

## **ANTRIM PLANNING BOARD**

December 19, Meeting

**Members present:**

Ed Rowehl  
Hugh Giffin  
Fred Anderson  
Peter Beblowski

**Members absent**

Denise Dargie  
Spencer Garrett  
Eric Tenney  
Tom Mangieri  
Mary Wardman  
Bob Bethel

**Public Attendees: 19**

**Note:** The proposed ordinance for Personal Wireless Service Facilities (PWSF) and specific changes proposed for the Antrim Ordinance Manual are incorporated into these minutes.

Chairman Rowehl convened the Public Hearing which was held at the Town Gym at 7:08 PM. He designated alternate Mr. Anderson to sit for Mr. Bethel and alternate Mr. Beblowski to sit for Mr. Garrett. Mr. Rowehl explained that the purpose of the Public Hearing was to review changes in the ordinances proposed by the Planning Board. He indicated that the proposed changes were summarized in a mailing made to all postal patrons of Antrim and that the specific changes were available as handouts along with a complete version of the ordinance for PWSF. Mr. Rowehl proposed that the ordinance for PWSF be reviewed first as it actually pertained to the first thirteen specific changes in the ordinances. Mr. Rowehl explained the revised ordinance for PWSF was drafted by a volunteer citizens committee assisted by Mr. Anderson of the Planning Board and Mr. & Mrs. Bridge, consultants in the field. Mr. Rowehl asked Mr. Bridge to give a synopsis of the ordinance and how it was derived.

Mr. Bridge explained that he has been involved in the study of PWSF since 1997, primarily in the city of Amherst. He said the ordinance stems from the Telecommunications act of 1996 which specifies what towns can regulate. He said that towns cannot regulate PWSF based on the environmental effects providing that DES and Federal regulations are met. Any denials of PWSF by towns must be in writing and fully substantiated. He explained that there are certain myths regarding PWSF. One is that one or two tall towers are needed to cover a town. Actually, one site can only handle 150 calls at one time so as service demand increases, new facilities would be required. Another myth is that the signals cannot go through trees. This is technically not correct. Mr. Bridge said that the proposed ordinance was based on models developed for the towns of Durham and Amherst. Basically, the ordinance is a planning document – not a technical document.. Applicants for PWSF try to make the matter a technical issue but State law says it is a planning matter. What must be kept in mind is that no ordinance can be designed to keep PWSF from coming into a town, but they can be designed to protect the visual characteristics of the town. For example the height of the facility can be tied to the height of the tree canopy. Mr. Bridge explained that there are three

elements to PWSF. 1. The base station electronics. 2. The mount. 3. The antenna(s). The ordinance allows for the base station electronics to be easily hidden and forces the applicant to consider existing facilities. The ordinance is also designed so that tower manufacturers are treated the same as licensed carriers. The ordinance also requires compliance with State law.

Mr. Rowehl then called for comments from the public asking those that wished to speak to give their name and to limit their comments to five minutes.

Ms. Nelkens asked why questions could not be raised on the health issues. She also asked why PWSF were permitted in the Rural Conservation District. She felt that the Planning Board should be concerned with the needs of the town and not the needs of the providers. She asked how the tree canopy would be protected from loggers. She was concerned about land values. Mr. Bridge responded that health issues cannot be addressed as long as federal guidelines are met and he did provide Ms. Nelkens with other answers to her questions.

Mr. Pat Webber asked if more than one carrier was involved do they all use the same frequency or separate frequencies. Mr. Bridge said they would use separate frequencies.. Mr. Wilson asked if the power could be limited. Mr. Bridge explained that the power is limited by certification from the FCC. Mr. Rowehl asked how can the power output be verified. Mr. Bridge said the town can hire someone to measure output at the carriers expense. Ms. Voelcker wanted to know if the Supreme Court says towns can do battle on the health issue could the PWSF be rescinded? Mr. Rowehl replied that it would depend on what legislation would be developed. Mr. Quachenbush asked if upgrades in technology could be required. Mr. Rowehl replied that they could and would have to be completed in a certain time period.. Ms. Nelkens asked what about inspection of the facilities. Mr. Bridge said that the ordinance made inspections available but they were not mandatory. He said that point could be addressed by the Planning Board at the Site Plan Review. Ms. Block asked for an explanation of the state wide monitoring plan. Mr. Bridge explained that the State law has a regional notification provision which basically would allow non residents from surrounding towns to comment at a public hearing. Ms. Block felt that PWSF should not be allowed in the Rural Conservation District. She would like to see the wild parts of Antrim stay wild. Mr. Rowehl stated that the question of PWSF being located in the Rural Conservation District would be reviewed again by the Planning Board. Ms. Block said that the impact of the towers from a distance was not often bad but it was not pleasant when you approached the ground based facilities.

