

Potential Amendments 2018
Amended Dec. 14, 2017

K. PERSONAL WIRELESS COMMUNICATIONS FACILITIES

1. Authority

This Ordinance is adopted by the Town of Gilmanton on ~~March 12, 2002~~ in accordance with the authority granted in (as amended) RSA 12-K, 674:16 and 674:21 and procedurally pursuant to RSA 675:1, II.

2. Purposes and Goals

This Ordinance is enacted in order to establish standards and criteria for the siting, construction and development of Personal Wireless Service Facilities or "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C)(i) (hereinafter "~~tower~~Tower facilities" as further defined in Section 12 hereof) through the enhancement and fulfillment of the following goals:

- a. Further the vision, goals, objectives and recommendations of the Town of Gilmanton's Master Plan;
- b. Provide a reasonable balance between the interests of residents, property owners, business owners, personal wireless telecommunication providers and telecommunication customers so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its constituents;
- c. Preserve the authority of the Town of Gilmanton to regulate land uses including Personal Wireless Service Facility ~~Telecommunication Facilities~~;
- d. Provide reasonable opportunities for the siting of ~~tower~~Tower facilities in to provide service to as many areas of the community as possible;
- e. Establish a process with clear time frames for the exercise of municipal authority to regulate ~~Wireless-PWSF~~Telecommunication Facilities;
- f. Permit carriers to locate ~~tower~~Tower facilities within ~~particular areas of the~~ Town of Gilmanton to ensure compatibility with the visual and environmental features, values and priorities of the Town. Compatibility with these features is measured based upon the change in community scale and character in relation to height, mass, material, contrasts and proportion to the surroundings of a proposed facility:

(3).Parabolic (dish) antenna: Parabolic antenna that is accessory to a residential use of property.

(4).Maintenance, repair or reconstruction: Maintenance, repair or reconstruction of a PWSF Wireless Telecommunications Facility and related equipment including modifications that do not encompass Substantial Modifications as defined in RSA 12-K. shall only require a building permit. ~~, provided that there is no change in the height or any other dimension of the facility, and the maintenance, repair or reconstruction is conducted in accordance with the provisions of Section K.5. hereof.~~

4. District Regulations New Towers

a. ~~Classification of Facilities.~~

~~For purposes of distinguishing between different Wireless Telecommunication Facilities and the associated level of regulatory review, the following classification shall apply:~~

~~Class 1 Facilities – Antenna location or co-location on an existing structure; including but not limited to a church steeple, building roof or water tower. Antenna location or co-location on a tower facility, which existed at the time of the adoption of this Section K or was constructed subsequent thereto in accordance with this Section K and requires no expansion.~~

Collocation or modification applications to existing Tower installations shall only require a building permit unless said modification is deemed substantial as defined by RSA 12:K.11, as amended. Substantial modifications shall adhere to the provisions of this Ordinance.

~~Class 2 Facilities – New tower construction or tower facility expansion applicable to tower facilities not exceeding 140 feet specifically designed for wireless telecommunications.~~

New Tower construction designed for PSWF or Substantial Modifications of existing PWSF shall require both a Conditional Use Permit and site plan approval from the Planning Board.

b. ~~District established.~~

~~For purposes of identifying general locations within the community where Class 2 tower/Tower facilities may potentially be sited, an overlay district is hereby established. It is the intent of this District to provide reasonable opportunities to site Wireless Telecommunication Facilities in a manner consistent with the stated public necessity to minimize any adverse visual impacts. The District is comprised of the~~

- (a) ~~Class 1 Facilities may be located or co-located as a permitted use throughout the Town. Class 1 facilities shall comply with all applicable portions of this Ordinance. Class 1 Facilities may be located or co-located on an existing tower Tower by Conditional Use Permit. In the event that a prior Zoning Board approval included specific provisions for co-location, said co-location shall be considered a permitted use.~~
- (b) ~~Class 2 Facilities shall be located only where new tower Tower construction is permitted by Conditional Use Permit with reference to the following Table and as depicted on the Overlay District Map. Class 2 Facilities must be setback at least 1000' from any State Highway or 500' from any town maintained road.~~
- (c) ~~There are five areas of town where Class 2 Facilities may be sited. The first area is located at the most northern point of town then south along the Gilford town line 11,000' and east 14,000' to the Alton line and north 10,000' back to the starting point. The second area is located beginning at a point on Middle Route 4,100' north on Gale Road and east 5,000' to the end of Donovan Road, then south 7,000' to the intersection of Blueberry Lane and Middle Route and west 4,000' along Middle Route to the starting point. The third area is located beginning at the intersection of Potter Road and Gilman Road going east along Potter Road 7,000' to Stage Road, then north on Stage Road 4,000' to the intersection of Beauty Hill Road and Doe Road, then west on Doe Road 4,000' and following Ayers Brook south for 4,000' back to the starting point. The fourth area begins at a point on Province Road North at the boundary of the Village Zone going north on Province Road 6,000' to Munsey Hill Road then east 3,000' to the boundary of the Conservation Zone and 4,000' along the boundary of the Special Multi-Family Zone as shown on the Gilmanton Zoning Map to NH Route 140, the line would follow NH Route 140 south for 2,000' and then along the boundary of the Village Zone back to the starting point. The fifth and final area is located in the Business District on NH Route 106 following the boundaries as depicted by the Gilmanton Zoning Map.~~

