

# VILAS COUNTY

A stylized illustration of a wireless communication tower. The tower is a grey silhouette with a circular antenna at the top. Concentric, light blue curved lines radiate from the antenna, representing signal waves. The tower has a triangular lattice structure with horizontal rungs.

## Wireless Communication Ordinance

Chapter 27

Enacted March 25, 2014

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**27.01 Purpose and Intent**

- (1) The purpose of this ordinance is to regulate:
  - (a) The siting and construction of any new wireless service support structure and facilities;
  - (b) With regard to a class 1 co-location, the substantial modification of an existing wireless support structure and wireless service facilities; and
  - (c) With regard to a class 2 co-location, co-location on an existing wireless support structure which does not require the substantial modification of an existing support structure and wireless service facilities.
  
- (2) It is intended that Vilas County shall apply these regulations to accomplish the following:
  - (a) Minimize adverse effects of wireless service facilities and wireless service support structures.
  - (b) Maintain and ensure that a non-discriminatory, competitive and broad range of wireless services and wireless 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 Vilas County's police, fire, highway department and emergency response network.
  - (c) Provide a process of obtaining necessary permits for wireless service facilities and wireless support structures while at the same time protecting the legitimate interests of Vilas County citizens.
  - (d) Encourage the use of alternative wireless support structures, co-location of new antennas on existing wireless support structures, camouflaged wireless service support structures, and construction of wireless support structures with the ability to locate three (3) or more providers.
  
- (3) 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.

**27.02 Applicability**

- (1) Wireless communication structures within the unincorporated areas of Vilas County that meet any of the following conditions are regulated.
  - (a) Structures, including antennas and any other attachments or extensions, exceeding one hundred (100) feet in height above grade.
  - (b) Structures, regardless of height, which are required by Federal Regulations to be equipped with aviation hazard warning lighting.

**27.03 Severability**

If a court of competent jurisdiction adjudges any portion of this chapter unconstitutional or invalid, the remainder of this chapter shall not be affected.

**27.04 Definitions**

- (1) All definitions contained in §66.0404(1) and §66.0406(1), Wisconsin Statutes are hereby incorporated by reference.
  
- (2) *Alternate Tower Structure:* Shall mean man-made structures such as elevated tanks, electric utility transmission line towers, non-residential structures, and similar mounting structures that camouflage or conceal the presence of antennas or towers. Free-standing signs are not considered to be alternative tower structures.
  
- (3) *Antenna:* Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (Panel) or parabolic antenna (disc).
  
- (4) *Camouflaged Wireless service Support Structure:* Any wireless service support structure that due to design or appearance hides, obscures, or conceals the presence of the wireless service support structure.

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- (5) *Co-location:* Class 1 or class 2 co-location or both.
- (a) Class 1 co-location means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
- (b) Class 2 co-location means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
- (6) *Communication Tower Freestanding:* A ground mounted tower consisting of a pole, spire, structure, or combination thereof constructed with or without guy wires and anchors.
- (7) *Communication Tower Guyed:* A tower supported in whole or part by wires and ground anchors or other means of support besides the superstructure of the tower.
- (8) *Communication Tower Monopole:* A ground mounted tower consisting of a single pole constructed without guy wires and anchors.
- (9) *Commercial Wireless Telecommunication Services:* Licensed commercial wireless telecommunication services including cellular, wireless internet, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services that are marketed to the general public.
- (10) *Compound:* Area that encompasses the tower and/or antenna, any structures associated with the tower or antenna, and any support wires for the tower or antenna.
- (11) *FAA:* Federal Aviation Administration.
- (12) *FCC:* Federal Communications Commission.
- (13) *Hazard:* Any man-made structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport.
- (14) *Height:* The distance measured from ground level to the highest point on a tower or structure, including any antenna.
- (15) *High Power Transmission Line:* A 69 kv or greater electric transmission line with towers at least 75 feet in height.
- (16) *Microwave Antenna:* A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless communications, and including the wiring, related ground equipment and the supporting structure thereof.
- (17) *Public Utility:* Persons, corporations, or governments, supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication services shall not be considered a public utility use and are defined separately.
- (18) *RF:* Radio frequency.
- (19) *Radio and Television Broadcast Receiving:* A wire, set of wires, metal or carbon fiber elements(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.

