

ARTICLE IX WIRELESS TELECOMMUNICATIONS FACILITIES

Definitions for terms in this article can be found in Article X, Definitions.

Section 901: Purpose

The purpose of Article IX is to ensure appropriate review and oversight of wireless telecommunications towers and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities.

In accordance with 24 VSA §4412(8)(A), the provisions of Article IX shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit and receive communications signals on the property owner's premises so long as the aggregate area of the largest face of the antennae is not more than fifteen (15) square feet, and the antennae and any mast support do not extend more than twelve (12) feet above the roof of that portion of the building to which the mast is attached.

These regulations are consistent with the Federal Telecommunications Act of 1996, in that they do not prohibit the provision of wireless telecommunication services, do not discriminate among service providers, and do not pre-empt Federal Communications Commission (FCC) regulations governing radio frequency emissions.

Section 910: Review Procedure

Conditional use approval is required for any wireless telecommunication facility that is licensed and regulated by the FCC, along with any associated equipment, buildings, and infrastructure, unless a project imposes no or *de minimis* impact as defined in Section 913. Prior to granting any conditional use approval, the Development Review Board shall make affirmative conclusions upon all of the conditional use criteria in Sections 721 and 722 of this ordinance.

No permit shall be required for a wireless telecommunication facility that is subject to or has received a Certificate of Public Good under 30 VSA §248(a).

Section 911: Independent Review

The Development Review Board may engage independent consulting assistance to review the application for conformance with this ordinance and the Town Plan. Consistent with federal law, the applicant will be required to pay any costs associated with an independent review. Payment shall be received prior to the Development Review Board issuing a decision on the application.

Section 912: Noise Study

The Development Review Board may require the applicant provide a study from a qualified engineer on the maximum projected noise from the proposed facility. The study shall include existing or ambient noise measurements, plus noise that may be created or caused by the proposed facility. Noise measurements and projections shall be provided at the location of the tower facility and at the property lines.

Section 913: *De Minimis* Impact

The Zoning Administrator may administratively approve and issue a zoning permit, or modification to an existing permit, for an application for a wireless telecommunication facility if they determine it conforms to all applicable provisions in this ordinance and imposes no or *de minimis* impact on any criteria established in Article IX. The Zoning Administrator may only consider an application to have no or *de minimis* impact if the application meets all of the following criteria:

- A. The height and width of the facility or support structure, excluding equipment, antennae, or ancillary improvements, will not increase;
- B. The total amount of impervious surface, including access roads or support structure, will not increase by more than three-hundred (300) square feet;
- C. Any addition, modification, or replacement of antenna or other equipment will not extend vertically more than ten (10) feet above and horizontally more than ten (10) feet from the facility or support structure; and
- D. Any additional or replacement equipment, antennas, or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the facility or support structure by more than seventy-five (75) square feet.

Any addition of equipment or facilities, or change in size or materials of equipment or facilities, not meeting the above criteria shall require review and approval by the Development Review Board.

Section 914: Application Requirements

Application shall include a Site Plan with elevations and other documents stamped by a qualified engineer that:

- A. Describe the height, design, and elevation of the all proposed support structures, buildings, security fencing, and access roads;
- B. Document the height, dimensions, and color of all proposed antenna and mounting positions on a support structure;
- C. Describe the support structure's proposed capacity, including number, height, and type(s) of antennae that the support structure is expected to accommodate;
- D. Demonstrates that the proposed support structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located;
- E. Document the need for the proposed site and structures, and demonstrate why no other alternative or site will provide adequate coverage or capacity;
- F. Include photographs of existing conditions at the proposes site, and accurate photo simulations showing post-construction conditions on the site;
- G. Provide a copy of the FCC license or executed contract between the applicant and the FCC licensee for the proposed facility; and
- H. Other information as determined by the Development Review Board or an independent reviewer as necessary to evaluate the application.

Section 920: Location

Wireless telecommunication facilities shall not be located:

- A. In the Historic Design Review Overlay District;
- B. In the Village Design Review Overlay District;
- C. In the Conservation District; or
- D. Within three-hundred (300) feet of any residence or a school.