Mr. Reneir of Greenfield said he had received the notice of the meeting and asked if the signals were not obstructed by trees then why couldn't the facilities stay below the tree line. Mr. Bridge explained that the height of the facility is more a matter of landmass than interference.. Mr. Reneir asked about space requirements between collocations. Mr. Bridge said that 10' is the industry standard but actually they can be located closer by use of shielding..

Mr. Penney addressed the location of PWSF in the Rural Conservation District and said that the goal of the ordinance was to be tight enough and with enough restrictions that it would work in any District and final decisions would be left up to the Planning Board.

There followed some general discussion regarding the need or possibility of another public hearing. The consensus was that another public hearing could be held if substantial changes were made in the proposed PWSF ordinance. Mr. Quachenbush suggested a vote be taken regarding the location of PWSF in the Rural Conservation District. Mr. Rowehl said that a motion would not be in order but a show of hands would be appropriate.. Mr. Bemstein said that the ordinance could be selective. Ms. Nelkens said the Rural Conservation District could be exclude and that we should not worry about the landmass.. Ms. Block felt that PWSF could be allowed in the Rural Conservation District by the applicant obtaining a variance. Mr. Rowehl pointed out that the applicant would have to meet the conditions of a variance and also that large portions of the Rural Conservation District were not easy to develop.. Mr. Anderson pointed out that a lot of regulations have to be met in order to develop in a Conservation District.

Mr. Rowehl asked for a show of hands of those who opposed PWSF in the Rural Conservation District. There were 7 (39%). He then asked for those that would permit PWSF in the District. There were 6 (33%). 5 members of the audience did not participate in the show of hands (28%).

Mr. Rowehl then proceeded to review the specific changes which were proposed to be made to the existing ordinances. Ms. Nelkens asked why foundations were required for Manufactured Housing Units on individual lots but not for Units in Manufactured Housing Parks. The Secretary explained to Ms. Nelkens the restrictions imposed by RSA 31:116. Ms. Nelkens was concerned with the redefinition of Conversion Apartments because she felt there were not enough apartment units in Antrim. Mr. Beblowski pointed out that the ordinance for multiple family units provided for the construction of apartments. There was no other substantive discussion regarding items # 14 through # 23of the proposed changes.

