

ARTICLE XIV-B - PERSONAL WIRELESS SERVICE FACILITY

(Adopted March 13, 2001. Amended: March 13, 2007; March 10, 2009; March 10, 2015; March 8, 2016; *and*)

1. **AUTHORITY.** This Ordinance is adopted by the Town Antrim in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16. In addition, pursuant to the provisions of NH RSA 674:21, the Antrim Planning Board is hereby granted the authority to issue Conditional Use Permits for the establishment of Personal Wireless Services Facilities, subject to the provisions in this Ordinance.
2. **PURPOSE AND INTENT.** It is the express purpose of this Article to permit the location of personal wireless service facilities, (PWSFs), within particular areas of the Town of Antrim, hereafter called the Town, that enhance and fulfill the following goals:
 - Preserve the authority of the Town to regulate and to provide for reasonable opportunity for the siting of PWSFs.
 - 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, unique viewsheds and scenic values of the town, and prosperity through protection of property values.
 - Encourage carriers to locate PWSFs on existing buildings and structures and multiple carriers to co-locate at the same facility.
3. **APPLICABILITY.** The terms of this Article and any application sections of the Subdivision and Site Plan Review Regulations shall apply to PWSFs proposed to be located on property owned by the Town, on privately-owned property, and/or on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property. These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict or conflicting.
4. **DEFINITIONS.** In addition to relevant definitions found elsewhere in the Zoning Ordinance and the Subdivision and Site Plan Review Regulations, the following definitions apply specifically to PWSFs:
 - a. **Antenna.** The surface from which wireless radio signals are sent and/or received by a PWSF.
 - b. **Antenna Array.** A collection of antennas attached to a mount to send and/or receive radio signals
 - c. **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 one-hundred fifty feet (150') 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.
 - d. **Camouflaged.** A PWSF that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
 - e. **Carrier.** A Company that provides personal wireless services also sometimes referred to as a provider.

- f. 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.
- g. 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.
- h. 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.
- i. Fall Zone. The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a *radius* equal to **125% of** 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.
- j. Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.
- k. Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.
- l. Limited Height Ground-Mounted PWSF. A structure that does not exceed 50 feet in height in a cleared area, or will not exceed 20 feet in height above the average tree canopy height measured within a 100-foot radius from the structure in a wooded area.
- m. Mast. A thin pole that resembles a street light standard or a telephone pole.
- n. Modification. The replacement or modification of an existing PWSF within a previously-approved equipment compound or upon a previously-approved mount.
- o. 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 or offset from the shaft on an appurtenance.
- p. Mount. The structure or surface upon which antennas are mounted, (interior or exterior) including the following four types of mounts:
 - i. Roof-mounted. Mounted on the roof of a building.
 - ii. Side-mounted. Mounted on the side of a building.
 - iii. Ground-mounted. Mounted on the ground.
 - iv. Structure-mounted. Mounted on a structure other than a building.
- q. 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.
- r. 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.

- s. Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.
 - t. Radio Frequency Radiation (RFR). The emissions from PWSFs.
 - u. Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.
 - v. Separation. The distance between one carrier's array of antennas and another carrier's array.
 - w. Small Wireless Support Structure. A lamp post, utility pole, or other similar structure that supports devices for the reception, transmission and/or broadcasting of fixed wireless signals, is no more than 70 feet high, has a footprint of no more than four (4) square feet, and supports antennas whose total surface area does not exceed 15 square feet.
5. LOCATION REQUIREMENTS. All PWSF's require a building permit and are permitted as follows:

ZONING DISTRICT	FACILITY TYPE				
	Small Wireless Support Structure	Limited Height Ground-Mounted	Ground-Mounted	Internal or External Building-Mounted	Co-Location
Village Business	Building Permit	NP	NP	Building Permit	Building Permit
Highway Business	Building Permit	CUP/SPR	P/SPR	Building Permit	Building Permit
Residential	Building Permit	NP	NP	Building Permit	Building Permit
Rural	Building Permit	CUP/SPR	P/SPR	Building Permit	Building Permit
Lakefront Residential	Building Permit	NP	NP	Building Permit	Building Permit
Rural Conservation	Building Permit	CUP/SPR	P/SPR	Building Permit	Building Permit

LEGEND: P = Permitted NP = Not Permitted SPR = Site Plan Review CUP = Conditional Use Permit

6. PERMITTED USES.

- a. Principal or Secondary Use. Telecommunications facilities may be considered either principal or secondary uses. Having an existing permitted use on site shall not preclude the addition of a facility as a Secondary Use as long as all other provisions of the Ordinance are met. Facilities that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- b. Existing Structures: Collocation and/or modification applications shall be reviewed for conformance with applicable building permit requirements, but shall not otherwise be subject to zoning or land use requirements, including design or placement requirements, or public hearing review, according to the procedure outlined in RSA 12-K:10. Substantial modifications, as defined by RSA 12-K: 2, XXV, are subject to the same process as a new application.

