

ORDINANCE REGULATING TELECOMMUNICATIONS FACILITIES
IN THE TOWN OF SHARON

SECTION I: AUTHORITY

Under authority granted in 24 V.S.A. Section 2291(19) and 24 V.S.A. Chapter 59, the Selectboard of the Town of Sharon hereby adopts the following Civil Ordinance concerning telecommunications facilities. Under this Ordinance, the Selectboard shall have the power to regulate the placement, construction, operation, alteration or modification, development and decommissioning or dismantling of telecommunications facilities and ancillary improvements, whether permanent or temporary. The Board may require that bond be posted or that other acceptable security be provided to finance or cover the cost of structural inspections, remediation of the landscape to comply with this Ordinance and outstanding permit conditions and to cover future decommissioning or dismantling activities, including the cost of remediation of any damage to the landscape which occurs during the clearing, placement, construction, alteration or modification, use and decommissioning and dismantling of telecommunication facilities, including roads or other accesses.

This Ordinance shall be known as the Telecommunications Facilities Ordinance of the Town of Sharon. This Ordinance requires that a permit and site plan approval be obtained from the Selectboard prior to placement, construction, alteration or modification (including the installation of antennas for new or similar uses or greater or different signal strength), installation or operation of any telecommunications facility. This Ordinance also regulates the decommissioning and/or dismantling of telecommunications facilities and ancillary improvements.

SECTION II: PURPOSE

The purpose of this Ordinance is to advance the objectives of the Town Plan, to protect the public health, safety and general welfare of the citizens of the Town of Sharon and to provide for the orderly physical and economic growth of the Town of Sharon, while accommodating the communication needs of residents, visitors, community services and businesses. This Ordinance shall:

- A. Preserve the character and appearance of the Town of Sharon, while allowing adequate telecommunications services to be developed;
- B. Protect the scenic, historic, environmental and natural and man-made resources of the Town of Sharon, and property values therein;
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and ancillary improvements;

- D. Minimize telecommunications facilities and antenna proliferation by encouraging the sharing of existing telecommunications facilities and sites where possible and appropriate, consistent with the provisions of this Ordinance;
- E. Locate telecommunications facilities so that they do not have negative impacts such as -- but not limited to -- attractive nuisance, aesthetics, noise, property values and falling objects;
- F. Facilitate the provision of telecommunications services to the residences and businesses within the Town of Sharon;
- G. Minimize the adverse aesthetic effects of telecommunications facilities through careful design and siting standards;
- H. Insure that new commercial uses are compatible with prevailing rural residential land-use patterns as may be specified in the Town of Sharon Town Plan or other community standards;
- I. Encourage the location of telecommunications facilities in non-inhabited areas and away from other environmentally sensitive areas including ridgelines and hilltops and those areas that have schools, childcare and similar type facilities.
- J. Provide guarantees that the telecommunications facility is being operated and maintained in a verifiably compliant manner by annually filed regulatory compliance reports.

SECTION III: CONSISTENCY WITH FEDERAL LAW

In addition to other findings required by this Ordinance, the Board shall find that its decision regarding an application is intended to be consistent with federal law, particularly The Telecommunications Act of 1996 (TCA), as it may be amended, as it relates to personal wireless services. The Ordinance is intended to be consistent with The Telecommunications Act of 1996 in that it:

- A. Does not prohibit or have the effect of prohibiting the provision of personal wireless services;
- B. Does not unreasonably discriminate among providers of functionally equivalent services; and
- C. Does not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with Federal Communications Commission (FCC) regulations concerning such emissions.

The Selectboard may regulate broadcasting services and facilities in a manner that is not inconsistent with federal law including the regulation of the environmental effects of radio frequency emissions to the extent allowed by law.

SECTION IV: EXEMPTIONS

The following telecommunications uses or facilities are exempt from the requirements of this Ordinance: police, fire, ambulance, and other emergency dispatch; amateur (ham) radio,

citizens-band radio, single use local business radio dispatch and television antennas for home use.

No FCC-licensed telecommunications facility shall be exempt from this Ordinance for any reason, whether or not said facility is proposed to share an existing telecommunications facility or other structure with such exempt uses or facilities as identified above. This Ordinance is intended to regulate all commercial FCC-licensed radio, television and personal wireless telecommunications facilities except those identified immediately above.