- (20) *Radio and Television Broadcast Transmitting:* A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the wiring, related ground equipment and the support structure thereof.
- (21) *Satellite Dish:* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and /or receive radio or electromagnetic waves between terrestrially and/or orbital based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas and the wiring, related ground equipment and support structure thereof.
- (22) *Service support structure:* See Tower Accessory Structure.
- (23) *Setback/Fall Zone:* Setback distance is:  
(a) The height of the structure plus antenna(s) or;  
1. Exception:  
a. If a new or existing structure is designed to collapse within a smaller area than the setback /fall zone area, whichever is less.
- (24) *Short-wave Radio Transmitting and Receiving Antenna:* A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for non-commercial short-wave radio communications, and including the supporting structure.
- (25) *Substantial modification:* The modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:  
(a) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.  
(b) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.  
(c) Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for co-location.  
(d) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
- (26) *Support structure:* See Tower.
- (27) *Tower:* Any commercial or public structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including guy towers, monopole towers and self-supporting lattice towers. Any ground or roof mounted, spire, structure, or combination thereof taller than one hundred (100) feet in height if free standing or 20 feet in height if roof mounted, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.
- (28) *Tower Accessory Structure:* Any structure located at the base of a tower for housing base receiving or transmitting equipment of or relating to servicing the tower.
- (29) *Wireless Communications:* Any personal wireless services as defined in the Telecommunications Act of 1996 or amended Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.

**27.05 Exempt From Permitting** The following are exempt from the requirement to obtain a zoning permit unless otherwise noted.

- (1) Structures for the support of television antennas and other receive-only antennas provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property.
- (2) Structures for the support of amateur radio antennas that are owned and/or operated by a federally licensed amateur radio operator, provided that the antenna use constitutes ancillary or secondary use, not primary use, of the property.
- (3) Structures for the support of mobile antennas for services providing public information coverage of news events or of a temporary or emergency nature.
- (4) Telecommunications towers mounted on the ground that do not exceed 100 feet in height, except that such towers located in Agricultural (A) zoning district shall be authorized as to comply with s. 91.46(4), Wis. Stats.
- (5) Telecommunications towers mounted on buildings that do not exceed 100 feet in height above grade.
- (6) All new public safety towers owned and operated by federal, state, county, or other local municipal governments, will be subject to section 27.07 (1) Information Report, below.
- (7) Co-locations will be subject to section 27.07 (1) Information Report, below.

Communication structures not meeting one or more of the conditions in 27.05 above are not regulated under this section but may be subject to regulation under other sections of this ordinance or other applicable regulations.

**27.06 Siting and Construction of New Wireless Service Support Structure, Facilities and Class 1 Co-location**

- (1) *Application Process.*
  - (a) A zoning permit is required for the siting and construction of a new wireless service support structure and facilities and for Class 1 Co-location.
  - (b) An application form must be completed by an applicant and submitted to the Planning and Zoning Department. The application must contain the following information:
    1. The name and business address of, and the contact individual for, the applicant.
    2. The site location address, legal description and computer tax parcel number of the proposed or affected wireless support structure and/or the proposed wireless service facility.
    3. If the application is to substantially modify an existing wireless support structure, a construction plan which describes the proposed modifications to the wireless 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.
    4. If the application is to construct a new wireless service support structure, a construction plan which describes the proposed wireless 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 wireless service support structure.

5. If an application is to construct a new wireless service support structure, a written explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a written sworn statement from an individual who has responsibility over the placement of the wireless service support structure attesting that co-location within the applicant's search ring would not result in the same wireless service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the wireless service provider.
  - (c) A Zoning permit application will be provided by the Planning and Zoning Department upon request to any applicant.
  - (d) *Completed Applications.*  
If an applicant submits to the Planning and Zoning Department 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 Department shall consider the application complete. If the Planning and Zoning Department does not believe that the application is complete, the Planning and Zoning Department 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.
- (2) **County Responsibilities.**  
Within 90 days of its receipt of a complete application, the Planning and Zoning Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning and Zoning Department may agree in writing to an extension of the 90 day period:
- (a) Review the application to determine whether it complies with all applicable aspects of the County's Ordinance and statutory limitations.
  - (b) Make a final decision whether to approve or disapprove the application.
  - (c) Notify the applicant, in writing, of its final decision.
  - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - (e) The Planning and Zoning Department may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under paragraph 27.06(1)(b)5 above.
  - (f) If an applicant provides the Planning and Zoning Department with an engineering certification showing that a wireless service support structure, or an existing structure, is designed to collapse within a smaller area than the setback/fall zone area, that setback does not apply to such a structure unless the Planning and Zoning Department provides the applicant with substantial evidence that the engineering certification is flawed.
- (3) **Applicant Requirements.**  
(a) An applicant to construct a new wireless structure and/or wireless service structure shall notify the Town Clerk and adjacent property owners in which the structure is to be located, within ten working days of submission of the application to the County. The notice shall include as a minimum the location and intended changes to such features of an existing structure, and a telephone number and/or address where additional information on the application can be obtained. The notice shall be sent to all other municipalities and counties located within one-mile radius of the site.
- (4) **Fees.** The fee for the Zoning permit described in this section is \$ 500.00.
- (5) **Limitations.**  
Zoning Permits for Siting and Construction of any new wireless service support structure and facilities and zoning permits for Class 1 Co-locations shall only be granted provided the following conditions exist:

- (a) Design and installation of all towers and antennas shall comply with the manufacturers and engineers specifications. Plans shall be approved by an engineer licensed by the State of Wisconsin certifying the structural design.
- (b) The applicant and/or agent have plans indicating security measures (i.e. access, fencing, lighting, etc.).
- (c) For new wireless 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.
- (d) The applicant and/or agent have proof of liability coverage.
- (e) 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 and proof that the tower meets airport height restrictions.
- (f) The facility or co-location is designed to promote site sharing, such that space is reasonably available to co-locators and such that communication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible.
- (g) The applicant and/or agent have obtained all Federal Communications Commission (FCC) license numbers and registration numbers if applicable.
  - 1. A of Findings of No Significant Impacts (FONSI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable; a copy of which shall be submitted to the Vilas County Zoning Office prior to construction.
  - 2. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, if applicable; a copy of which shall be submitted to the Vilas County Zoning Office prior to construction.
  - 3. FAA approval letters shall be submitted to Vilas County Zoning Office prior to construction.
- (h) No application to place, construct or modify a telecommunications tower may be denied on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with applicable FCC emissions standards.
- (i) No land may be subdivided for the purpose of providing space for a tower unless all lot size requirements for the applicable zoning district are met and subdivision approval is obtained. On a parcel that already has a principal use, the facilities shall be considered an accessory use. A pre-existing lot of record may be leased provided that all requirements of this ordinance can be met and a Zoning Permit is issued.
- (j) If the location of the proposed wireless service support structure or wireless service facility is on leased land, the lease agreement may not preclude the lessee from entering into leases on the site with other provider(s) and no other lease provision shall operate as a bar to co-location of other providers. Written authorization for siting the wireless communication facilities from the property owner must be provided.

**27.07 Class 2 Co-location and Public Safety Towers That are Owned and Operated by Federal, State, County, or other Local Municipal Governments**

(1) Application Process

- (a) *Information Report.* A Zoning permit is not required for a class 2 co-location or a public safety tower owned and operated by federal, state, county, or other local municipal governments. It is a permitted use with the submittal of an Information Report. The Information Report must contain the following information:



1. The name, business address, and the contact individual, of the property owner, site location address, legal description and computer tax parcel number for the proposed or affected support structure, and/or the proposed wireless service facility.
2. If the intent is to modify an existing support structure, and/or the proposed wireless service facility, a construction plan shall be submitted, which describes the proposed modifications, the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications. Any change in occupancy of the wireless service facility shall be submitted on an Information Report.
3. The purpose of the report under this subsection is to provide the County with accurate and current information concerning the wireless service facility owners, providers and modifications provided by wireless services within the County, or that own or operate wireless 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.
4. The Report shall include the wireless service support structure owner's name(s), address(s), phone number(s), contact person(s). The support structure owner shall supply the wireless service support structure height and/or current occupancy, if applicable, the number of co-location positions designated, occupied or vacant. This information shall be submitted to the County and shall become evidence of compliance.
5. If the Planning and Zoning Department does not believe that the Information Report is complete, the Planning and Zoning Department shall notify the applicant in writing, within 5 days of receiving the Report, that the Information report is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit the Information Report as often as necessary until it is complete.
6. Within 45 days of its receipt of a complete Information Report, the Planning and Zoning Department shall complete all of the following or the applicant may consider the Information Report approved, except that the applicant and the Planning and Zoning Department may agree in writing to an extension of the 45 day period:
  - a. Review the Information Report to determine whether it complies with all applicable aspects of the County's Ordinance and statutory limitations.
  - b. Make a final decision whether to approve or disapprove the Information Report.
  - c. Notify the applicant, in writing, of its final decision.
  - d. If the decision is to disapprove the Information Report, include with the written notification substantial evidence which supports the decision.
7. Fees: No fee to file an Information Report.

