site.
- (c) **Evaluation Procedures.**
- (1) In order for the Committee to consider the permit, an E.I.A. must be submitted along with the application for conditional use.
 - (2) Before passing upon the application for a conditional use permit, the Planning and Zoning Committee shall hold a public hearing. Notice of such a public hearing, specifying the time, place, and matters to come before the Planning and Zoning Committee shall be given in the manner specified in Section 13-1-41(e).
 - (3) The Planning and Zoning Agency and Planning and Zoning Committee may request review of an E.I.A. by the Wisconsin Department of Natural Resources; the Bayfield County Land and Water Conservation Department; or a private consultant. (A)2/27/2018
 - (4) The Planning and Zoning Committee may, in writing, waive the

requirement that the applicant provide an E.I.A. where the proposed development is located within the boundary of an unincorporated village established pursuant to Section 13-1-62(n) or in those unique instances where this tool is deemed unnecessary to aid in the decision making process. (A)7/30/2013)

(d) **Required Content of Environmental Impact Analysis.**

(1) **Summary Statement.** What is the overall anticipated impact of the projects on the environment? Based on this question, prepare a summary statement from the results of the following impact analysis.

(2) **The Nature of the Site and Surrounding Area.**

- a. Characterize the local and regional topography and geology, especially those factors pertinent to the proposed development.
- b. Describe the soil types of the area to be developed and include a soils map from the Soil Conservation Service.
- c. Provide the results of percolation tests and core samples and list all foreseen limitations for streets and roads, dwellings and foundations.
- d. Describe the water resources of the region, including pertinent information on lakes [size, shape, location, important chemical-physical data if requested], streams and groundwater.
- e. Characterize the existing vegetation of the area to be developed, showing the distribution of the vegetative types on an attached map.
- f. Summarize present land use patterns, indicating both the nature and the extent of land use in the proposed site and in the surrounding area.

(3) **The Proposed Development and Planned Alterations.**

- a. Provide a map showing the proposed lot locations and boundaries, as well as other important data such as locations of proposed buildings, roads, and easements.
- b. Describe in detail, all proposed land alterations and provide a large scale topographic map [contour interval ten (10) feet or less, preferably two (2) feet] of those proposed alterations. The following points should be considered:
 1. Landscaping details. List all provisions for limiting soil erosion.

2. Draining or filling of wetlands.
 3. Shoreland alterations.
 4. Do the proposed alterations comply with this Chapter?
- c. Describe proposed alterations of the existing vegetation, and include any provisions being made to preserve or supplement the existing vegetation.
 - d. Describe plans to dispose of storm and melt water runoff.
 - e. Describe the proposed waste disposal system:
 1. What type of sewage disposal system is anticipated?
 2. What is the anticipated volume of sewerage to be generated?
 3. What are the proposed plans for solid waste disposal?
 - f. Describe the locations and estimated demands of proposed wells.
- (4) ***Impact of the Development on the Natural Surroundings.***
- a. List the species of fish, fowl, or land animals common to the area and their required habitats. What measures will be taken to preserve these habitat areas?
 - b. If the site has frontage on navigable water:
 1. What allowances will be made for natural erosion processes?
 2. What provisions will be made to retard shoreline or bank erosion?
 3. What provisions will be made to avoid enrichment of the water bodies due to sewerage or runoff?
 4. How will surplus runoff from fertilized lawns or fields or from roads be directed off the property?
 5. List any irreversible or irretrievable commitments or of resources that would be involved.
- (5) ***Alternatives to Proposed Action.*** Possible alternatives to potentially problem causing aspects of the project should be discussed. The

feasibility of the alternatives should also be brought out.

(6) **Economic-Social Impact.**

a. **Population.**

1. What is the maximum anticipated population of the development?
2. Estimate the total user days per year.

b. **Economic Benefits.** Assessment of the expected economic benefits the community will receive, such as:

1. Inputs into construction trade.
2. Increases in assessed property values.
3. Total anticipated tax revenue.
4. Increased retail sales.

c. **Services.** This Section will assess some of the costs and consequences of servicing the proposed development, such as:

1. Total length of proposed roads.
2. Estimated annual cost of snow plowing.
3. Assessment of potential traffic loads on roads leading from the subdivision to commercial centers.
4. Estimated annual amount of solid waste generated.
5. Estimated annual cost for schools.
6. Distance from the nearest hospital, responsible fire department, and full time police headquarters.
7. Assessment of the potential pressure placed on public recreational facilities and any provisions for reducing such pressure within the development itself.

d. **Assessment.** Assessment of effects resulting from the changing of present land use patterns.