Section 921: Use of Existing Structures

Applicants are encouraged to locate antennae on or within existing buildings or structures, such as church steeples or barn silos. In these instances, the standards of Article IX may be modified or waived by the Development Review Board.

Section 922: Co-location

The applicant shall demonstrate as part of their application that there are no other existing tower sites that can accommodate the proposed facilities. If other sites do exist, the applicant must demonstrate that they are technically inadequate, or that negotiations with that landowner have failed.

Any permit granted shall include a condition requiring that other wireless service providers shall be allowed to co-locate their facilities on any new or existing tower. The applicant shall provide a shared use plan that commits the owner of the support structure to accommodate future collocations where reasonable and feasible.

Section 923: Setback

The minimum setback requirement for any telecommunication tower or other support structure shall be the required setback in the applicable zoning district, plus an additional setback equal to the height of the tower or support structure to account for the fall zone. Where a tower is mounted on an existing structure, and the tower does not increase the height of the structure by more than ten (10) feet, then the additional fall zone setback is not required.

Section 924: Environmentally Sensitive Areas

The Town Plan and this ordinance describe environmentally sensitive areas, including, but not limited to, steep slopes, wetlands, flood and fluvial erosion hazard areas, unique natural features, wildlife habitat, historic sites and buildings, high elevations, ridgelines, scenic resources, and major view corridors. A wireless telecommunication facility and associated infrastructure shall avoid undue adverse impacts on these areas to the greatest extent possible. Where there may be adverse impacts, the project shall be designed to mitigate these impacts to the greatest extent possible.

Section 930: Height

In addition to the other standards in Article IX, no wireless telecommunication tower or structure shall exceed one hundred and thirty (130) feet in height. No tower or structure may be higher than ten (10) feet above the average height of buildings within three-hundred (300) feet of the proposed facility. If there are no buildings within three-hundred (300) feet, then the tower or structure shall not be higher than ten (10) feet above the average tree canopy height measured in the area of the proposed facility.

Section 931: Lighting

Wireless telecommunication towers with lighting shall not be permitted, unless the Development Review Board determines it is the only viable alternative to meet reasonable facility requirements of a communications service provider. Only lighting that is required by the FCC or the Federal Aviation Administration may be permitted.

Section 932: Visual Impact

All towers and associated infrastructure and equipment shall be designed to minimize the visual impact of height and mass. The type, style, and color of materials shall be selected so as to blend into the site, minimize glare, and not result in undue adverse visual impacts to the natural landscape or the built environment.

Any access roads or above ground utilities shall follow the contour of the land, and be sited and constructed to minimize visual impacts to the greatest extent possible.

Section 933: Screening and Security Fencing

Screening shall be required at the perimeter of the site, unless it is demonstrated by the applicant that existing natural vegetation is sufficient. Screening is recommended to be at least ten (10) feet in depth and at least ten (10) feet in height, with the potential to grow to significant size at maturity.

A security fence at least eight (8) feet in height must enclose the base of the support structure and associated equipment enclosures.

Section 940: Monitoring and Compliance

At the request of the Zoning Administrator or Development Review Board, the owner/operator shall provide a report on the status of the facility, including adherence to permit conditions, operations, appearance, structural integrity, safety, noise, screening, landscaping, service roads, utility connections, and compliance with all applicable federal regulations or permit or license conditions.

Section 941: Maintenance

Facilities shall be maintained. Maintenance shall include, but not be limited to, assurance of structural integrity of the support structure, antennae, security fencing, painting, and care of planted vegetative screening.

Section 942: Abandonment or Discontinuation

At least thirty (30) days prior to the abandonment or discontinuation of use of the facility or site, the owner/operator shall submit a zoning permit application to the Town for the removal, abandonment, or discontinuation of use. Upon abandonment or discontinuation of use, the Development Review Board may require the owner/operator to remove all structures and facilities and return the site to predevelopment condition within a clear and reasonable time frame. If there is anticipated reuse by another provider, removal may not be required, as determined by the Development Review Board.

Section 943: Bonding

As a condition of approval, the Development Review Board may require a bond or other means of security to ensure that sufficient funds will be available to remove all structures and restore a site in the case of abandonment or discontinuation, should the owner/operator be unwilling or unable to do so.