

ARTICLE #08
AMENDMENT #7

Hampton Zoning Ordinance Amendment
Telecommunication Facilities Ordinance

Delete the existing Telecommunications District from the Zoning Map.

Article 1 – General Provisions. Section 1.5 Definitions. Delete existing definitions specific to telecommunication matters and replace with new and modified definitions under new Section 6.14.

Article 6 – Specific Use Regulations. Section 6.14 Telecommunications Facility Ordinance. Delete the existing language in its entirety and replace with a new Telecommunication Facilities Ordinance.

~~Strikethrough~~ = Proposed Deletion

1.5 Definitions

~~Alternative Tower Structure: Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers. (Amended March 1999)~~

~~Antenna: Shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth. (Amended March 1999)~~

~~FAA: An abbreviation shall mean the Federal Aviation Administration. (Amended March 1999)~~

~~FCC: An abbreviation shall mean the Federal Communication Commission. (Amended March 1999)~~

~~Height: When referring to a tower or other antenna support structure, means the vertical distance from grade plane to the highest point of the support structure, even if such highest point is an antenna or other appurtenance. (Amended March 1999)~~

~~Telecommunications Facilities: Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services. (Amended March 1999)~~

~~Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. This term does not include amateur radio operator's equipment, as licensed by the FCC. (Amended March 1999)~~

Delete the current Section 6.14 in its entirety and replace with the following:

6.14. Telecommunication Facilities Ordinance

6.14.1. Purpose and Intent. It is the intent of this Article to regulate the placement of telecommunication facilities within the Town of Hampton in a manner consistent with Federal and State law and policies. The Town recognizes that provisions for reliable telecommunication services throughout the community are needed to protect the public interest. Reasonable municipal land use regulations are also an appropriate and necessary tool to maintain property values, ensure public safety, minimize the visual impact of such facilities, and align with the Town's Master Plan. These regulations will assist the Town in achieving the following purposes:

- a) To preserve the authority of the Town to regulate the siting of telecommunication facilities in order to provide effective and efficient wireless telecommunication services to the residents, visitors, businesses of the municipality;
- b) To facilitate Town access to wireless telecommunication facilities for emergency response and life safety reasons;
- c) To minimize potential conflicts between new ground-mounted facilities and residential uses through distancing and design requirements;
- d) To permit the construction of new commercial ground-mounted facilities only where all other reasonable opportunities have been exhausted;
- e) To minimize the adverse impacts of telecommunication facilities to the full extent permitted by law, including but not limited to, impacts on aesthetics, the character of existing neighborhoods, historic areas, scenic viewsheds, flight corridors, public safety by personal injury and/or property damage, and adverse impacts to property values;
- f) To minimize the adverse impacts of telecommunication facilities to the full extent permitted by law, by requiring a thorough assessment of all siting and design options for proposed facilities, including a review of proposed technology, current and future location options, innovative siting techniques, and the use of stealth techniques to screen antennas and equipment to the maximum extent possible;
- g) To require co-location and cooperation to the greatest extent possible between wireless telecommunication competitors in order to reduce the cumulative impact of multiple towers in the Town; and
- h) To provide for the safe and prompt removal of abandoned facilities and for the upgrading of facilities that are technologically outdated.

6.14.2. Definitions. The following definitions apply only to this Article:

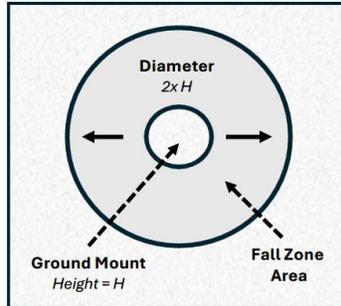
Antenna: Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other wireless communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

Co-Location: The mounting, replacement, modification, routine maintenance, or installation of a wireless telecommunication facility on an existing support structure, irrespective of the type of mount, for

the purpose of transmitting and/or receiving radio frequency signals for telecommunication purposes that does not result in substantial change under applicable law.

Compound: The enclosed area of a ground-mounted tower site which, in addition to the tower, includes the fenced-in area and all associated components. This definition also includes the designated area for the components of a co-location on a building or other suitable support structure.