Sec. 13-1-43 Mobile Tower Siting Regulations. (©)1/29/2002); (®®)12/10/2013)

- (a) **Purpose and Intent.** 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. (©)1/29/2002); (®®)12/10/2013)

It is intended that the County shall apply these regulations to accomplish to the greatest degree possible the following: (©)1/29/2002); (®®)12/10/2013)

- (1) Minimize adverse effects of mobile service facilities and mobile service support structures. (©)1/29/2002); (®®)12/10/2013)
- (2) Maintain and ensure that a non-discriminatory, competitive and broad range of mobile services and high quality mobile service infrastructure consistent with the Federal Telecommunications Act of 1996 and provided to serve the community, as well as serve as an important and effective part of Bayfield County's police, fire, and emergency response network. (©)1/29/2002); (®®)12/10/2013)
- (3) Provide a process of obtaining necessary permits for mobile service facilities and support structures while at the same time protecting the legitimate interests of Bayfield County citizens. (©)1/29/2002); (®®)12/10/2013)
- (4) Encourage the use of alternative support structures, co-location of new antennas on existing support structures, camouflaged mobile service support structures, and construction of support structures with the ability to locate three (3) or more providers. (©)1/29/2002); (®®)12/10/2013)

Furthermore, this section is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally, it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by Sec. 59.69(4d), or its successor sections, of the Wisconsin Statutes or as permitted by Federal Law. (©)1/29/2002); (®®)12/10/2013)

- (b) **Definitions.** (©)1/29/2002)

- (1) All definitions contained in s. 66.0404(1), Wisconsin Statutes are hereby incorporated by reference. (©)1/29/2002); (®®)12/10/2013)
- (2) For the purpose of this section, the following terms and phrases shall be defined as: (©)1/29/2002); (®®)12/10/2013)
 - a. **Camouflaged Mobile Service Support Structure:** Any mobile service support structure that due to design or appearance hides, obscures, or conceals the presence of the mobile service support structure. (©)1/29/2002); (®®)12/10/2013)

- b. **Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas. (©)1/29/2002); (©©)12/10/2013)
- (c) **Exempt from Permitting.** The following shall be exempt from the requirement to obtain a land use permit, unless otherwise noted. (©)1/29/2002); (©©)12/10/2013)
- (1) The use of all receive-only television antenna and satellite dishes. (©)1/29/2002); (©©)12/10/2013)
 - (2) Amateur Radio and/or Receive-Only Antennas. This ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator and is used for amateur radio purposes or is used exclusively for receive-only purposes. (©)1/29/2002); (©©)12/10/2013)
 - (3) Mobile services providing public information coverage of news events of a temporary or emergency nature. (©)1/29/2002); (©©)12/10/2013)
- (d) **Siting and Construction of any New Mobile Service Support Structure and Facilities and Class 1 Collocation.** (©)1/29/2002); (©©)12/10/2013)
- (1) **Application Process.** (©)1/29/2002); (©©)12/10/2013)
 - a. A land use permit is required for the siting and construction of any new mobile service support structure and facilities and for Class 1 Collocation. (©)1/29/2002); (©©)12/10/2013)
 - b. A written permit application must be completed by any applicant and submitted to the Planning and Zoning Agency. The application must contain the following information: (©)1/29/2002); (©©)12/10/2013); (A)2/27/2018)
 1. The name and business address of, and the contact individual for, the applicant. (©)1/29/2002); (©©)12/10/2013)
 2. The location of the proposed or affected support structure. (©)1/29/2002); (©©)12/10/2013)
 3. The location of the proposed mobile service facility. (©)1/29/2002); (©©)12/10/2013)
 4. 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. (©)1/29/2002); (®®)12/10/2013)

5. 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. (©)1/29/2002); (®®)12/10/2013)

6. 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. (©)1/29/2002); (®®)12/10/2013)

c. A permit application will be provided by the Planning and Zoning Agency upon request to any applicant. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)

(2) **Completed Applications.** If an applicant submits to the Planning and Zoning Agency 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 Planning and Zoning Agency shall consider the application complete. If the Planning and Zoning Agency does not believe that the application is complete, the Planning and Zoning Agency 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. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)

(3) **County Responsibilities.** Within 90 days of its receipt of a complete application, the Planning and Zoning Agency shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning and Zoning Agency may agree in writing to an extension of the 90 day period: (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)

a. Review the application to determine whether it complies with all applicable aspects of the county's building code and, subject to the limitations in this section, zoning ordinances. (©)1/29/2002); (®®)12/10/2013)

