

ARTICLE XVI
Wireless Communication Facilities
[Amended 5-5-1999 ATM by Art. 41]

§ 135-1601. Purpose.

The purpose of this section is to promote the health, safety, convenience and welfare of the inhabitants of Braintree by providing for controlled placement and operation of certain wireless communication facilities and towers within the Town. The objectives of these regulations are: to minimize adverse impacts of wireless communication facilities on adjacent properties and residential neighborhoods; to minimize the overall number and height of such facilities to only what is essential; to promote the shared use of existing facilities to reduce the need for new facilities.

§ 135-1602. Definitions.

For the purposes of this section the following words shall have the following meanings:

BUILDING-MOUNTED WIRELESS COMMUNICATION LINK — Shall mean any outdoor wireless communication device mounted or erected on, and solely supported by, an existing building or structure used primarily for other purposes.

INDOOR WIRELESS COMMUNICATION LINK — Shall mean any indoor wireless communication device mounted or erected inside and solely supported by an existing building or structure used primarily for other purposes.

WIRELESS COMMUNICATION FACILITY — Shall mean any and all materials, equipment, storage structures, towers, dishes and antennas used by a commercial telecommunications carrier to provide telecommunication services.

WIRELESS COMMUNICATION FACILITY ACCESSORY BUILDING — Shall mean a structure designed to house wireless communication transmission and reception equipment that is placed at a wireless communication facility.

WIRELESS COMMUNICATION SERVICES — Shall mean the provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service.

WIRELESS COMMUNICATION TOWER — Shall mean a wireless communication monopole, including antenna and accessory structure, if any, which facilitates the provision of wireless communication services.

§ 135-1603. Jurisdiction.

No wireless communication facility shall be erected or installed except in compliance with the provisions of this section.

A. Indoor wireless communication link.

- (1) An indoor wireless communication link may be installed in any existing structure or building, except for schools, hospitals, convalescent and nursing homes and residential dwellings.
- (2) Application fees for an indoor mounted wireless communication link shall be as required by § 135-1611.

B. Building-mounted wireless communication link.

- (1) A building-mounted wireless communication link may be located on any municipal building or structure or any building or structure located in a Highway Business or Commercial Zoning District. No building-mounted wireless communication link shall be allowed on schools, hospitals, convalescent and nursing homes and residential dwellings.
- (2) Application fees for a building-mounted wireless communication link shall be as required by § 135-1611.
- (3) A building-mounted wireless communication link may be placed on the roof or facade of a building or structure without regard to setback requirements unless said communication link is within 500 feet of a school, hospital, convalescent and nursing home or residential dwelling. Should relief be sought from the Zoning Board of Appeal to allow construction of said communication link within 500 feet of a school, hospital, convalescent and nursing home or residential dwelling, notice (in accordance with MGL c. 40A) of the Zoning Board of Appeal hearing shall be provided to all abutters within 500 feet of the proposed location of said communication link. **[Amended 10-4-2004 STM by Art. 12]**
- (4) The height of a building-mounted wireless communication link shall not exceed 10 feet above the existing height of the building.
- (5) A building-mounted wireless communication link shall be situated on, or attached to, a building or structure in such a manner that it is screened, painted or otherwise configured to blend in with the structure or building in a manner that minimizes the visibility of the communication link.

C. Wireless communication tower.

- (1) Authorization.
 - (a) A wireless communication tower may be constructed in a Highway Business Zoning District.
 - (b) In all cases, a special permit is required from the SPGA for the construction of a wireless communication tower.
 - (c) Any proposed extension in height, any addition of cell antennas or panels, or any construction of a new or replacement tower shall be subject to a new application of a special permit.
- (2) Performance standards for wireless communication towers.

- (a) Wireless communication towers shall be freestanding monopoles, with associated antenna and/or panels. Lattice-style towers and similar facilities requiring three or more legs and/or guy wires for support shall not be allowed.
- (b) There shall not be a tower located within two miles of a proposed tower unless the applicant demonstrates to the satisfaction of the SPGA that placing the tower closer will result in a significantly lower tower or significantly more uses on the

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tower or will significantly improve protection of the viewshed of the Town of Braintree.