Chairman Rowehl closed the Public Hearing at 9:06 PM

Respectfully submitted,



Paul L. Vasques, Secretary  
Antrim Planning Board

## PROPOSED CHANGES TO ANTRIM ZONING ORDINANCES

PUBLIC HEARING DECEMBER 19, 2000

1. Article XIV Section V (Wireless Communication Facilities) adopted by public ballot on September 12, 2000 to be replaced by a revised ordinance entitled "Personal Wireless Service Facilities".
2. Article IV Village Business District (VB) is amended by adding paragraph "ce" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
3. Article IV Village Business District (VB) is amended by adding paragraph "b" to Section B:3 (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
4. Article V Highway Business District (HB) is amended by adding paragraph "nn" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
5. Article V Highway Business District (HB) is amended by changing paragraph "d" to Section B:3 (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
6. Article VI Residential District (R) is amended by adding paragraph "d" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
7. Article VI Residential District (R) is amended by adding paragraph "i" to Section B:3 (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
8. Article VII Rural District (RA) is amended by adding paragraph "l" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
9. Article VII Rural District (RA) is amended by changing paragraph "n" to Section C (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
10. Article VIII Lakefront Residential District (LR) is amended by adding paragraph "d" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
11. Article VIII Lakefront Residential District (LR) is amended by adding paragraph "b" to Section B:3 (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
12. Article IX Rural Conservation District (RC) is amended by adding paragraph "m" to Section B:1 (Permitted Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
13. Article IX Rural Conservation District (RC) is amended by changing paragraph "f" to Section B:3 (Special Exception Uses) to read "Personal Wireless Service Facilities (Per Article XIV Section V)".
14. Article XIV (Supplemental Regulations) is amended by adding Section "W" Manufactured Housing Units and the following subparagraphs
  - W:1 Manufactured Housing Units located on individual lots require a permanent foundation approved by the Zoning Officer.
  - W:2 Skirting of Manufactured Housing Units may be required at the discretion of the Zoning Officer
  - W:3 Standards of construction for Manufactured Housing Units must meet current HUD Code requirements.
15. Article V Highway Business District (HB) is amended by adding paragraph "oo" "Manufactured Housing Units" to Section B:1 (Permitted Uses) Per Article XIV Section W.
16. Article VII Rural District (RA) is amended by adding paragraph "m" "Manufactured Housing Units" to Section B:1 (Permitted Uses) Per Article XIV Section W.
17. Article IX Rural Conservation District (RC) is amended by adding paragraph "n" "Manufactured Housing Units" to Section B:1 (Permitted Uses) Per Article XIV Section W.
18. Article III Definitions Item 45:b is amended by deleting the words "or more". The new wording to read "Conversion Apartment – The remodeling of a single family dwelling unit into two (2) separate dwelling units"
19. Article XIII – Special Exceptions Paragraph D.1.c, second sentence shall read "However, the maximum number of units shall not exceed two (2) units in any dwelling including any attached structure.
20. Article XIV Section O Cluster Housing is amended to change the word "Recreational" in paragraph O:3:a to read "Lakefront Residential"
21. Article XVII Sign Ordinance Section E Signs Permitted by Special Exception paragraph E:1 is amended to read "Oversized signs in all districts"
22. Article IV Village Business District (VB) is amended to delete B:1:n (Personal Services)
23. Article V Highway Business District (HB) is amended to delete B:1:o (Personal Services)

# **PROPOSED REVISION OF THE ANTRIM ZONING ORDINANCE**

(Includes revisions through 11/21/00)

## **PERSONAL WIRELESS SERVICE FACILITIES**

### **1. PURPOSE AND INTENT**

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities (PWSFs), within particular areas of the Town of Antrim, hereafter called the Town, that enhance and fulfill the following goals:

- A. Preserve the authority of the Town to regulate and to provide for reasonable opportunity for the siting of PWSFs, by enhancing the ability of providers of PWSFs to provide such services to the community quickly, effectively and efficiently, while preserving unique viewsheds and scenic values of the Town.
- B. Provide for PWSFs that are consistent with appropriate land use regulations that ensure compatibility with the visual and environmental features of the Town and that eliminate or mitigate the visual impacts of PWSFs. Compatibility with the visual features of the Town is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed PWSF;
- C. Reduce adverse impacts such facilities may create, including, but not limited to: impacts on environmentally sensitive areas, historically significant locations, migratory bird flight corridors, health and safety, and prosperity through protection of property values;
- D. Encourage carriers to locate PWSFs on existing buildings and structures and permit new ground mounted PWSFs only when the use of existing structures and buildings is found to be not feasible;
- E. Require co-location, both vertical and horizontal, to the highest extent possible, in order to reduce cumulative adverse impacts on the Town;
- F. Provide for the review of all applications for PWSFs through an assessment of technology, current locational options, future available locations, innovative siting techniques and siting possibilities beyond the jurisdiction of the Town. The review of a PWSF application shall be on the basis of the site being built using all positions on the mount.

### **2. APPLICABILITY**

The terms of this Article and the Site Plan Review Regulations shall apply to PWSFs proposed to be located on property owned by the Town, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property.