- b. Make a final decision whether to approve or disapprove the application. (©)1/29/2002); (®®)12/10/2013)
 - c. Notify the applicant, in writing, of its final decision. (©)1/29/2002); (®®)12/10/2013)
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision. (©)1/29/2002); (®®)12/10/2013)
- (4) **Disapproval.** The Planning and Zoning Agency 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 (d)(1)b.vi. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
- (5) **Application of Set Back/Fall Zone.** If an applicant provides the Planning and Zoning Agency 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 Planning and Zoning Agency provides the applicant with substantial evidence that the engineering certification is flawed. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
- (6) **Fees.** The fee for the permit is \$3,000. (©)1/29/2002); (®®)12/10/2013)
- (7) **Limitations.** Land Use Permits for Siting and Construction of any new mobile service support structure and facilities and land use permits for Class 1 Colocations shall only be granted provided the following conditions exist: (©)1/29/2002); (®®)12/10/2013)
- a. If the location of the proposed mobile service support structure or mobile service facility is on leased land, the lease agreement does not preclude the lessee from entering into leases on the site with other provider(s) and there is no other lease provision operating as a bar to collocation of other providers. (©)1/29/2002); (A)12/15/2009); (®®)12/10/2013)
 - b. The applicant has obtained Federal Communications Commission (FCC) license numbers and registration numbers if applicable. (©)1/29/2002); (®®)12/10/2013)
 - c. The applicant and/or agent have copies of Findings of No Significant Impacts (FONI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable. (©)1/29/2002); (®®)12/10/2013)
 - d. The applicant and/or agent have copies of the determination of no hazard from the Federal Aviation Administration (FAA) including

any aeronautical study determination or other findings, if applicable.
(©)1/29/2002); (®®)12/10/2013)

- e. The applicant and/or agent have plans indicating security measures (i.e. access, fencing, lighting, etc.). (©)1/29/2002); (®®)12/10/2013)
- f. For new mobile service support structures, the applicant has obtained a report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas. (©)1/29/2002); (®®)12/10/2013)
- g. The applicant and/or agent have proof of liability coverage.
(©)1/29/2002); (®®)12/10/2013)
- h. The applicant and/or agent have copies of an Affidavit of Notification indicating that all operators and owners of airports located within five (5) miles of the proposed site have been notified via certified mail. (©)1/29/2002); (®®)12/10/2013)
- i. The Facility or collocation is designed to promote site sharing, such that space is reasonably available to colocators and such that telecommunication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible. (©)1/29/2002); (®®)12/10/2013)

(e) **Class 2 Collocation.** (©)1/29/2002); (®®)12/10/2013)

(1) **Application Process.** (©)1/29/2002); (®®)12/10/2013)

- a. A land use permit is required for a class 2 collocation. A class 2 collocation is a permitted use, but still requires the issuance of the permit. (©)1/29/2002); (®®)12/10/2013)
- b. A written permit application must be completed by any applicant and submitted to the Planning and Zoning Agency. The application must contain the following information: (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
 - 1. The name and business address of, and the contact individual for, the applicant. (©)1/29/2002); (®®)12/10/2013)
 - 2. The location of the proposed or affected mobile service support structure. (©)1/29/2002); (®®)12/10/2013)
 - 3. The location of the proposed mobile service facility.
(©)1/29/2002); (®®)12/10/2013)
- c. A permit application will be provided by the Planning and Zoning Agency upon request to any applicant. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)

- (2) **Requirements.** A class 2 collocation is subject to the same requirements for the issuance of a land use permit to which any other type of commercial development or land use development is subject, except that the maximum fee for a land use permit shall be \$500. See Sec. 13-1-21 of the Bayfield County Zoning Ordinances. (©)1/29/2002); (®®)12/10/2013)
- (3) **Completed Applications.** If an applicant submits to the Planning and Zoning Agency 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 Planning and Zoning Agency shall consider the application complete. If any of the required information is not in the application, the Planning and Zoning Agency 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. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
- (4) **County Requirements.** Within 45 days of its receipt of a complete application, the county shall complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the 45 day period: (©)1/29/2002); (®®)12/10/2013)
- a. Make a final decision whether to approve or disapprove the application. (©)1/29/2002); (®®)12/10/2013)
 - b. Notify the applicant, in writing, of its final decision. (©)1/29/2002); (®®)12/10/2013)
 - c. If the application is approved, issue the applicant the relevant permit. (©)1/29/2002); (®®)12/10/2013)
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision. (©)1/29/2002); (®®)12/10/2013)
- (5) **Fees.** The fee for the permit is as set forth in Bayfield County Zoning Ordinance Sec. 13-1-21, except that the maximum fee for the land use permit shall be \$500. (©)1/29/2002); (®®)12/10/2013)
- (f) **Information Report.** The purpose of the report under this subsection is to provide the County with accurate and current information concerning the mobile service facility owners and providers who offer or provide mobile services within the County, or that own or operate mobile service facilities within the County, to assist the County in enforcement of this subsection, and to assist the County in monitoring compliance with local, state and federal laws. (©)1/29/2002); (®®)12/10/2013)
- (1) **Information Report.** All mobile service support structure owners of any new mobile service support structure shall submit to the Zoning Agency a Telecommunications Facility Information Report (the "Report") within forty-