**27.08 Wireless Internet Service**

- (1) Wireless internet service support structures/facilities require the same application process as in 27.06 and/or 27.07 above.
- (2) Exception.
  - (a) Wireless internet service provider towers mounted on the ground that do not exceed 200 feet in height and which have a base which can be encompassed within a circle of 2-foot radius, excluding guy wires and associated anchors.

- (b) Wireless internet service provider towers mounted on structures that do not exceed 25 feet above the highest part of the structure to which they are attached.

(3) Fee: The fee for the Zoning permit described in this section is \$75.00

**27.09 Setbacks**

- (1) No part of any tower or antenna shall extend across or over any right-of-way, public-street, highway, sidewalk or property line. The setback shall be the Setback/Fall Zone unless authorized through the Vilas County Board of Adjustment variance procedure.
- (2) No tower shall be placed closer to a lake, river, stream, or flowage, than the Setback/Fall Zone unless authorized through the Vilas County Board of Adjustment variance procedure.
- (3) If this prohibition leads to areas that receive minimum acceptable service, an applicant may petition the Vilas County Board of Adjustment for a variance from this ordinance.

**27.10 Performance Standards**

- (1) General  
Where the wireless service support structure facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the respective zoning district. On a parcel of land that already has a principal use, the facilities shall be considered as an accessory use and a smaller area of land may be leased provided that all the requirements of this chapter can be met.
- (2) Minimizing the Number of Sites  
The number and location of communication structures shall be minimized through co-location by mounting three (3) or more antennas on one structure or by minimizing the number of site locations when co-location is not possible by co-siting the communication structures. The cost of eliminating impediments to co-location shall be deemed reasonable if it does not exceed by 75 percent the cost of constructing a new structure on which to mount applicant's equipment.
  - (a) NEW STRUCTURES A new structure shall be designed, placed and constructed so it may be utilized by a common support structure for a minimum of three (3) carriers and associated structures and equipment, unless fully justified otherwise in the application.
  - (b) EXISTING STRUCTURES Subject to County approval, a communication structure may be situated on a commercial, industrial, professional, institutional, or governmental structure provided that such is installed and maintained in accord with applicable building codes, and complies with current Federal regulations and standards.
  - (c) NEW PROPOSED COMMUNICATION STRUCTURE A new proposed communication structure shall be located not less than the Setback/Fall Zone from a principal residence that is not on the property on which the tower is located unless:
    - 1. Authorized through the Vilas County Board of Adjustment variance procedure.
    - 2. The dwelling is on the parcel on which the tower is permitted to be located; or
    - 3. Unless co-located on an existing structure for which a permit has been issued.
  - (d) APPLICANT, COUNTY AND LOCAL GOVERNMENT CO-LOCATION COOPERATION  
All applicants agree to cooperate with County and Local government agencies to provide municipal space upon any new or existing tower assuming space is available or remains available, upon request of the County or Local government agencies, at reasonable fair market rates.
- (3) Site Concerns
  - (a) SIGNS

1. No advertising material or signage other than safety and security warning or equipment identification information shall be allowed on any communication structure. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamer, pennant, ribbon, spinner or waving, fluttering or revolving device, but not including weather devices.
  2. A sign, with a maximum of four (4) four square feet, identifying the owner(s) and operator(s) of the site and equipment shall be placed at the entrance to the site and/or entrance to the security compound.
- (b) LIGHTING
1. Wireless service support structures may be artificially illuminated, have reflectors, flashers, daytime strobes, and/or steady night time red lights as required by Federal or State Regulation.
  2. All lighting on wireless service support structures is to be shielded causing light rays to be cast upward, resulting in minimum hazard disturbance to the surrounding vehicular traffic or recreational traffic on the ground within a radius of five times the structure height above grade unless otherwise required by Federal or State Regulation.
  3. Strobe lights operated at night if required by Federal or state regulation.
  4. Security lighting used to illuminate the compound shall be shielded to direct light rays downward to keep light within the boundaries of the site, resulting in safety lighting for recreational vehicles and security.
  5. When lighting requirements cannot be met for technical reasons, the application shall provide full justification.
- (c) SAFETY Ground mounted Accessory Equipment and Wireless support structures shall be secured and enclosed with fence.
- (d) FENCING Shall be installed within 30 days of completion of construction of the wireless service support structure and/or facilities, or if a winter installation is not feasible, as soon as the frost leaves the ground. During a winter installation a temporary fence and reflective devices must be in place for safety.
1. Exemption: The height of the fence is exempt from the Conditional Use requirements of the Vilas County General Ordinance 5.12 Fences, and will be incorporated in with the Zoning Permit.