### **3. DEFINITIONS**

For the purpose of this Article, the following terms shall have the meaning given herein:

- 3.1 Antenna. The surface from which wireless radio signals are sent and/or received by a PWSF.
- 3.2 Antenna Array. A collection of antennas attached to a mount to send and receive radio signals.
- 3.3 Average Tree Canopy Height. An average height found by inventorying the height, at above ground level (AGL), of all trees over twenty (20) feet in height within the area that extends for a distance of fifty (50) feet from the base of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.
- 3.4 Camouflaged. A PWSF that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
- 3.5 Carrier. A Company that provides personal wireless services also sometimes referred to as a provider.
- 3.6 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal co-location), or the use of several mounts on an existing building or structure by more than one carrier.
- 3.7 Community Scale. Compatibility between the Proposed PWSF and its surroundings in relation to the height, mass, materials, contrasts, and proportion of the proposed facility and its surroundings.
- 3.8 Environmental Assessment (EA). An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a PWSF is placed in certain designated areas.
- 3.9 Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for PWSFs such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.
- 3.10 Facility. See Personal Wireless Service Facility
- 3.11 Fall Zone. The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 3.12 Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.
- 3.13 Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.
- 3.14 Lattice Tower. A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

3.15 Mast. A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

3.16 Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

3.17 Mount. The structure or surface upon which antennas are mounted, (interior or exterior) including the following four types of mounts:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted. Mounted on the side of a building.
3. Ground-mounted. Mounted on the ground.
4. Structure-mounted. Mounted on a structure other than a building.

3.18 Personal Wireless Service Facility (PWSF). Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. PWSFs include a mount, antenna, equipment shelter, and other related equipment.

3.19 Personal Wireless Services. The three types of services covered by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

3.20 Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

3.21 Radio Frequency Radiation (RFR). The emissions from PWSFs.

3.22 Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

3.23 Separation. The distance between one carrier's array of antennas and another carrier's array.

#### **4. DISTRICT REGULATIONS**

4.1 Location - PWSFs shall be permitted in all Zoning Districts. Ground mounted PWSFs shall be permitted in all districts by Special Exception only. Applicants seeking approval for PWSFs shall first evaluate existing structures for the siting of PWSFs. Only after finding that there are no suitable existing structures pursuant to Section 4.3 herein, shall a provider propose a new ground mounted facility.

4.2 Existing Structures: Policy - PWSFs shall be located on or within existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.

4.3 Existing Structures: Burden of Proof - The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its PWSF and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:

- A. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a PWSF. Said list shall describe and identify these potential sites. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
- B. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
- C. If the applicant claims that a structure is not capable of physically supporting a PWSF, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the PWSF without unreasonable costs. The estimated cost shall be provided to the Planning Board.

4.4 Ground-Mounted Facilities: Policy - If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted PWSFs shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees.

## 5. USE REGULATIONS

5.1 A PWSF shall require a building permit in all cases and may be permitted as follows:

- A. Existing Tower Structures: Subject to review by the Planning Board, which review shall be limited to issues relating to access, bonding, proof of insurance, security for removal, structural integrity and appropriate camouflage of such siting, carriers may locate a PWSF on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any PWSF previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met. This provision shall apply only so long as the height of the mount is not increased, carrier capacity is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.



- B. Reconstruction of Existing Tower Structures: An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum fifteen (15) foot increase in height so long as the standards of this Article are met and so long as this fifteen (15) foot increase in height does not cause a facility previously existing at less than one hundred (100) feet to exceed one hundred (100) feet in height. The mount shall be replaced with a mount of similar mass that does not increase the visual impact on the community. Site plan review is required.
- C. Existing Structures: Subject to the provisions of this Article and minor site plan review under RSA 674:43:III and except as otherwise permitted under Section 5 (A), a PWSF may be located on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.
- D. Ground Mounted Facility: A ground mounted PWSF may be constructed by Special Exception from the Zoning Board of Adjustment as outlined in Article XIII, after first obtaining approval from the Planning Board and after meeting all the provisions of this article and upon completion of a full site plan review.

## 6. DIMENSIONAL REQUIREMENTS

6.1 PWSFs shall comply with the following requirements:

- A. Height, Maximum: In no case shall a PWSF exceed one hundred (100) feet in height, unless the mount for the facility was greater than one hundred (100) feet in height prior to the adoption of this Article.
- B. Height, Existing Structures and Utility Poles: Carriers that locate new PWSFs on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than fifteen (15) feet.
- C. Height, Other Existing Structures: The height of a PWSF shall not increase the height of a structure by more than fifteen (15) feet, unless the facility is completely camouflaged: for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a PWSF on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.
- D. Height, Ground-Mounted Facilities: Ground-mounted PWSFs shall not project higher than (20) twenty feet above the average tree canopy height of the trees located within an area defined by a (50) foot radius or perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. Refer to Section 3.3-Average Tree Canopy Height.
- E. Setbacks: All PWSFs and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with the setback provisions of the zoning district in which the facility is located.

