



Town of Lexington
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WIRELESS COMMUNICATION FACILITIES
Draft for Review on 09.23.2020

To see if the Town will vote to amend the Zoning Bylaw to conform to Federal law and regulations regarding wireless communication facilities, including streamlining permitting processes and standards, adding design guidelines, or act in any other manner in relation thereto.

(Inserted by the Select Board at the request of the Planning Board)

DESCRIPTION:

This article would update the Zoning Bylaw to reflect changes in federal law and regulations relating to wireless communication facilities. These changes include streamlining permitting of wireless facilities on private property to meet federal ‘shot clock’ deadlines by not requiring special permits and expanding acceptable justifications for adding new facilities.

PROPOSED MOTION: That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington be amended as follows, (~~struck through~~ text is to be removed and underlined text is to be added), and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lexington:

A. Amend row O.1.08 of Table 1, Permitted Uses and Development Standards, so that it reads:

		GC	RO	RS	RT	CN	CRS	CS	CB	CLO	CRO	CM	CSX
O.1.08	Wireless communication facility *Yes if concealed as per § 6.4.4 (See § 6.4.)	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>	<u>SP*</u> <u>Y</u>

B. Replace § 135-6.4 with the following:

6.4 WIRELESS COMMUNICATION FACILITIES.

6.4.1 Purpose. This section permits the use of wireless communication facilities within the Town, regulates their impacts and accommodates their location and use in a manner intended to:

1. Protect the scenic, historic, environmental and natural or man-made resources of the Town;
2. Protect property values;
3. Minimize any adverse impacts on the residents of the Town (such as, but not limited to, attractive nuisance, noise and falling objects) with regard to the general safety, welfare and quality of life in the community;



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4. Provide standards and requirements for regulation, placement, construction, ~~monitoring~~, design, modification and removal of wireless communication facilities;
5. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communication facilities;
6. Encourage the use of certain existing structures and towers;
7. Minimize the total number and height of towers located within the community;
8. Require tower sharing and clustering of wireless communication facilities where they reinforce the other objectives in this section; and
9. Be in compliance with the Telecommunications Act.

6.4.2 Applicability. The requirements of this section shall apply to all wireless communication facilities, except where federal or state law or regulations exempt certain users or uses from all or portions of the provisions of this section. No wireless communication facility shall be considered exempt from this section by sharing a tower or other structure with such exempt uses.

6.4.3 Location of Facilities; Priorities. Wireless communication facilities shall be located according to the following priorities. Applicants shall demonstrate that they have investigated locations higher in the following priority ranking than the one for which they are applying and whether such sites are available and, if applicable, under what conditions. The priorities are:

1. Within an existing structure concealed;
2. Within an existing structure and camouflaged;
3. Camouflaged on an existing structure, including but not limited to an existing utility pole, a water tower, or building, and of a compatible design;
4. Co-located with existing wireless communication facilities;
5. On Town of Lexington owned land which complies with other requirements of this section and where visual impact can be minimized and mitigated;
6. On existing structures that comply with the other requirements of this section and where visual impact can be minimized and mitigated; and
7. On new towers.

6.4.4 Site Development Requirements. The following standards shall apply:

1. Shelters and accessory buildings. Any communication equipment shelter or accessory building shall be designed to be architecturally similar and compatible with the surrounding area. Whenever feasible, a building shall be constructed underground.
2. Security and signs. Except for small wireless facilities, the wireless communication facility shall be completely secure from trespass or vandalism; and a sign not larger than one square foot shall be posted indicating the name of the facility owner(s) and a twenty-four-hour emergency



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telephone number. Advertising on any antenna, tower, fencing, accessory building or communication equipment shelter is prohibited.

3. Lighting. Unless required by the Federal Aviation Administration, no exterior night lighting of towers or the wireless communication facility is permitted except for manually operated emergency lights for use when operating personnel are on site.
- ~~4. New Towers. Any new tower shall be of a monopole construction.~~
- ~~5.4.~~ Dimensional Standards. A wireless communication facility that exceeds the height restrictions of § 4.3 or occupies a front, rear, or side yard is permitted if the restrictions would materially inhibit provision of wireless services under the Telecommunications Act.
- ~~6.5.~~ Site Plan Review. New or expanded towers that are not small wireless facilities require site plan review under § 9.5.

6.4.5 Application; Procedures.

1. The applicant or co-applicant for any permit for a wireless communication facility must be a wireless communication service provider who has authority from the FCC to provide wireless communication services for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of the filing of the application for the permit.
2. Review by the Communications Advisory Committee. The Select Board's Communications Advisory Committee shall review an applicant's application and make recommendations to the Building Commissioner as to the application's adherence to the provisions of this section.
3. Permits. Each application for a permit must contain site plans with sufficient detail that would enable the Town to determine whether the proposed facility meets the requirements of this section.

6.4.6 Regulations. The Select Board may adopt regulations concerning the appearance of wireless communication facilities consistent with the Telecommunications Act.

6.4.7 Removal Requirements. Any wireless service facility that ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated such that all wireless communication facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be revegetated by the owner. Existing trees shall only be removed if necessary to complete the required removal.



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C. Amend § 135-9.4.1.1.c so that it reads:

- c. When an activity or use requires both site plan review and one or more special permits, ~~except for a wireless communication facility.~~

D. In § 135-10.1, remove the definitions of:

1. “ADEQUATE COVERAGE (WIRELESS COMMUNICATIONS FACILITIES)“,
2. “AVAILABLE SPACE“,
3. “CARRIER“,
4. “CHANNEL“,
5. “FACILITY SITE“,
6. “MODIFICATION OF AN EXISTING FACILITY (WIRELESS COMMUNICATIONS FACILITIES)“,
7. “MONITORING (WIRELESS COMMUNICATIONS FACILITIES)“, and
8. “REPEATER“.

E. In § 135-10.1, amend the definition of “TELECOMMUNICATIONS ACT” so that it reads:

The Federal Telecommunications Act of 1996, as amended, and its implementing regulations.

F. In § 135-10.1, add a new definition “SMALL WIRELESS FACILITY” as follows:

A type of Wireless Communication Facility where:

- The facility is mounted on a structure 50 feet or less in height including its antennas, is no more than 10 percent taller than other adjacent structures, or does not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- Each antenna associated with the deployment, excluding associated antenna equipment, is no more than 3 cubic feet in volume; and
- All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.