Fall Zone: The area on the ground from the base of a ground-mounted wireless telecommunication facility that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances (see below).



Mount: The structure or surface upon which antennas are mounted, including the following four types of mounts:

- a) Roof-Mounted: Mounted on the roof of a building.
- b) Side-Mounted: Mounted on the side of a building.
- c) Ground-Mounted: Mounted on the ground via a tower designed for wireless telecommunication purposes.
- d) Structure-Mounted: Mounted on a structure other than a building including that may include a water tank/tower or utility pole.

Stealth Facility: Any telecommunication facility which is designed to blend into the surrounding environment, often involving co-location. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like a light pole, flag pole, steeple, clock tower, or similar alternative designs. A properly constructed stealth facility will not stand out in contrast with its surroundings (see below).



Tower: A self-supporting, ground-mounted structure specifically designed and constructed to accommodate wireless telecommunication antennas. This definition does not include amateur radio towers.

Wireless Telecommunication Facilities: Wireless telecommunication facilities with equipment used to promote or facilitate wireless voice or data transmission. Wireless communications facilities are limited to the following: facilities used to send and receive signals for cellular telephones and pagers, wide-area specialized mobile radio (SMR), digital devices and facilities known as personal communication services (PCS), and radio broadcast antennas including television.

6.14.3. Requirements for Telecommunications Facilities

6.14.3.1. Zoning and Permitting

- a. All new wireless telecommunications facilities and proposed modifications to existing facilities that cause substantial change under the law shall require Site Plan Review from the Planning Board.
- b. Wireless communication facilities may be permitted in all zoning districts, except as otherwise prohibited, but only in accordance with these regulations and if it is demonstrated by the applicant, and verified by a qualified third-party reviewer selected by the Town of Hampton at the applicant's expense, that no other feasible method of providing reliable telecommunication services exists.
- c. Ground-mounted towers, including the associated compound and any access roads, are prohibited in the Wetlands Conservation District.

6.14.3.2. General Requirements

- a. The Town of Hampton shall require a legal agreement to be executed to allow the co-location of municipal equipment on any new telecommunications facility in perpetuity at no charge to the municipality. In doing so, the applicant shall:
 - (i) Ensure that the co-location will satisfy the operational requirements of the municipal equipment,
 - (ii) Ensure that no interference with municipal equipment will occur by the placement of any future third party equipment on the tower, and
 - (iii) Correct any instance of interference with municipal equipment that may occur.
- b. Prior to the construction of any wireless communications facility, a copy of an executed lease to locate on the tower by at least one major carrier (such as AT&T, Verizon, and T-Mobile) shall be submitted to the Building Department to demonstrate the need for its construction. Financial information may be redacted.
- c. A safety plan shall be submitted, in a form acceptable to the Fire Department and the Police Department, explaining how the project will address potential risks associated with fire, explosion, tower collapse, and other related hazards. The safety plan shall also satisfactorily address year-round site access for emergency vehicles.
- d. The applicant for any telecommunications facility under this section shall submit evidence of receipt of all required federal, state, and local permits to the Building Department prior to construction.

- e. The applicant shall submit written proof of an analysis that demonstrates compliance with all current FCC and any State guidelines regarding radio frequency radiation emissions and any other analyses required of the applicant by the FCC. The analysis shall incorporate a worst case scenario of a structurally maximum amount of wireless tenants installed on the structure.
- f. The applicant for any telecommunications facility shall provide the Building Department with evidence of receipt of a Certificate of Insurance covering the constructed facilities prior to construction.
- g. A location and needs analysis shall be submitted with the application. This analysis shall include an inventory of its existing telecommunications facilities that are within the jurisdiction of the Town of Hampton and those within two miles of the border thereof, including specific information about the location, height, design of each tower, coverage maps of the applicable personal wireless carriers, as well as analysis of feasible alternatives to a new telecommunications facility such as co-location on existing facilities. The distance from the existing ground-mounted towers to the proposed location shall also be included if the application is for a new ground-mounted tower facility. Coverage maps shall indicate the minimum signal level used, coordinates of all facilities, antenna heights, and azimuths used in the analysis. The maps shall include existing coverage, addition of the proposed facility, and a varying of antenna heights for the proposed facility in increments of twenty feet to the average tree canopy height if the proposed structure is for a new ground-mounted tower.
- h. This analysis is subject to review, verification, and independent analysis by a qualified third-party reviewer selected by the Town of Hampton at the applicant's expense.
- i. Any telecommunications facility that does not have at least one operational array within one (1) year of the completion of construction shall be removed from the site in accordance with Section 6.14.5. The Planning Board may each grant one extension of up to two (2) years for good cause, as determined and verified through the recommendation of the Building Inspector.