Table 1
TOWER TOWER FACILITIES

Sensitivity Zone	Class 1 Tower Towers	Class 2 Tower Towers
1	P	CUP
2	P	NP

P = use Permitted — CUP = use allowed by Conditional Use Permit — NP = use Not Permitted

- (3) The installation and/or construction of all PSWF ~~Wireless Telecommunication~~ Facilities subject to this Ordinance shall require a building permit and a Certificate of Use and Occupancy. No facility shall operate prior to the issuance of a Certificate of Use and Occupancy.

In addition, the following setbacks shall be observed:

- [1] In order to ensure public safety, the minimum distance from the base of any ~~Ttower~~Tower facility to any property line, road, dwelling, business, institution or public recreational area shall be equal to 125% of the height of the ~~Ttower~~Tower. This setback shall be known as the fall zone.
- [2] In the event that an existing ~~Ttower~~Tower facility is proposed as a mount for a ~~PSWF Wireless Telecommunication Facility~~, a fall zone shall not be required.
- [3] In reviewing an application for a ~~Conditional Use Permit~~ the Planning Board may reduce the required fall zone and/or setback distance of the zoning district up to 75% of the required distance if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety aspects of the proposed use.
- [4] ~~No Class 2 tower facility shall be located within 2,000 feet of another Class 2 tower~~Tower facility. Distance separating two facilities shall be measured as a straight, horizontal line between two points.

5. Performance Standards -All ~~PSWF Wireless Telecommunication Facilities~~ shall be subject to the provisions of this Section to the extent applicable.

a. Camouflage by existing buildings or structures.

When a ~~PSWF Wireless Telecommunication Facility~~ extends above the roofline of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways, including but not limited to the use of innovative technologies and treatments. Facilities mounted on a roof shall be stepped back from the front facade in order to limit the impact on the building silhouette.

~~PSWF Wireless Telecommunication Facilities~~ which are side-mounted shall blend with the existing building's architecture and, if over five (5) square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

b. Camouflage by vegetation.

Buffers of tree growth and under-story vegetation shall surround ground mounted Class 2 ~~Ttower~~Tower facilities. The buffer shall be of sufficient height and depth to effectively screen the base of the ~~Ttower~~Tower compound, and all or a portion of any ~~Ttower~~Tower

Equipment shelters for ~~PSWF Wireless Telecommunication Facilities~~ shall be designed with one of the following design standards:

- (1) Equipment shelters shall be located in underground vaults; or
- (2) If required by the Planning Board to mitigate the adverse appearance, an equipment shelter shall be designed consistent with traditional New England architectural styles with a pitched roof of at least 8/12 and clapboard siding; or
- (3) Equipment shelters shall be camouflaged behind an effective landscaped 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 surrounding area.

h. Historic Buildings and Districts.

Any ~~PSWF Wireless Telecommunication Facility~~ located on or within an historic structure shall require approval of the Historic District Commission. Such facility shall not alter the character defining features, distinctive construction methods, or original materials of the building. ~~PSWF Wireless Telecommunication Facilities~~ within an Historic District 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 within the District.

i. Scenic Landscapes and Vistas.

~~PSWF Wireless Telecommunication Facilities~~ shall not be located within open areas that are visible from public roads, recreational areas or residential development. Proposed PSWF should be located among mature trees, with evergreens being preferred.

j. Sensitive Natural Resources.

Specific natural resource characteristics as may be present throughout the Town of Gilmanon that are fundamentally incompatible with new ~~Ttower~~Tower construction such as slopes of 25% or greater, wetlands, deer wintering habitat areas as inventoried by the NH Department of Fish and Game, threatened, rare or endangered flora as determined by the NH Natural Heritage Inventory or other areas identified by the Gilmanon Conservation Commission as being sensitive natural resources. ~~PSWF Wireless Telecommunication Facilities~~ shall be located and designed so as to avoid or mitigate impacts to such natural resources.

k. Building Codes and Other Safety Considerations.

