

ARTICLE VII- PERSONAL WIRELESS SERVICE FACILITIES

A. Purpose and Intent

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities, to the extent required by the Telecommunications Act of 1996 and RSA 12-K, within the Town of Brookfield, consistent with appropriate land use Articles that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Brookfield is 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 personal wireless service facility. This Article enables the review of the location and siting of new or substantially modified personal wireless service facilities by the Town of Brookfield so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. It is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings are found to be not feasible. Co-location is encouraged for all personal wireless service facility applications, and the review of a facility shall be on the basis of the site being built using all positions on the mount. No antenna, structure, or other device shall be mounted on, or be a part of, any personal wireless service facility, unless it is necessary to transmit or receive personal wireless service, as defined in the Telecommunications Act of 1996 except that facilities used by the Town of Brookfield or its agents may be allowed.

B. Applicability

The terms of this Article and the Site Plan Review Regulations shall apply to new or substantially modified personal wireless service facilities, as those terms are defined in RSA 12-K, proposed to be located in the Town of Brookfield. Co-location and modification applications shall be reviewed consistent with RSA 12-K, as it may be amended.

C. Procedure

Applicants for new or substantially modified personal wireless service facilities shall be required to submit the following information to the Planning Board:

1. A map showing the service area and an explanation of need.
2. A map showing the locations and service areas of other existing or proposed sites operated by the applicant which are close enough to impact service within the

Town's borders.

3. A diagram and /or map showing the viewshed of the proposed personal wireless service facility including all buildings and accessory structures.
4. Photo simulations from at least four directions which adequately represent the appearance of the completed structure when viewed from inhabited areas or roads within the Town and from Route 16. Balloon tests may also be required.
5. A site and landscaping plan, which meets the requirements of the Brookfield Site Plan Review.
6. An inventory of existing facilities that are within the jurisdiction of the Town and those within two miles beyond the Town borders.
7. If the applicant is proposing a new facility, written evidence demonstrating that no existing structure within two miles of the Town borders can accommodate the applicant's needs. This evidence can consist of:
 - a. Substantial evidence that no existing facilities are located within the geographic area.
 - b. Substantial evidence that existing facilities are not of sufficient height to meet the applicant's engineering requirements or do not have sufficient structural strength to support applicant's proposed equipment.
 - c. Substantial evidence that existing facilities have no additional capacity.
 - d. Conclusive evidence that co-location on an existing facility would cause electromagnetic interference at the existing facility, or that co-location at the existing facility would interfere with signals from another existing facility.
8. An agreement with the Town that assures maximum co-location upon the new personal wireless service facility. Such statement shall become a condition to any approval, and shall, at a minimum, require that the applicant supply available co-locations for reasonable fees and costs to other personal wireless service facility providers and to the Town of Brookfield or its agents.
9. Engineering information detailing the size and coverage required for the personal wireless service facility location. Structural plans shall bear the seal of a qualified structural engineer licensed in the State of New Hampshire. The Planning Board may have any submitted information reviewed by a consultant for verification of

any claims made by the applicant regarding technical limitations and feasibility of alternative locations, or any other matter required by the Planning Board. Cost for this review shall be borne by the applicant.

10. An Environmental Assessment from a qualified source shall be provided at the expense of the applicant.

D. Location Regulations

1. Location- Personal wireless service facilities may be permitted in all Zones. Applicants seeking approval for new or substantially modified personal wireless service facilities shall first evaluate existing structures for the siting of such facilities. Only after finding that there are no suitable existing structures, shall an applicant propose a new ground mounted facility.
2. Existing Structures: Burden of Proof - The applicant shall have the burden of proving that there are no suitable existing structures upon which to locate its proposed facility. To meet that burden, the applicant shall take the following actions as appropriate:
 - 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 personal wireless service facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the 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 personal wireless service facility, 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 personal wireless service

facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.

3. Ground Mounted Facilities: Policy - If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted personal wireless service facilities 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.
4. Environmental Assessment: An environmental assessment is required, the cost of this will be borne by the applicant and the results of the assessment can become the basis for denial of the application.

E. Use Regulations

All personal wireless service facilities shall require a building permit as follows:

1. Existing Structures: Subject to the provisions of RSA 12-K:10, a carrier may locate a personal wireless service facility on an existing building, utility tower or pole, or water tower or other suitable structure.
2. Ground Mounted Facility: A personal wireless service facility involving construction of a new ground mount shall require compliance with site plan review regulations and this Article.
3. When an approved facility is put into use, the facility owner must notify the Brookfield Tax Assessor when additional antennas are added to the mount, when additional ground facilities are proposed, or when any other event occurs which increases the valuation of the property.

F. Dimensional Requirements

Personal wireless service facilities shall comply with the following requirements:

1. Height, Existing Structures: Carriers that collocate personal wireless service facilities on existing structures, masts, and monopoles may be permitted to increase the height of those structures no more than ten percent (10%) or twenty (20) feet, whichever is greater, either in a single or successive modification applications.
2. Height, Ground-Mounted Facilities: Ground-mounted personal wireless service facilities shall not exceed the greater of sixty (60) feet or twenty (20) feet above the average tree canopy height whichever is greater within a one hundred and fifty

(150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.