### **27.11 Compliance**

Upon written inquiry by the County, the recipient of a zoning permit under this section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance. Failure to establish compliance shall be grounds for revocation of the permit.

### **27.12 Cessation and Termination of Operation**

- (1) Within 30 days after the date on which any operation conducted ceases, the permit holder shall provide the County with written notice of the cessation of such use.
- (2) Upon permanent termination of the use of the wireless service support and/or facilities, all equipment and associated structure(s) shall be removed from the site within 12 months, unless the Zoning Administrator provides a written exemption.

- (3) The permit holder shall continue to be responsible for maintenance and security of the structure after permanent cessation of operation, and until such time that the structure and associated equipment is properly removed.
- (4) After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within 3 feet of ground level.
- (5) If removal and/or restoration are not completed, Vilas County is authorized to complete the removal and site restoration and the cost shall be assessed against the property as a special assessment.

### **27.13 Transferability**

All permits issued under this chapter shall be transferable, and all subsequent holders of such permits shall be subject to all applicable requirements of this chapter and any permit conditions that may exist. Written notice shall be made to the Zoning Administrator or designee within 30 days of such transfer.

### **27.14 Appeals**

Appeals to the Vilas County Board of Adjustment may be taken by any party aggrieved or by any officer, department, board or bureau of Vilas County affected by any decision of the Zoning Administrator or designee or designee as provided for in Article X of the Vilas County General Zoning Ordinance.

### **27.15 Enforcement and Penalties**

- (1) *Penalty*  
Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this Chapter shall be subject to a forfeiture of not less than \$250.00 first offense, \$500.00 second offense, \$1000.00 for third and subsequent offenses, for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this Ordinance and as such, forfeitures shall apply accordingly. In addition, the Planning and Zoning Department may seek injunctive relief from a court of record to enjoin further violations.
- (2) *Responsibility for Compliance*  
It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this Chapter. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this Chapter will be notified in writing of such violation by the Zoning Administrator, or designee. Each day a violation exists shall constitute a distinct and separate violation of this Chapter and, as such, forfeitures shall apply accordingly. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Section 59.69(11), Wisconsin Statutes.
- (3) *Suspension of Permit*  
Whenever the Zoning Administrator, or designee, determines that there are reasonable grounds for believing that there is a violation of any provision of this Chapter, the Zoning Administrator, or designee shall give notice to the owner of record.
  - (a) Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit.
  - (b) It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30-day period, an extension may be granted if reasons of hardship prevail and can be verified.
  - (c) Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin.

- (4) **Emergency Conditions**  
Whenever the Zoning Administrator or designee finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Zoning Administrator or designee may issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Zoning Administrator or designee shall notify the Chairperson of the Zoning Committee within 24 hours of such situations. Notwithstanding any other provisions of this Ordinance, such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.

**ATTACHMENT A**

**VILAS COUNTY GENERAL ZONING ORDINANCE**

**ARTICLE X: BOARD OF ADJUSTMENT**

Introduction and Explanation: This Article describes the Board of Adjustment. This five (5) member Board has powers directly granted to it by the State Legislature. The statutory duties of the Board are to hear and decide appeals from decisions of the Administrator or Deputies and to consider variances from the strict requirements of the Ordinances where a unique hardship exists and where a waiver of the strict rule of the Ordinance can be granted without destroying the purpose and intent of the Ordinance.