To ensure the structural integrity of ~~Ttower~~Tower facilities and antennas, the owner of the facility shall ensure that it is constructed, attached and maintained in compliance with standards contained in the local building code applicable to non-residential structures and facilities. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall submit to the Code Enforcement Officer written certification that

and supporting documentation in accordance with the Site Plan Review Regulations and shall submit a Conditional Use Permit application sufficient to satisfy the ~~the~~ ~~Planning Board shall determine whether the proposal complies with the requirements of this Ordinance.~~

~~b. If Conditional Use Permit is Required:~~

~~The applicant shall seek approval from the Planning Board before the Planning Board may grant Site Plan Approval.~~

~~c. Joint Meetings~~

~~Joint meetings and public hearings between the Planning Board and Zoning Board of Adjustment may be held in accordance with the provisions of RSA 676:2.~~

d. Additional Information.

PSWF Applications for Site Plan and Conditional Use Permit shall include the following additional information:

- (1). Written evidence that the proposed use/facility will comply with the FCC regulations regarding radio frequency exposure.
- (2). Written evidence that the proposed use/facility will meet the requirements of the National Environmental Policy Act, if applicable.
- (3). An inventory of existing ~~tower~~ Tower facilities that are within the jurisdiction of the Town and those within one mile of the Town borders, including specific information about the location, height, design as well as economic and technical feasibility for co-location. Written evidence shall be presented that no existing structure can accommodate the applicants proposed antenna in a manner that will achieve the required technical result.
- (4). A description of the proposed coverage range together with the technical reasons for the facility design.
- (5). A description of the tree cover on the subject property and adjacent properties by dominant species and average height, as measured by or available from a verifiable source.
- (6). Representations of the proposed facility, antennas, equipment shelters, aboveground wires and other equipment, including elevation drawings of all structures and the vegetative buffer, shall be dimensioned to scale.
- (7). A visual impact assessment including representative before-condition photographs and after-condition photographic simulations of the proposed facility showing what can be seen from public viewpoints in the immediate vicinity of the site as well as from a distance.

e. Site View.

unless the owner of said antenna or ~~tower~~Tower facility provides proof of current, satisfactory inspection by a qualified person to conduct such inspection. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such determination.

A declaration of abandonment shall only be issued following a public hearing with notice to abutters and the last known owner/operator of the antenna or ~~tower~~Tower facility. If the abandoned antenna or ~~tower~~Tower facility is not removed within ninety (90) days, the Town and its agents or contractors shall have all necessary authority to enter the premises and have the antenna or ~~tower~~Tower removed. If there are two or more users of a single antenna or ~~tower~~Tower, this provision shall not become effective until all users cease using the antenna or ~~tower~~Tower facility.

8. ~~Bonding, Security and Insurance~~

~~Recognizing the extremely hazardous situation presented by abandoned and unmonitored tower~~Tower ~~facilities, the Planning Board shall set the form and amount of security that represents the estimated cost for removal and disposal of abandoned tower~~Tower ~~facilities in the event the facility is abandoned and the owner is incapable or unwilling to remove the tower~~Tower ~~facility.~~

~~All security shall be maintained for the life of the tower~~Tower ~~facility and shall be applied to cover the cost of removal if the Town is obligated to take such action under Section K.7. The Town, as an administrative matter, may periodically require the amount of the security to be adjusted to cover the then current cost of removal and disposal. Proof of adequate insurance coverage for accident or damage shall be provided for all tower~~Tower ~~facilities prior to the issuance of a Building Permit. Said proof shall be submitted to the Town on an annual basis thereafter and be placed on file for public inspection with the Planning Board. Failure to maintain adequate security for removal of an abandoned tower~~Tower ~~facility and/or adequate insurance coverage shall invalidate the Certificate of Use and Occupancy.~~

9. Administration and Enforcement

Enforcement of this Ordinance shall be in accordance with RSA 676 and the Town of Gilmanton Zoning Ordinance. Any person who violates any section of this PSWF ~~Wireless Telecommunication Facilities~~ Ordinance shall be subject to the penalties and remedies provided under the relevant provisions of State and local law.

10. Appeals

~~Any person aggrieved by a decision of the Administrative Officer regarding the construction, interpretation or application of the terms of this Ordinance may appeal the decision to the Zoning Board of Adjustment as provided for in RSA 676:5. Any person aggrieved by a decision of either the Planning Board or Zoning Board of Adjustment may appeal the decision as provided by applicable State and Federal laws.~~

11. Definitions

Unreasonable Adverse Impact - An end result from the proposed facility that is excessively out of character with the designated resources affected.

Viewpoint - That location which serves as the basis for the location and determination of a particular visual resource.

Personal Wireless Service Facility (PSWF) Telecommunication Facilities - As defined in RSA 12-K2, as amended. ~~Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications service (PCS) and common carrier wireless exchange access services.~~

12. Saving Clause

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

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