five (45) days: (1) following land use approval; (2) of receipt of a written request from the Zoning Agency; and (3) of any change in occupancy of the mobile service facility. The Report shall include the mobile service support structure owner's name(s), address(es), phone number(s), contact person(s), and proof of bond as security for removal. The support structure owner shall supply the mobile service support structure height or current occupancy, if applicable, the number of colocation positions designated, occupied or vacant. This information shall be submitted on the County form provided and designated for such use, and shall become evidence of compliance. (©)1/29/2002); (©©)12/10/2013); (A)2/27/2018)

(g) **Removal/Security for Removal.** (©)1/29/2002); (©©)12/10/2013)

- (1) It is the express policy of Bayfield County and this ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or a condition approved by the Bayfield County Zoning Agency. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to 5 feet below the surface. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have one hundred eighty (180) days to effect removal and restoration unless weather prohibits such efforts. Permittee shall record a document with the Bayfield County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure. (©)1/29/2002); (©©)12/10/2013) (A)2/27/2018)
- (2) **Security for Removal.** The owner of any mobile service support structure other than a municipality or other unit of government shall provide to Bayfield County, prior to the issuance of the land use permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or Twenty Thousand Dollars (\$20,000), whichever is less, to guarantee that the mobile service support structure will be removed when no longer in operation. Bayfield County will be named as obligee in the bond and must approve the bonding company. The County may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed Twenty Thousand Dollars (\$20,000). The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the County's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the County may submit a master bond to cover all of said sites. A master bond or a letter of credit may, in the Committee's discretion, be in an amount sufficient to secure removal from one site if the master bond or letter of credit provides for replenishing any

amount used as the master bond or letter of credit covers any other site in the County. (©)1/29/2002; (®®)12/10/2013)

(h) **Structural, Design and Environmental Standards.** (©)1/29/2002; (®®)12/10/2013)

(1) **Mobile Service Support Structure, Antenna and Facilities Requirements.** All mobile service facilities and mobile service support structures, except exempt facilities as defined in subsection (c), shall be designed to reduce the negative impact on the surrounding environment by implementing the measures set forth below: (©)1/29/2002; (®®)12/10/2013)

a. Mobile Service support structures shall be constructed of metal or other nonflammable material, unless specifically permitted by the County to be otherwise. (©)1/29/2002; (®®)12/10/2013)

b. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions. (©)1/29/2002; (®®)12/10/2013)

c. Equipment compounds shall be constructed of nonreflective materials (visible exterior surfaces only). Equipment compounds shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility. (©)1/29/2002; (®®)12/10/2013)

d. Mobile service facilities, support structures and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, Bayfield County Subdivision Ordinance, Bayfield County Sanitation Ordinance, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSI), and American National Standards Institute (ANSI) in effect at the time of manufacture. (©)1/29/2002; (®®)12/10/2013)

e. Mobile service facilities and support structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the County. (©)1/29/2002; (®®)12/10/2013)

(2) **Site Development.** A leased parcel intended for the location of new mobile service facilities, mobile service support structures, and equipment compounds shall be located so as to permit expansion for mobile service facilities to serve all potential colocators. (©)1/29/2002; (®®)12/10/2013)

(3) **Vegetation protection and facility screening.** (©)1/29/2002; (®®)12/10/2013)