6.14.3.3 Design Requirements

- a. Distance and Height:
 - (i) No ground-mounted tower shall be located within 1,000 linear feet of any residential dwelling.
 - (ii) No ground-mounted tower shall be located closer than 200% of its maximum height (the fall zone) to any other type of building, an active recreational facility (such as a park, playground, or rail-trail), or a parking lot.
 - (iii) Under no circumstance shall the maximum height of any telecommunication facility exceed 130 feet or 125% of the highest point of the mature tree canopy within the subject area, whichever is less. If there is no mature tree canopy within the subject area, the maximum height shall not exceed 100 feet.
 - (iv) Notwithstanding (iii) above, for all facilities located on existing buildings, the top of the antenna or any other portion of the facility shall not extend more than 10 feet above the height of the supporting structure. For rooftop installations, such facility shall be set back at least a distance equal to the height of the wireless telecommunication facility unless the facilities are fully screened or camouflaged in a manner that is compatible with the surrounding property. The antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the

supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

b. Visibility:

- (i) Balloon Test: A balloon test shall be conducted as a method of assessing the visual impact of a proposed facility. This test shall include multiple balloons spaced twenty feet apart from each other to provide a better understanding of the extent of the visibility of the tower. An application for a new telecommunication facility will not be complete without this test being conducted when the majority of deciduous leaves have fallen. For any other applications, the applicant may substitute images altered to approximate the visibility of the balloon under those circumstances if a “leaf-off” visibility test is not possible due to the timing of the application. The balloon shall be flown on non-stretchable line at the approximate height of the ground-mounted tower, to provide a visualization of the potential visual impact of the tower before it is constructed. The balloon shall be brightly colored and at least 4 feet in diameter to maximize visibility. Photographs and videos shall be taken from various vantage points around the area to document the balloon's visibility. The public shall be afforded the opportunity to view the balloon and provide feedback. The balloon test date shall be posted by the applicant in the local newspaper, and notice shall be mailed to abutters and the Town of Hampton, a minimum of one week prior to the test. Alternative test dates shall be included in the event weather conditions are unfavorable.
- (ii) Materials and Finish: Notwithstanding necessary safety measures, wireless telecommunications facilities shall be constructed of a material and finish that minimizes visibility and reflection, and blends with the surroundings to the maximum possible extent.

c. Lighting: No telecommunications facility shall be artificially lit, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, available lighting alternatives shall be reviewed with approval of a design that would cause the least disturbance to the surrounding views.

d. Screening: Ground-mounted towers shall be screened by a dense evergreen landscape buffer to include plant materials that will reach a minimum 25-foot mature height to effectively block the view of the tower compound from any adjacent property. The required buffer shall consist of a landscaped strip at least 25 feet wide outside of the perimeter of the compound. Existing mature tree growth and natural landforms on the site which are located outside of the evergreen landscape buffer shall be preserved unless directly associated with an additional permitted use of subject property.

e. Structural Integrity: Secure and stable construction methods for towers shall be followed. The Building Inspector, and/or other qualified designee for the Town of Hampton, shall perform construction inspections for verification. A structural analysis by a registered engineer from the State of New Hampshire must be submitted and is required before any building permit will be issued.

f. Security: Ground-mounted towers shall be fully enclosed by security fencing not less than eight (8) feet in height, and all telecommunications facilities shall also be equipped with an appropriate anti-climbing device.