- (c) In the event of conflicting applications, the SPGA shall make a judgment as to which proposed wireless communication facility, if any, is most suitable.
- (d) The size and height of a tower shall be the minimum necessary to accommodate the proposed and anticipated future uses with the following provisions:
 - [1] The tower height, including any appurtenant equipment and devices, shall not exceed 60 feet above the average grade of the existing terrain at the tower's base, unless the SPGA determines that a higher tower will result in significantly fewer towers or a significantly improved protection of the viewshed of the Town of Braintree.
 - [2] In no event shall the tower height, including appurtenant equipment and devices, exceed 100 feet.
- (e) To the extent feasible, all wireless communication facilities shall be collocated on a single tower. Towers shall be designed in all respects to accommodate the maximum number of uses technologically practical, and an applicant shall agree to permit other service providers to collocate on the tower with commercially reasonable terms.
- (f) All towers shall be designed so that, if additional users require said location, the existing tower can be expanded on or replaced with the minimum of technical difficulty and disturbance to the neighbors. The maximum configuration shall be determined during the permitting process.
- (g) A tower shall not be erected closer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices) measured at the mean finished grade of the facility base.
- (h) A tower shall be erected a minimum distance of 500 feet from any school, hospital, convalescent or nursing home, playground/athletic field, residential lot line.
- (i) Siting of a tower shall be such that the view of the tower from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All towers shall be painted or otherwise colored or camouflaged so that they will blend in with the landscape on which they are located. A different coloring scheme shall be used to blend the tower with the landscape below and above the tree line.
- (j) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (k) To the extent technological feasible, all network interconnections for the tower shall be via land lines.
- (l) Fencing shall be provided to control access to towers. Said fencing shall be compatible with the scenic character of the Town and shall not be razor wire. Metallic fencing shall have vegetative screening.

- (m) There shall be no signs except for announcement signs, "No Trespassing" signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform with the Sign Bylaw (amended Article IX of the Braintree Zoning Bylaw).
- (n) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.
- (o) Night lighting of the facilities shall be prohibited.
- (p) There shall be a minimum of one parking space for each tower to be used in connection with the maintenance of the tower and the site. Said space shall not be used for the permanent storage of vehicles.
- (q) All towers shall comply with all current and future FAA and FCC rules and regulations.

§ 135-1604. Application for special permit.

All applications for a wireless communication tower shall be made and filed on the application forms for special permit and site plan review in compliance with the Braintree Zoning Bylaw. In addition to the requirements for site plan review under § 135-711 and the requirements for special permit under § 135-503 the following information shall be submitted for an application to be considered complete:

- A. The applicable fees as noted in the § 135-1611.
- B. A locus plan at a scale of one inch equals 200 feet which shall show all property lines, the exact location of the proposed structures, street, landscape features, residential dwellings and neighborhoods and all buildings within 500 feet of the tower.
- C. An elevation drawing of the proposed tower showing all details of its appearance, including height, shape, materials, antennas, wires and accessory building and showing the tower as it would appear on the landscape for each of its four sides.
- D. The following information prepared by a professional engineer:
 - (1) A description of the facility and the technical, economic and other justifications for the proposed location, height and design;
 - (2) Confirmation that the facility complies with all applicable federal and state standards;
 - (3) A description of the capacity of the facility including the number and types 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, the applicable regulations administered by the FAA, FCC, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- E. A copy of the applicant's FCC license to operate the proposed system.