- c. Ground-Mounted Facility: Ground-mounted facilities will be allowed only after the Board finds that there are no suitable existing structures available, or provides a coverage plan demonstrating the need for the facilities. The burden of proof is on the applicant and the applicant shall address the following in making this case:
 - i. 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 available, the applicant shall contact the property owner(s) of those structures.
 - ii. 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.
 - iii. 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.
- d. Amateur Radio Antennas. This Ordinance shall not govern any tower, or the installation of any antenna that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.

7. CONSTRUCTION PERFORMANCE REQUIREMENTS:

- a. Federal Requirements. All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section 12 through the execution of the posted security.
- b. Building Codes/Safety Standards. To ensure the structural integrity of towers and antennas, the Planning Board may require that all facilities be inspected at predetermined intervals by an engineer approved by the Town, with the cost to be paid by the owner. The engineer will submit a report to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, the owner will receive notice that he/she has 30 days to bring such tower into compliance with the standards. If the owner fails to comply within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section 12, of the tower or antenna, at the owner's expense through execution of the posted security.

8. DIMENSIONAL REQUIREMENTS

- a. For purposes of determining whether the installation complies with district development regulations, including but not limited to setback and lot coverage requirements, the

dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots.

- b. Ground-mounted PWSFs shall not exceed ~~400~~ **150 feet in height**.
- c. 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 may be permitted to increase the height of those structures no more than fifteen (15) feet.
- d. Setbacks. All PWSFs and their related equipment and shelters shall comply with the building setback provisions of the zoning district in which the facility is located.
- e. 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. Any increase in the height of a ground-mounted PWSF requires the concomitant increase in the fall zone.

9. PERFORMANCE STANDARDS

- a. Visual Impacts. 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.
 - i. Whenever any tower or mount is proposed to be visible above the average tree canopy height, every effort shall be made to camouflage the structure by whatever means works best for the particular location, such as but not limited to color, type of structure, location or shielding. In all cases, there should be minimal impact on the visible skyline.
 - ii. All surface materials and colors shall be, to the greatest extent possible, non-reflective, produce no glare, and blend with the environment in all **normal** lighting conditions.
- b. Equipment Shelters. Equipment shelters for PWSFs shall be designed consistent with one of the following design standards:
 - i. 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
 - ii. 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.
- c. Lighting, Signage, and Security

- i. 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.
 - ii. 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.
 - iii. Security: PWSFs shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- d. Historic Buildings.
- i. 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.
 - ii. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
 - iii. 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.
- e. 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.
- f. 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.
- g. Ground and Roof Mounts of a mast or monopole type are preferred.
- h. 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.
- i. Migrating Bird Protection. The applicant shall submit a plan indicating methods that it shall use to mitigate adverse impacts on migrating bird populations.

10. PROCEDURE

- a. Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit and Site Plan Review approval from the Planning Board. Both applications may be filed concurrently.

- b. Balloon/Crane Test. The Planning Board may require a balloon 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; ***in the event of inclement weather, the notice shall provide an alternative date. If using a balloon, it must be visible at the proposed height of the tower for at least two consecutive hours of the scheduled test.*** The applicant shall provide photographs of such test from locations around Antrim. The Board may require photographs of the test within 20 miles from which the balloon(s) or crane is visible.
- c. The Planning Board 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.
- d. Procedure on Application.
 - i. The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations, RSA 676:4 and RSA 12-K.
 - ii. Regional public notice will be provided to all municipalities within a 20-mile radius of the proposed site in accordance with RSA 12-K: 7.
 - iii. Decisions. All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.
 - iv. Plan Requirements. Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a plan in accordance with the applicable submission requirements of the Antrim Site Plan Review Regulations.
 - v. Other Information Required. In order to assess compliance with this Ordinance, the Planning Board may require the applicant to submit the following prior to any approval by the Board:
 - a. Propagation map showing proposed radio frequency coverage.
 - b. Photographic documentation of the balloon/crane test(s).
 - c. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
 - d. Demonstration of compliance with any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation.
 - e. The number of sites for telecommunication facilities each provider will require;
 - f. Sites outside of the Town for the particular coverage area that are being considered;

- g. How the siting of a telecommunication facility will affect the ability to allow a competitor's antennas on the same property;
- h. Documentation of alternative sites in Town that have been considered for siting.
- i. Copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the FCC Rules, as applicable.
- j. Detailed maps showing all of the carrier's current externally visible tower locations in the state within a 20-mile radius, both active and inactive.
- k. Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
- l. An agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

11. BONDING AND SECURITY INSURANCE.

- a. 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 12.
- b. 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.

12. TIMING OF OPERATON.

- a. Operation of a PWSF shall commence no later than 18 months from the date the application was approved.
- b. If this timeframe cannot be met, the applicant may apply to the Board for an extension. Such request must be made in writing and will be addressed at a regular meeting of the Board.

13. ABANDONMENT OR DISCONTINUATION OF USE.

- a. Notification. Beginning 12 months after the Facility is operational 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.

- b. 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:
 - (1) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the PWSF to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- c. 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.
- d. 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

13. WAIVERS

- a. Any portion of these regulations may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of these regulations.
- b. Conditions. In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- c. Procedures. A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

- 14. APPEALS. Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment, but to the superior court as provided by RSA 677:15.