

TOWN OF HOPKINTON
ZONING BYLAW

ARTICLE XVI
Wireless Communications Facilities
[Added 5-5-1997 ATM, Art. 26;
amended 5-7-1998 ATM, Art. 41]

§ 210-99. Purpose.

The purpose of this article is to minimize the adverse impacts of wireless communications facilities on adjacent properties and residential neighborhoods, to minimize the overall number and height of such facilities to only that which is essential and to promote the shared use of existing facilities to reduce the need for new facilities.

§ 210-100. General requirements.

- A. No wireless communications facility shall be erected or installed except in compliance with the provisions of this article. Wireless communications facilities are allowed in all zoning districts. A special permit is required from the Board of Appeals to erect or install a wireless communications facility. Any proposed extension in the height, addition of cells, antenna or panels, or construction of a new or replacement facility, shall require the submission of a new application for a special permit.
- B. Whenever possible, wireless communications facilities shall be housed in nonresidential zoning districts. Ground support facilities and fencing shall be suitably screened from view.
- C. Structures shall be removed within one year of cessation of use. If applicable, annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and the American National Standards Institute and required maintenance shall be filed with the Director of Municipal Inspections by the special permit holder.

§ 210-101. Regulations.

- A. To the extent feasible, all service providers shall collocate on a single facility. To the extent technologically practicable, towers shall be designed to structurally accommodate the maximum number of users. The intent of this requirement is to reduce the number of towers which will be required to be located within the community.
- B. New towers shall be considered by the Board of Appeals only after a determination by the Board that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.
- C. In no event shall any tower be located closer than two miles to any other tower, except after presentation of evidence of need therefor to the Board of Appeals and the grant of a variance by it.
- D. Tower height shall not be more than 100 feet above the existing grade, except after presentation of evidence of need therefor to the Board of Appeals and the grant of a variance by it.
- E. A tower shall not be erected nearer to any property line than a distance equal to the vertical height of the tower (inclusive of any appurtenant devices), measured at the mean finished grade of the tower base. This setback requirement shall not apply to a property line of Interstate Routes 495 and 90.

TOWN OF HOPKINTON
ZONING BYLAW

- F. To the extent feasible, all network interconnections from the communications site shall be via land lines.
- G. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- H. The tower shall minimize, to the extent feasible, adverse visual effects on the environment. The Board of Appeals may impose reasonable conditions to ensure this result, including painting and lighting standards.
- I. Traffic associated with the tower and accessory facilities and structures shall not adversely affect adjacent ways.
- J. Applicants proposing to erect wireless communications towers, accessory facilities and structures on municipally owned land or structures shall provide evidence of contractual authorization from the Town of Hopkinton to conduct wireless communications services on municipally owned property.
- K. The height of antennas located on residential buildings or in the yards of residential structures shall not exceed the tree line on the lot upon which the building or yard is located.
- L. Facilities located on nonresidential structures shall not exceed 10 feet in height above the roofline of the structure. This regulation shall not apply to facilities located within structures.
- M. An applicant proposing a wireless communications facility in a residential zoning district must demonstrate to the satisfaction of the Board of Appeals that the visual, economic and aesthetic impacts of the facility on residential abutters will be minimal. The applicant must also demonstrate that the facility must be located at the proposed site due to technical, topographical or other unique circumstances. Further, the tower must be located no less than 500 feet from the nearest existing residential structure.

§ 210-102. Design guidelines. [Amended 5-4-2009 ATM, Art. 18]

- A. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as unobtrusive and limited as possible. All facilities shall be painted or otherwise colored so they will blend in with the landscape or the tower on which they are located. A different color scheme shall be used to blend the structure with the landscape below and above the tree or building line, if so required by the Board of Appeals.
- B. Antennas shall be situated on or attached to a structure so as to be screened and to be not visible from abutting streets. Freestanding antennas shall be located on the landscape so as to minimize the visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
- C. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the rural and scenic character of the area and of the Town and shall not be constructed of razor wire.
- D. Night lighting of towers shall be prohibited unless required by the FAA or the Board of Appeals. Lighting shall be limited to that needed for emergencies and/or as required by the FAA or the Board of Appeals. If necessary, ground lighting for the equipment sheds shall be of minimum standards to satisfy security and safety requirements and shall not spill off the site in any direction.

TOWN OF HOPKINTON
ZONING BYLAW

- E. There shall be a minimum of one parking space for each facility, to be used only in connection with the maintenance of the site and not for the permanent storage of vehicles or other equipment.

§ 210-103. Application procedure.

- A. All applications for wireless communications facilities shall be made and filed on the applicable application form in compliance with Board of Appeals requirements. The Board of Appeals may develop and adopt a list of required submission materials in addition to those contained in this Chapter. The following information must be submitted:
 - (1) A locus plan at a scale of one inch equals 1,000 feet which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within 500 feet of the facility.
 - (2) A color photograph or rendition of the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the tower from the nearest street or streets.
 - (3) The following information prepared by a registered professional engineer:
 - (a) A description of the tower and the technical, economic and other reasons for the proposed location, height and design.
 - (b) Confirmation that the facility complies with all applicable federal and state standards.
 - (c) A description of the capacity of the facility, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - (4) If applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the FAA, FCC, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
 - (5) Applicable fees as established by the Board of Appeals.
- B. After an application is submitted, the Board of Appeals may require that the applicant perform a balloon test or other test in the field sufficient for it to comprehend the proposed height and location of the facility in relation to the surrounding area.

§ 210-104. Special permit criteria.

Applications for a special permit shall be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board of Appeals. Applications for a special permit may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board of Appeals. The Board shall consider the following factors:

- A. The applicant shall have complied with all of the requirements and demonstrated to the Board all of the factors set forth in all of the sections of this article.

TOWN OF HOPKINTON
ZONING BYLAW

- B. When considering an application for a wireless communications facility, the Board shall strongly consider the proximity of the facility to and its impact upon residential dwellings.
- C. When considering an application to place an antenna on a structure, the Board shall strongly consider the visual impact of the unit from the abutting neighborhoods and street(s).

§ 210-105. Exemptions.

- A. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC is exempt from the provisions of this article, provided that the tower is not used or licensed for any commercial purpose.
- B. Towers used for agriculture, horticulture, floriculture or viticulture or for religious or educational purposes to the extent as set forth in MGL c. 40A, § 3. For the purposes of this Chapter, the providers of wireless communications facilities shall not be considered public service corporations or public utilities. No wireless communications facility shall be erected or constructed unless an application has first been submitted to the Board of Appeals and the special permit referred to herein has been obtained.
- C. The provisions of Article XX, Site Plan Review, shall not apply to wireless communications facilities.