- F. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a PWSF to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. The Planning Board, at its discretion, may reduce or eliminate the fall zone. Fall zones for PWSFs may overlap.
- G. Fall Zone for Non-Ground Mounts: In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, PWSFs and their equipment shelters shall not increase any non-conformities.

## 7. PERFORMANCE AND DESIGN STANDARDS

7.1 Visibility - The applicant is encouraged to utilize enhancements to the property and must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town.

A. Visual impacts are measured on the basis of:

1. Change in community scale, as exhibited in relative height, mass or proportion of the PWSF within their proposed surroundings.
2. New visible elements proposed on a contrasting background.
3. Different colors and textures proposed against a contrasting background.
4. Use of materials that are foreign to the existing environment.

B. Enhancements are measured on the basis of:

1. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
2. Amount and type of landscaping and/or natural vegetation.
3. Preservation of view corridors, vistas, and viewsheds.
4. Continuation of existing colors, textures, and materials.

- C. Visibility focuses on:
1. Eliminating or mitigating visual impact.
  2. Protecting, continuing, and enhancing the existing environment.
- D. Camouflage for Facilities on Existing Buildings or Structures - Roof Mounts: When a PWSF extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
- E. Camouflage for Facilities on Existing Buildings or Structures - Side Mounts: PWSFs which are side mounted shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building. All surfaces shall be non-reflective.
- F. Camouflage for Ground-Mounted Facilities: All ground-mounted PWSFs shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate or alter the required buffer based on site conditions as long as such action does not deviate from the purpose and intent of this Article. The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the applicant's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.
- 7.2 Color - To the extent that any PWSFs extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings. All surfaces shall be non-reflective.
- 7.3 Equipment Shelters - Equipment shelters for PWSFs shall be designed consistent with one of the following design standards:
- A. Equipment shelters shall be located in underground vaults; or
  - B. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the PWSF; or
  - C. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or

- D. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

#### 7.4 Lighting, Signage, and Security

- A. Lighting: The mounts of PWSFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot-candles.
- B. Signage: PWSFs shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind except those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign ordinance.
- C. Security Barrier: Ground mounted PWSFs shall be enclosed by security fencing and equipped with an anti-climbing mechanism. The Planning Board at its discretion may waive this requirement.

#### 7.5 Historic Buildings

- A. Any PWSF located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- B. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
- C. PWSFs authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

7.6 Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, nearby or abutting properties unless these PWSFs are hidden or disguised in such a way so as to blend in with their surroundings. For example, the Planning Board may find a PWSF disguised as a flagpole to be acceptable. The Planning Board shall be empowered to make these decisions. All ground-mounted PWSFs shall be surrounded by a buffer of dense tree growth as per Section 7.1 (F).

7.7 Driveways - If available, existing entrances and driveways to serve a PWSF shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New driveways to serve a PWSF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.

7.8 Antenna Types - Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

7.9 Ground and Roof Mounts - All ground mounts shall be of a mast or monopole type

mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 5 (B).

7.10 Hazardous Waste - No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.

7.11 Noise - PWSFs shall not generate noise in excess of that permitted under the Town Noise Ordinance.

7.12 Radio Frequency Radiation (RFR) Standards - All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

7.13 Federal and State Requirements - All PWSFs must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate PWSFs. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency. Failure to bring PWSFs into compliance with such revised standards and regulations shall constitute grounds for removal of the PWSF as abandoned, in accordance with Section 9 of this Article, at the owner(s) expense through the execution of the posted security.

7.14 Building Code - Safety Standards - To ensure the structural integrity of PWSFs, the owner of the facility shall ensure that it is maintained in compliance with the standards contained in applicable local building codes and the applicable standards for PWSFs that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a PWSF fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the PWSF, the owner shall have thirty (30) days to bring such PWSF into compliance with such standards. If the owner fails to bring such PWSF into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the facility as abandoned, in accordance with Section 9 of this Article, at the owners(s) expense through execution of the posted security.