SECTION V: PERMITS

A. No placement, pre-construction, construction, alteration, addition, modification, removal or installation, reconstruction, operation or decommissioning or dismantling of any telecommunications facilities or ancillary improvements, including site access work, shall commence until a permit has been issued by the Town of Sharon Selectboard (and site plan review conducted pursuant to Section XIII) consistent with the requirements imposed by this Ordinance. This includes, but is not limited to, installation of temporary facilities, change in access, installation of antennas for new or expanded uses, change in the number of buildings or facilities, material change in technology used, or addition or change of any equipment resulting in greater visibility or structural wind-loading, or additional height of the facilities or profile change of the facility due to additional antennas or other equipment not included in the original application. A project must be substantially complete within one (1) year of the issuance of a town permit. The permit may be renewed upon the filing of a new fee of \$750, and a request for a new hearing filed within the one (1) year period, and a determination by the Selectboard of the compliance and congruence with the conditions of the initial permit and criteria of this Ordinance.

B. Telecommunications facilities may receive a permit upon compliance with this Ordinance and upon proof of compliance with all other local, state or federal laws applicable to land use and development of such facilities, including site plan review.

C. An applicant for a permit for a telecommunications facility must be a telecommunications provider or must have a letter of intent or an executed contract to provide land or facilities to an existing telecommunications provider. A permit shall not be granted for a telecommunications facility built on speculation of a future letter of intent or contract with a telecommunications provider. A permit shall be granted only for a telecommunications facility with a user that has a current FCC license.

At a minimum, applicants for a telecommunications facility shall include the information set forth in Section VI, below, as that section relates to other provisions of this Ordinance. Application for a permit for a telecommunications facility shall be made to the Selectboard. Within twenty (20) days of receipt of the application the Selectboard shall inform the applicant in writing whether the application is complete or requires additional information. If additional information is required, the Selectboard shall identify in writing the missing or incomplete information. The applicant shall respond and file such additional information within sixty (60) days of the date of the Selectboard's letter or the application will be deemed to be

administratively incomplete and rejected. If the applicant does not respond within the sixty (60) day period, any later request for approval will be treated as a new application. For purposes of compliance the filing must be stamped "received" in the Town Clerk's Office on or before the sixtieth day.

SECTION VI: APPLICATION REQUIREMENTS

An application for a permit for a telecommunications facility in the Town of Sharon shall include at least the following information:

- A. The name(s), address(es) and telephone number(s) of each applicant and of their agent(s). If any applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office. The applicant shall expressly identify the person(s) to contact with regard to the application and his or her address and telephone number. Notice, orders, and other papers may be served upon the person(s) so named, and such service shall be deemed to be service upon the applicant's registered agent;
- B. Written permission of the facility owner and landowner(s) to apply for the telecommunications facility permit shall be submitted along with written permission from the facility owner and landowner(s) allowing the Town's officials, independent consultant(s) or agent(s) to conduct any necessary site visits including inspections, monitoring and testing visits prior to and after a permit is issued.
- C. The name(s), address(es) and telephone number(s) of the facility owner(s) (if different from the applicant) and record landowner(s) and their agent(s);
- D. The name(s) and address(es) of the record landowners of all abutting property;
- E. The name(s), address(es), fax/telephone numbers and e-mail address(es) of the persons available on a 24-hour basis to be contacted who are authorized to act on behalf of the landowners, facility owner(s) and telecommunications providers in event of an emergency regarding the structure or safety of the facility;
- F. A copy of the applicant's letter of intent or executed contract with the telecommunications service provider if the applicant is not the provider;
- G. A copy of the FCC license, as it may have been amended, with all conditions attached thereto;
- H. A vicinity map showing the entire vicinity within a 2500 foot radius of the telecommunications facility site, including the location of the proposed telecommunications facility and structures, topography, public and private roads and driveways, existing buildings, structures and telecommunications facilities, utilities, water bodies, wetlands, landscape features, conservation areas, historic

sites, deer yards and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way, including those needed for access from a public way to the facility and/or other structures;

