

TELECOMMUNICATION FACILITIES

January 8, 2001

SECTION I: Purpose

The Town of Sharon adopts these regulations to assure that:

Telecommunication facilities do not disrupt the visual beauty, rural character, and sensitive natural environment of Sharon;

The siting, construction and maintenance of telecommunication facilities causes no harm to people, buildings, property or wildlife;

Telecommunication facilities impose no costs upon the Town or adjacent property owners, either directly or indirectly.

SECTION II: Definitions

These regulations establish an overlay zone which shall apply throughout the Town, and which shall require a Special Permit from the Planning Board for all wireless communication facilities, including digital television facilities and shall include, but not be limited to towers, equipment buildings, backup power supplies and their fuel sources, security fencing, access roads, supporting utilities and associated structures, equipment and activities. The term "facility" when utilized in these regulations shall refer to all telecommunication facilities. "Board" shall refer to the Sharon Planning Board.

SECTION III: Performance Standards

A. Demonstration of Need

Anyone wishing to install telecommunication facilities within the Town of Sharon must demonstrate the need for such facilities. The applicant must also demonstrate that the site or sites proposed for such facilities have been selected so as to minimize the total number of facilities needed within the Town.

B. Visual Appearance:

The Town of Sharon recognizes the right of wireless communication facilities to locate within Sharon, and the Town also recognizes the potential benefits to the Town of such facilities if properly located, constructed and maintained.

However, the Town also recognizes that the financial viability of Sharon rests on a fragile, residential property-based tax base. Residential property values in Sharon are based almost exclusively upon the rural character and visual beauty of the Town. For this reason the avoidance of visual impact is of central concern to the Town.

No facility will be allowed which can be seen from a public way, or from within two hundred (200) feet of the facility, unless the Sharon Planning Board determines that the facility has been sufficiently screened and/or camouflaged to protect the visual beauty and rural character of the Town and of adjacent properties.

To assure that this standard is met, the Planning Board shall require a balloon test and photorealistic renderings of the site (north, south, east and west perspectives) unless otherwise specified by the Board.

To protect the special visual and recreational values of the eastern hillsides, no facility shall be located within three hundred (300) feet of the upper ridgelines east of Route 123, Mountain Road and Temple Road.

All facilities, including but not limited to security fencing, support buildings, generators, fuel supplies, tower and utility connections shall be designed, located, constructed and maintained so as to have minimal visual impact. This will require some form of camouflage and natural screening acceptable to the Planning Board.

Towers shall be located within stands of mature trees whenever possible. Towers shall normally not be allowed in open fields. The applicant must demonstrate the ability to maintain the mature tree screen for the life of the communications facilities. This shall normally require an easement or fee ownership of a protective screen area of at least three hundred (300) feet on all sides of a facility.

Towers shall normally not be more than twenty (20) feet higher than the surrounding tree cover, as measured in a two hundred (200) foot radius, nor shall any communication facility be higher than ninety (90) feet, so as to avoid the introduction of an unnaturally tall urbanizing element.

The Town is especially concerned about the visual impact of towers. Monopoles without guide wires shall normally be preferred, and all towers must be camouflaged to the satisfaction of the Board. Exterior antennas or other equipment attached to towers must be of a low-profile type.

All utility wires shall be buried underground.

Security fencing shall be of a color approved on a case-by-case basis by the Board, and silver Submittal of a Telecommunications Facility application to the Sharon Planning Board shall constitute authorization for the Sharon Planning Board, the Board of Selectmen or their consultants to enter and inspect the facilities at any time during its construction or subsequent operation. It shall be the responsibility of the applicant to provide the Town with any easements or other legal instruments necessary to assure that the Town and its agents have the ability to access the facility site even if such access requires crossing other properties.

Telecommunication facilities must be designed, constructed and maintained so as to be structurally safe at all times. To assure compliance with this standard, all facility designs must be reviewed and signed by a professional structural engineer licensed in the State of New Hampshire.

At least every five (5) years the Planning Board shall be provided with a written report from a qualified professional engineer licensed in the State of New Hampshire certifying that the facility remains structurally sound and that all electromagnetic emissions comply with Federal standards.

If any inspection identifies substandard conditions or emissions, the owner of the facilities shall remedy the deficiencies within sixty (60) days, and shall provide written certification from a qualified professional engineer licensed in the State of New Hampshire that all deficiencies have been corrected.

Security fencing shall be of a color approved on a case-by-case basis by the Board, and silver or galvanized color will usually not be acceptable.

C. Safety:

If deficiencies are found the Planning Board shall have the discretion to require an accelerated inspection schedule, up to and including an annual inspection.

All such inspections shall be at the expense of the owner of the facility.

Prior to receiving approval to install a telecommunications facility, the applicant must demonstrate to the Board's satisfaction that casual access to the facility will be prevented. Normally this shall require the installation of security fencing, the color of which shall be specified by the Board.

The applicant must demonstrate to the Board's satisfaction that there will be an adequate falling ice safety zone adjacent to any tower. It is the assumption of the Town that the higher the tower, the greater the risk of wind-blown ice causing public harm. An ice hazard zone must be established away from public ways, adjacent properties, or public recreation trails at least equivalent to the height of the facility. If a communications tower is located on a slope of ten (10) percent or greater, then the safety zone shall be at least twice the height of the tower in all downslope areas.