- g. Signage: Any signage shall be limited to that which is necessary for safety and security purposes, shall meet the requirements of Section 6.5, and shall require a Sign Permit from the Building Department. No advertising signage of any type shall be permitted on wireless telecommunications structures or facilities, including logos, banners, flags, or combinations of paint colors associated with corporate identification. Permanent or temporary signs, writing, symbols, or any other graphic representation of any kind unrelated to safety and security is also prohibited.
- h. Buildings and Related Structures: All buildings and/or structures associated with a ground-mounted tower shall use materials, colors, textures, screening, and landscaping that will blend the compound area with the natural setting and built environment. This includes the requirement that all external lighting be motion sensing. These buildings and/or structures shall also be subject to the Planning Board's requirements for Site Plan Review.
- i. Noise: Ground mounted equipment for personal wireless service facilities shall not generate noise in excess of fifty (50) dB at the property line. Roof mounted or side mounted equipment for personal wireless service facilities shall not generate noise in excess of fifty (50) dB at the nearest habitable point and at ground level closest to the antenna.

6.14.3.4 Facility Maintenance

- a. The owner of any telecommunication facility located in the Town of Hampton shall maintain said facility in terms of operational condition and aesthetic appearance. Such maintenance shall include, but not be limited to, routine inspections, painting, the structural integrity of the mount and security barrier, and maintenance of the buffer areas including the replacement of all dead and diseased landscaping.
- b. The applicant must provide the Town with written permission that the Town, or an authorized representative or agent, may enter the subject property to inspect the telecommunication facility and to ensure compliance with the Town's Zoning Ordinances. The application for a wireless telecommunications facility will not be complete without it. Permission must be granted by the owner of the telecommunication facility and the fee owner of the property. Permission must be noted on the Site Plans before a building permit will issue. The Town shall provide reasonable written notice to the fee owner of the property and the owner of the facility, and either shall be permitted to accompany Town representatives when on the property.

6.14.3.5. Security for Removal

- a. Each commercial carrier or commercial wireless facility owner who receives approval for a new wireless telecommunication facility shall submit a removal bond issued to the Town of Hampton to guarantee that the facility will be dismantled and removed within 90 days of cessation of wireless telecommunication use. The amount of the surety shall also include all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation. The amount of the surety shall be based upon the removal and restoration costs, plus 15%, provided by the applicant and certified by a qualified professional engineer licensed in the State of New Hampshire. This bond shall be posted with the Town prior to construction.
- b. The owner of the facility shall provide the Building Inspector and the Town Planner with a revised removal and restoration cost estimate and structural evaluation prepared by a professional structural engineer licensed in the State of 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 15%, then the owner of the facility shall provide a new bond for the removal and restoration cost plus 15%.

6.14.4. Requirements for Co-Location Applications

6.14.4.1 Zoning and Permitting

- a. All co-location applications shall require Building Inspector approval and will not be considered until complete.
- b. Co-locations may be permitted in all zoning districts, but only in accordance with Section 6.14.4 of this ordinance.
- c. All co-location applications must comply with applicable building codes for the proposed equipment and all other building permit requirements. .

6.14.5. Abandonment of Facilities

Abandoned facilities of any kind are prohibited in the Town of Hampton and shall be removed as follows:

- a. At such time that a carrier or wireless facility owner plans to cease wireless telecommunication use at any location in the Town, such carrier or owner will notify the Building Inspector by certified mail of the proposed date of cessation and the location of the cessation of wireless telecommunication use. The Building Inspector shall notify the owner of the telecommunication facility by certified mail of the planned cessation of use and order the removal of the carrier's equipment within 90 days of receipt of the written notice. If cessation of all wireless telecommunications use is planned, the Building Inspector shall notify the owner of the facility and the fee owner of the lot of the planned cessation of use by certified mail and order the removal of the entire wireless telecommunication facility within 90 days of receipt of the written notice, unless one (1) limited exception is granted by the Building Inspector for good cause.
- b. For all wireless telecommunications facilities which required Planning Board approval: If the wireless telecommunications facility is not removed within this time period, the Building Inspector shall inform the Planning Board of such failure to act. The Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a Declaration of Abandonment. Following the Planning Board's action, the Town may remove the wireless telecommunication facility and return the site to its pre-construction condition by utilizing the funds posted by financial surety to the Town per Section 6.14.3.5.
- c. For all other facilities: The Building Inspector shall take appropriate action, as prescribed by law, for removal of the wireless telecommunication facility.