**10.1 CREATION OF THE BOARD OF ADJUSTMENT:**

A Board of Adjustment is hereby created as authorized by the applicable Wisconsin Statute, section 59.694. The Board of Adjustment shall consist of 5 members who shall be appointed by the Vilas County Board Chairperson and approved by the County Board for terms of three years. The Board of Adjustment may choose its own chairperson. The County Board may employ an assistant, who may act as office manager, provide supplies and office space to assist them in the administration of their duties, and may pay the actual and necessary expenses incurred by the Board in the performance of its duties. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

**10.2 JURISDICTION AND AUTHORITY:**

A Board of Adjustment shall have the following powers:

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of s. 59.69 or of any Ordinance adopted pursuant thereto.
- (B) To hear and decide appeals of Conditional Use decisions by the Zoning Committee.
- (C) To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

**10.3 MEETINGS AND RULES:**

Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the Chairperson's absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of said Board shall be open to the public. The Board's secretary shall keep a written record of the outcome of the vote of each member on each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney. The Board of Adjustment shall adopt further rules as necessary to carry into effect the regulations of the County Board which are not in conflict with the Wisconsin Statutes.

**10.4 PROCEDURES FOR HEARING APPEALS:**

- (A) Filing Appeals: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Vilas County affected by a decision of the office of the Zoning Administrator or designee. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the office of the assistant to the Board of Adjustment a notice of appeal specifying the grounds thereof. Upon filing of an appeal, the Zoning Administrator or designee shall transmit to the Board all of the paper constituting the record upon which the action appealed from was taken.

- (B) Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment that such a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of law.
- (C) Notice of Hearing: The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 Notice as provided for in section 985 of the Wisconsin Statutes. Notice of time, place and purpose of such hearing shall also be given to the applicant or appellant, Zoning Administrator, Town Clerk and the County Board Supervisor for the district in which the property is located. If the appeal involves area subject to the Shoreland Ordinance or within a 100-year flood plain, notice of the public hearing and a copy of the Board's decision shall be provided to the Wisconsin Department of Natural Resources district office.
- (D) Findings of the Board: The Board of Adjustment, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the majority vote, may reverse, affirm, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. All decisions and findings of the Board of Adjustment on appeal shall in all instances be final administrative determination and shall thereafter be only subject to review by a court of law upon the filing of a writ of certiorari within 30 days of the Board's decision.

**10.5 PROCEDURE FOR HEARING VARIANCE REQUESTS:**

- (A) Application for Variance: An application for variance may be filed by a property owner or owner's agent with the Board of Adjustment, on forms provided by the County.
- (B) Notice of Hearing: The Board of Adjustment shall fix a reasonable time for hearing variance requests. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 Notice as provided in section 985 of the Wisconsin Statutes. Notice of time, place and purpose of such hearing shall also be given to the applicant or appellant, Zoning Administrator, Town Clerk and the County Board Supervisor for the district in which the property is located. If the variance request involves area subject to the Shoreland Ordinance or within 100-year flood plain notice of the public hearing and of the Board's decision shall be provided to the Wisconsin Department of Natural Resources district office.
- (C) Findings of the Board: The Board of Adjustment, upon its findings, shall render a decision on the variance request within a reasonable time. A Board decision requires a majority vote. All decisions and findings of the Board of Adjustment on variance requests shall in all instances be final administrative determinations and shall thereafter be only subject to review by a court of law.
- (D) Standards for Variances: The Board of Adjustment may authorize such variances from the terms of the Ordinance to dimensional standards which will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. The Board of Adjustment shall use the following guidelines in interpreting this standard:
- (1) The particular physical surroundings shape or topographic conditions of the specific property involved could result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out.
  - (2) The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
  - (3) The purpose of the variance is not based exclusively on a desire for economic or material gain by the applicant or owner.

- (4) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.
  - (5) The granting of a variance will not be detrimental to the welfare or injurious to other property or improvements in the neighborhood in which the property is located.
  - (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire or otherwise endanger the public health, safety and welfare or substantially diminish or impair property value in the neighborhood.
  - (7) No variance shall have the effect of allowing, in any district, uses not permitted in that district. The Board of Adjustment may impose such conditions and restrictions upon the premises benefitted by the variance as may be necessary to comply with the above standards and to better carry out the general intent of this Ordinance.
- (E) Length of Validity: No order of the Board of Adjustment granting such variance shall be valid for longer than one year from the date of such order unless a Zoning Permit is obtained within such period and the erection or alteration of the building is started or the use commenced.