3. Setbacks: All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of this Ordinance.
4. Ridge Lines: No personal wireless service facility may be situated within a horizontal distance of 300 feet of topographic summits greater than 700 feet elevation Geodetic Vertical Datum, or within 300 feet of a ridge line leading to such a summit.
5. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility 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 Article X - Definitions. 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.

G. Performance and Design Standards

1. Visibility
 - a. Visual impacts are measured on the basis of:
 - i. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within their proposed surroundings.
 - ii. New visible elements proposed on a contrasting background.
 - iii. Different colors and textures proposed against a contrasting background.
 - iv. Use of materials that are foreign to the existing built environment
 - b. Enhancements are measured on the basis of:
 - i. 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.

- ii. Amount and type of landscaping and/or natural vegetation.
 - iii. Preservation of view corridors, vistas, and viewsheds.
 - iv. Continuation of existing colors, textures, and materials.
- c. Visibility focuses on:
- i. Eliminating or mitigating visual impact.
 - ii. Protecting, continuing, and enhancing the existing environment.
- d. Camouflage for Ground Mounted Facilities: All new or substantially modified ground-mounted personal wireless service facilities 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. The one hundred and fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier'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.
2. Color - To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding them, they shall be of a color, which blends with the background or surroundings.
3. Equipment Shelters - Equipment shelters for personal wireless service facilities 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 personal wireless service facility; or
 - c. Equipment shelters shall be camouflaged behind an effective year-round

landscape buffer, and/or an appropriate fence equal to the height of the proposed building. 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.

4. Lighting, Signage, and Security

- a. Lighting: personal wireless service facilities shall not be lighted except as required by the FAA.
- b. Signage: signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance.
- c. Security Barrier: The Planning Board shall have final authority on whether ground mounted personal wireless service facilities should be surrounded by a security barrier and the height and material used. If a fence, wall, or other constructed impediment is used, it shall be gated and must have anti-climbing barriers installed. Any security barrier with a gate must be locked, but arrangements must exist with municipal and regional emergency responder organizations (police, medical, fire) to enable immediate access when necessary. No devices (such as electrically charged sections or wires) will be allowed which might endanger humans or wildlife. All individual structures within the enclosed area, such as battery containers, generator houses, fuel supplies, electrical junction arrays, and equipment storage areas must also be locked or otherwise secured to mitigate any hazards in the event of a breach of the security barrier by natural or other causes.

5. Aesthetics and Health

- a. Any new or substantially modified personal wireless service facility located on or within historic/cultural areas shall not alter the character-defining features, distinctive construction methods, or original historic materials of buildings.

6. Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth as per Section G.1d.

7. Driveways – If available, existing entrances and driveways to serve a personal wireless service facility 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 personal wireless service facility shall not exceed twelve (12) feet in width and shall include a curve or turn so that the service facility is not visible from the entrance to the driveway. A gravel or crushed stone surface is encouraged.
8. Ground and Roof Mounts - All ground mounts shall be of a mast or monopole type design. Lattice and guyed mounts are expressly prohibited.
9. Hazardous Waste - No hazardous waste shall be discharged or stored on the site of any personal wireless service facility. 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.
10. Noise - Personal wireless service facilities shall not generate noise that may be heard from beyond the boundaries of the site.
11. Radio Frequency Radiation (RFR) Standards - All equipment proposed for a personal wireless service facility 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.

H. Monitoring and Maintenance

1. Maintenance - The owner of the facility shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but not be limited to, painting and structural integrity of the mount and security barrier, and maintenance of roadways, buffer areas, landscaping, and equipment shelters.
2. Monitoring - As part of the issuance of the site plan approval or building permit for a new or substantially modified PWSF, the property owner shall agree that the Town of Brookfield may enter the subject property to obtain RFR measurements and noise measurements. Should violations of this Article be found, the carrier shall be required to reimburse the Town for these measurements. The Town shall provide reasonable written notice to the carrier and landowner, providing them the opportunity to accompany the Town representatives when the measurements are conducted.

3. 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 J.2. An irrevocable letter of credit issued by a major bank in New Hampshire shall be the preferred form of security. The amount of the security shall be based upon the removal and disposal costs plus, fifteen percent (15%), as determined by the Planning Board and as certified by a professional civil engineer licensed in New Hampshire at the expense of the applicant. 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 ten percent (10%) then the owner of the facility shall provide additional security in the amount of the increase, plus 15%. This provision shall only apply to new or substantially modified PWSFs. It shall not be imposed as a condition of approval for a colocation of modification application.

I. Abandonment or Discontinuation of Use

1. Notification - At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier 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 a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
2. Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility 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 antennae, 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 Articles.
 - c. Restoring the location of the personal wireless service facility

to its natural condition, except that any landscaping and grading may remain in the after-condition.

3. Failure to Remove - If the owner of the facility does not remove the facility upon the Selectmen's order, then the 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 Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.