- F. A copy of the applicant's coverage map detailing the applicant's plans for providing wireless communication services to the Town of Braintree and neighboring communities.
- G. Certification that the applicant is in compliance with the National Environmental Protection Act and the Massachusetts Environmental Policy Act.
- H. Proof that there is no existing, approved or proposed tower which can accommodate the wireless communication equipment planned for the applicant's tower. For the purposes of this paragraph, a proposed tower shall mean any tower for which an application for special permit has been filed with the SPGA.
- I. Proof that the proposed tower will not interfere with signals sent or received by any other facility which transmits or receives signals via wireless means.
- J. Proof of ownership of the proposed site or proof of a contract or lease with the owner of the site establishing the applicant's right to construct a tower on the site. The application must be signed by the owner of the property and the company(ies) proposing to erect the tower.
- K. A description of the soil and surficial geology at the proposed site.
- L. The projected future needs of the carrier and how the proposed tower fits with future projections to serve the Town and adjacent towns.
- M. A copy of a leasing agreement should another carrier desire to collocate on the tower.
- N. Between submittal of the application and the date of the public hearing on the application, the applicant shall, on two different dates, place a balloon or crane at the location and height of the proposed tower, in accordance with the following requirements:
 - (1) The balloon or crane shall be of a size and color that accurately reflect the appearance of the proposed tower to the extent possible.
 - (2) The balloon or crane shall remain in place at for least eight hours.
 - (3) One of the trials shall take place on a weekday. The other trial shall take place on a Saturday. All trials shall begin at 8:00 a.m.
 - (4) Prior to each trial, the applicant shall post notices of the time and place of the trials at the Town Hall at least two weeks prior to the first trial and shall publish the notice in a local newspaper of general circulation. The notice shall set a rain date in the event weather would delay or impact the results of the trial.

§ 135-1605. Findings.

In addition to the findings required by the § 135-503, in granting a special permit for wireless communication tower the SPGA shall find:

- A. That the applicant has demonstrated to the satisfaction of the SPGA that it has complied with the requirements of this section;
- B. That the size and height of the tower are the minimum necessary;
- C. That the proposed tower will not adversely impact scenic views;

- D. That there are no feasible alternatives to the location of the proposed tower, including collocation, that would minimize its impacts;
- E. That the applicant has exercised good faith in permitting future collocation of facilities at the site.

§ 135-1606. Accessory buildings.

Accessory wireless communication buildings shall be no larger than 300 square feet of total floor area and 12 feet high. They shall be designed to match other accessory buildings on site and shall be used only for the housing of equipment related to the particular site.

§ 135-1607. Use of Town land.

- A. For all wireless communication facilities located on municipal property, a certificate of insurance for liability coverage in amounts determined by the Town Counsel shall be provided naming the Town as an additional insured.
- B. For all wireless communication facilities located on municipal property, an agreement shall be executed whereby the user indemnifies and holds the Town harmless against all claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the user.
- C. For all wireless communication towers located on municipal property, evidence of contractual authorization from the Town of Braintree to conduct wireless communication services on municipally owned property shall be provided as part of the special permit application.

§ 135-1608. Abandonment/repair.

- A. All unused wireless communication facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner's expense.
- B. For all wireless communication facilities, an agreement shall be executed with the property owner whereby the user shall, at its own expense and within 30 days of termination of the lease, restore the premises to the condition it was at the onset of the lease and remove any and all wireless communication facilities thereon.
- C. For all towers, a bond shall be issued to the Town in an amount equal to the cost of removal of any and all wireless communication facility and for the repair and restoration of the premises on which the tower is located to the condition that the premises was in at the onset of the lease, said amount to be determined by the Town. The amount of the bond shall be the total of the estimate by the Town plus an annual increase of 3% for the term of the lease. The term of the bond shall be for the full term of any lease plus 18 months. The Town shall be notified of any cancellation or change in the terms or conditions in the bond.
- D. In the event of damage to a Tower, all repairs shall be made within one month.

§ 135-1609. Annual certification.

For all wireless communication facilities an annual certification demonstrating structural integrity and continuing compliance with the standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector and shall be reviewed by a licensed professional engineer hired by the Town and paid for by the owner of said facility.

§ 135-1610. Exemptions.

The following shall be exempt for this bylaw:

- (1) Wireless communication facilities used for Town or state emergency services.
- (2) Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the FCC and used solely for amateur radio purposes. Said towers shall be no greater than 100 feet in height. Towers in existence at the time of the adoption of this section shall be allowed to continue in their current configuration.
- (3) Wireless communication hardware used expressly for home television reception, internet access and residential telecommunications that does not exceed the height limitation for the zoning district in which it is located.
- (4) Medical facilities solely for the transmission of clinical information.

§ 135-1611. Filing fees.

Zoning fees for wireless communication facilities shall be set by the SPGA after public hearing.