7.15 Balloon Test / Crane Test - The Planning Board may require a certified balloon test and/or crane test accurately simulating the height and location of the proposed PWSF. Public notice shall be given of the date and time of such test not less than 10 days prior thereto. The applicant shall provide photographs of such test from locations around the Town and within 20 miles from which the balloon(s) or crane is visible.

7.16 Migrating Bird Protection - The applicant shall submit a plan indicating methods that it shall use to mitigate adverse impacts on migrating bird populations.

7.17 Hold Harmless - The applicant shall submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

## 8. VERIFICATION, MONITORING AND MAINTENANCE

8.1 Verification - The Planning Board, at its discretion, may hire an expert of its choice to review applications. Such experts may include, but not be limited to Planning Experts, Technical Experts, Engineering Experts, Legal Experts, and Surveying Experts. All such expenses incurred shall be borne by the applicant.

8.2 Maintenance - The owner of the facility shall maintain the PWSF in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, landscaping, and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines to be required.

8.3 Monitoring - The property owner and the owner of the PWSF shall agree that the Town and its appointed representative(s) may enter the subject property to obtain RFR measurements, noise measurements, and to perform maintenance and safety inspections at the expense of the applicant. In the case of taking RFR and or noise measurements, the Town may enter without any advance notice to either the PWSF owner or the property owner. In all other cases the Town shall provide reasonable written notice to the applicant and landowner and provide them the opportunity to accompany the Town representatives when the inspections are conducted

8.4 Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 9.2. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%), provided by the applicant and certified by a professional civil engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

8.5 FCC Compliance - The applicant shall submit written proof that the proposed use and the facility comply with the FCC regulations on radio (RF) frequency exposure guidelines, and a propagation map showing the proposed radio frequency coverage.

8.6 Environmental Compliance - The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Town prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirements.

8.7 Inventory of Existing Towers - Each applicant for a PWSF shall provide an inventory of its existing PWSFs that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, and design of the facility, as well as economic and technological feasibility for co-location on the inventoried towers. The Town may share such information with other applicants applying for approvals under this ordinance or other organizations seeking to locate PWSFs within the jurisdiction of the governing authority, provided, however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

8.8 Insurance - The applicant shall submit annually to the Office of Selectmen a Certificate of Insurance showing public liability insurance coverage of not less than \$1 million Combined Single Limit.

8.9 CMI/HIC Coverage - The applicant will provide information as to whether any of the wireless telecommunications carriers providing service to the Town use the system known as cable micro-cell integrator/headend interface converter (CMI/HIC) which utilizes cable television lines and small transceivers mounted on utility poles to communicate with wireless telephones and whether there are any such carriers using CMI/HIC in the southwestern New Hampshire region.

8.10 Federal License - The applicant will provide with its application any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their system under the Federal Telecommunications Act of 1996.

8.11 State Requirements - The applicant will provide written documentation that it is in full compliance with the State of New Hampshire requirements and regulations for PWSFs as are stated in HB 733 and any amendments thereof.

## 9. ABANDONMENT OR DISCONTINUATION OF USE

9.1 Notification - Beginning 12 months after Planning Board approval and continuing on an annual basis thereafter, the owner of a PWSF shall provide the Planning Board with written, signed certification that the PWSF is being used to provide the citizens of the Town with Personal Wireless Services as defined. Failure to comply with this requirement shall constitute an admission that the PWSF is not in use and has been abandoned.

At such time that the owner plans to abandon or discontinue operation of a PWSF, the owner will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that the owner fails to give such notice, the PWSF shall be considered abandoned upon such discontinuation of operations.

9.2 Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the PWSF within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- A. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- B. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

- C. Restoring the location of the PWSF to its natural condition, except that any landscaping and grading shall remain in the after-condition.

9.3 Failure to Remove - If the owner of the facility does not remove the facility upon the Planning Board's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

9.4 Failure to Maintain - If the owner of the facility fails to maintain the facility in accordance with the directions of the Planning Board pursuant to Section 8.2, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action

## 10. TIMING OF OPERATION

10.1 Timing of Operation - Operation of a PWSF shall commence no later than nine (9) months from the date the application was approved. If the PWSF is not operating and providing the citizens of the Town with Personal Wireless Services, as defined, within this time period the Planning Board, at its discretion, may revoke its approval.

If Planning Board approval is revoked and construction has begun, the PWSF shall be considered to be abandoned.

11/21/00