Any power supply system must be constructed, located, operated and maintained so as to not be heard on any adjacent property.

Any fuel source for a telecommunication facility must be installed and maintained so as to avoid environmental contamination and to avoid being a safety hazard, to the satisfaction of the Board.

The Town may require a special inspection of telecommunication facilities:

After major storm events such as hurricanes or ice storms,

After other natural disasters such as landslides or earthquakes,

After receipt of sufficient evidence to suggest that the facility is unsafe, in non-compliance with these regulations, or failing to comply with Federal regulations.

The applicant shall pay the cost of such inspection, and may be transferred from the security deposit account. The owner shall be provided an opportunity, after written notice from the Town, to provide evidence as to why such inspection should not take place or to request modification in the proposed method or cost of inspection.

If such inspection identifies corrective actions which must be taken, the owner shall have sixty (60) days to complete those actions or the Town may utilize security deposit funds to undertake necessary repairs or otherwise secure the site.

Each facility must maintain appropriate safety signage and each facility must at all times maintain an easily seen sign on the facility which lists the name, contact phone number and mailing address of the current owner.

D. Removal of Facilities:

All telecommunication facilities shall be removed, and the site restored to an attractive natural condition within six (6) months of abandonment or discontinuance of use. Upon removal, the site must be left in a non-eroding, vegetated condition acceptable to the Planning Board.

The owner is responsible for notification to the Town sixty (60) days prior to ceasing to use the facility as approved by the Board. If the Board concludes that the facility is no longer being used, it shall hold a public hearing to determine if the site has been 'abandoned' and if the facility needs to be removed.

To assure that removal takes place in a timely and safe manner and that the site is properly restored, the Planning Board shall require a security deposit in the form of an interest-bearing account equal to the estimated cost of facilities removal and site restoration. It is

intended that accumulated interest will allow the security deposit to grow sufficiently to account for rising removal costs over time.

The security account shall be in the name of the Town of Sharon but can be held in escrow by a Town-approved agent. The owner of the facility, with prior written approval of the Planning Board, can use the security account to pay for removal costs. Any funds (including interest) remaining after the facilities are removed and the site is satisfactorily restored shall be returned to the facility owner.

However, if additional funds are needed beyond those held in the security account to complete removal and site restoration, all such expenses shall be the sole responsibility of the owner.

If the owner abandons the facility or if the owner fails to properly maintain the facility or fails to properly correct safety concerns in a timely manner, the Town shall then have the right to utilize the security deposit to remove the facility and restore the site. If the Town concludes that the facility must be repaired or removed, the Board shall notify the registered owner by certified mail of such intent, and shall then hold a public hearing, noticed in accordance with the Town's site plan notification procedures. The owner shall be provided an opportunity during the public hearing to show due cause why the security funds should not be utilized by the Town.

To assure that security funds are sufficient, the required five (5) year inspections shall include certification by a New Hampshire licensed engineer that the funds in the security account are sufficient for removal and site restoration.

E. Transfer of Ownership

Any permit issued under this ordinance shall be granted only to the applicant, and this permit is not transferable. To enable the Town of Sharon to provide due notice of any concerns, and to assure that there shall be no problems with gaining access to the site, or problems with security deposits, the original applicant and subsequent proposed owner(s) must notify the Town within thirty (30) days of a change in address and or phone number.

A new owner of a telecommunications facility must apply for and receive a new Special Permit from the Planning Board in order to continue having authority to operate the facility. If at the time of ownership transfer the facility is in compliance with the original Town permit, a new permit shall be issued, so long as the following conditions are met to the satisfaction of the Planning Board:

A new security deposit shall be provided to the Town, or the Town shall be provided with evidence satisfactory to the Planning Board that the existing security deposit is still adequate in form and amount to be utilized by the Town if necessary to properly remove the facility and restore the site.

Prior to the issuance of a permit to a new owner, the Planning Board shall hold a public hearing to obtain evidence as to whether the facility complies with these regulations. The new owner shall also pay for an inspection to be conducted for the Town, at the applicant's expense, which provides certification by properly qualified and licensed professionals that the facility is structurally sound and is performing in compliance with all Federal emission and operational standards.

F. Special Permit Application Process

Anyone wishing to construct, expand or modify a telecommunications facility must obtain a Special Permit from the Sharon Planning Board and must comply with the provisions of this ordinance. The addition of a new or different antenna to an existing telecommunications tower must comply with this requirement.

The Board shall utilize the review and administrative procedures associated with its Site Plan Review process, with the following additional requirement.

F.1. Regional Notification

In accordance with the provisions of House Bill 733 which became law in the year two thousand (2000), the applicant shall be responsible for notification of abutters and must also notify all Towns within a twenty (20) mile radius of the proposed facility.

Each application for a new Telecommunications Facility shall pay an application fee of five hundred (\$500). If the Board determines that additional technical review is required, such review shall be at the applicant's expense. The Board will attempt to limit such expenses, but refusal by the applicant to pay for what the Board feels to be necessary technical assistance shall be grounds for denial of the permit.