- a. Except exempt facilities as defined in subsection (c), all mobile service facilities shall be installed in a manner to as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, “mature landscaping” shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet that will provide the appropriate level of visual screening immediately upon installation. (©)1/29/2002); (®®)12/10/2013)
 - b. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping as long as a telecommunication facility is maintained on the site. (©)1/29/2002); (®®)12/10/2013)
- (4) **Fire prevention.** All mobile service facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention. (©)1/29/2002); (®®)12/10/2013)
- (5) **Noise and Traffic.** All mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end the following measures shall be implemented for all mobile service facilities, except exempt facilities as defined in subsection (c): (©)1/29/2002); (®®)12/10/2013)
- a. Noise producing construction activities shall take place only on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair, and (©)1/29/2002); (®®)12/10/2013)
 - b. Backup generators, if present, shall be operated only during power outages and for testing and maintenance purposes. (©)1/29/2002); (®®)12/10/2013)
- (6) **Separation Requirements.** Mobile service support structures shall be separated by a minimum of 2640 feet, except that: (©)1/29/2002); (®®)12/10/2013)
- a. Two (2) mobile service support structures may be permitted to be located within 100 feet of each other subject to approval of the Bayfield County Zoning Committee. (©)1/29/2002); (®®)12/10/2013)
 - b. Camouflaged mobile service support structures are exempt from the separation between mobile service support structures requirement listed above. (©)1/29/2002); (®®)12/10/2013)
- (i) **Compliance/Penalties.** (©)1/29/2002); (®®)12/10/2013)
- (1) **Abandonment.** Any antenna, mobile service facility, or mobile service support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon application, the Committee may extend the time limit to abandon once for an additional

twelve-month period. Such extension shall be based on the finding that the owner or permit holder is actively seeking tenants for the site. After the expiration of the time periods established above, the following shall apply: (©)1/29/2002); (®®)12/10/2013)

- a. The owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, building(s) and foundations to the depth as otherwise herein required within ninety (90) days of receipt of notice from the Zoning Agency notifying the owner of such abandonment. If removal to the satisfaction of the Planning and Zoning Agency does not occur within said ninety (90) days, the Bayfield County Zoning Administrator may order removal utilizing the established bond as provided under subsection (g) and salvage said antenna, mobile service facility or mobile service support structure, including all supporting equipment and building(s). If there are two or more users of a single mobile service support structure, then this provision shall not become effective until all operations of the mobile service support structure cease. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
 - b. The recipient of a land use permit allowing a mobile service support structure and facility under this section, or the current owner or operator, shall notify the Bayfield County Planning and Zoning Agency within 45 days of the date when the mobile service facility is no longer in operation. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)
- (3) **Penalties.** Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall be subject to the penalty provisions set forth in Sec. 13-1-103 of the Bayfield County Zoning Ordinance, and, upon conviction, may pay a forfeiture of not less than \$10.00 nor more than \$500.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Planning and Zoning Agency may seek injunctive relief from a court of record to enjoin further violations. (©)1/29/2002); (®®)12/10/2013); (A)2/27/2018)

Sec. 13-1-44 Handicap – Disability Permits.

- (a) **Application.** A person claiming coverage under the Federal Americans With Disabilities Act (42 USC ss. 12101 to 12213), the Federal Fair Housing Act (42 USC ss. 3601 to 3631), or the Wisconsin Open Housing Law (Sec. 106.04 Wis. Stats.), as such Acts may be renumbered and/or amended from time to time (hereafter “the Acts”) may apply to the Planning and Zoning Agency for a handicap--disability permit. The application shall contain sufficient information regarding the handicap or disability purporting to provide coverage under the Acts, and the proposed work and possible alternatives thereto, to enable the Agency to determine whether any of the Acts apply. At the Agency’s request the applicant shall provide such additional information as the Agency may deem necessary to make such a determination. (A)7/30/2013); (A)2/27/2018)
- (b) **Determination.** If the Agency determines that one or more of the Acts applies, that the handicap or disability can be reasonably accommodated with unreasonably undermining the basic purposes of the Bayfield County Zoning Ordinance, and that there are no alternatives for reasonably accommodating the handicap or disability that would have less adverse impact on the purposes of the ordinance, the Agency may issue a Handicap--Disability Permit authorizing the proposed work, even if the proposed work does not comply with other provisions of the Zoning Ordinance. Such provisions shall be inapplicable to the authorized work by virtue of this section. (A)2/27/2018)
- (c) **Termination.** Any condition authorized by a permit issued hereunder which does not otherwise comply with provisions of the Zoning Ordinance shall be removed or otherwise brought into compliance with such other provisions at such time as coverage under the Acts terminates (such as may be occasioned by change in occupancy) if such removal or compliance can be achieved without inordinate expense and disruption of the remaining structure. Each Handicap--Disability Permit shall describe specifically what actions must be taken upon termination of coverage, and prior to the issuance of the permit the Planning and Zoning Agency shall record with the Bayfield County Register of Deeds an affidavit prepared by the Agency setting forth the terms and conditions of the permit, including such required actions, and a legal description of the property to which they pertain. The recording fees shall be paid by the applicant. The provisions describing and requiring the actions to be taken upon termination of coverage shall be binding upon all current and future owners of the property. (A)7/30/2013) (A)2/27/2018);

Sec. 13-1-45 through Sec. 13-1-59**Reserved for Future Use.**