- I. The vicinity map referred to in Paragraph H. shall show the area within the Town (i.e. village, rural residential, commercial, industrial and conservation) in which the proposed telecommunications facility is proposed to be located in and the various town areas abutting the area containing the proposed facility. The applicant shall certify the application is consistent with the provisions of Section X (Allowed and Prohibited Locations) of this Ordinance. These designations may be done by color or other designation on the map.
- J. The location of the proposed telecommunications facility on a USGS Topographic Map or Survey with 20-foot elevations or a GIS-generated map compatible with VCGI standards and encompassing the area within at least a two-mile radius of the proposed site;
- K. Elevations and proposed site plans of the entire development showing all facades and indicating all exterior materials and colors of structures, buildings and facilities, as well as all proposed landscaping, utility wires, guy wires, antennas and antenna arms or brackets, ice bridges, equipment sheds or buildings, accesses and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet);
- L. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 100 feet of the facility base. If the facility is being proposed on a side or slope of a hill or mountain the applicant shall identify the height of the immediate surrounding tree coverage and any topographical features in each direction from where the facility can be seen;
- M. Construction sequence and time schedule for completion of each phase of the entire project; and
- N. A report from a qualified engineer licensed to practice in Vermont that:
 1. Describes the height of the telecommunications facility(ies), width, support guy wires or lack thereof, design and elevation, consistent with the provisions of Sections XI (Height and Setback Requirements), XIV (Design Requirements), XV (Screening) and XVII (Protection of Scenic Ridgelines and Hilltops) of this Ordinance;
 2. Explains the dimensions of the facilities, including any new or existing structures, the aesthetic impacts and, if appropriate, the functional and design considerations for employing a guyed or a non-guyed wire support structure consistent with the requirements of Sections XI (Height and Setback) and XII (Lighting, Noise and Signage), XIV (Design

- Requirements), XV (Screening), XVI (Access and Utilities) and XVII (Protection of Scenic Ridgelines and Hilltops) of this Ordinance;
3. Describes any foundations to be built upon which telecommunications facilities are to be located. Describes any blasting, drilling and earth removal that will be carried out, the blasting and drilling plan and elevations of the area to be blasted and describes the steps to be taken to reduce or eliminate potential effects of the blasting including vibrations and impacts to foundations, wells and other structures in the area. Identifies the dynamite or blasting materials, the equipment for drilling, blasting and removal from or bringing material to the site, notice requirements to neighbors and town officials, and any other information the Selectboard may reasonably require should blasting, drilling and excavation be proposed;
 4. Documents the height above grade for all proposed mounting positions for antennas to be located on a structure or telecommunications facility and the minimum separation distances between antennas;
 5. Describes the telecommunications facility's proposed capacity, including the number, height and type(s) of antennas, including manufacturer(s) and model number(s), and other equipment, that the structure or other facility is proposed to accommodate;
 6. Documents the steps the applicant will take to avoid interference with any established public safety telecommunications;
 7. Provides evidence of need as provided in Section VII, of this Ordinance. In the case of proposals for new telecommunications facilities, demonstrates that existing facilities and other existing structures within 30 miles of the proposed site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community and otherwise complies with Section IX (Co-location) of this Ordinance;
 8. Describes potential changes or additions to those existing structures identified in response to #7, above, that would enable them to provide adequate coverage and adequate capacity;
 9. Describes the output frequency of the transmitter(s), number of channels and the power output per channel for each proposed antenna;
 10. For each antenna, describes the antenna gain (projected and maximum), polarization and radiation pattern (composite pattern for an antenna array), the power input to antenna(s), including power input in normal use and at maximum output for each antenna and all antennas as an aggregate if the facility is fully utilized;
 11. For a telecommunications facility with multiple emitters, describes the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment;
 12. Includes a written five-year plan for use of the proposed telecommunications facilities, including reasons for seeking capacity in excess of immediate needs for the applicant(s) (if applicable), as well as plans for additional development and coverage within the Town;

13. Provides a visual depiction of the facilities after completion with full build out;
14. Demonstrates the proposed facility's and any associated structure's compliance with the standards set forth in this Ordinance or other applicable standards including, but not limited to, compliance with the Town's setback and fall zone requirements for telecommunications facilities;
15. For a new telecommunications facility, demonstrates compliance with accepted structural engineering standards;
16. For a telecommunications facility to be installed on an existing structure, a copy of the applicant's letter of intent or executed contract with the owner of the existing structure and a letter from the owner of the existing structure that the structure and any telecommunications facilities presently are in compliance with all local, state and federal laws and will remain in compliance with such laws if co-location of the applicant is permitted by the Town;
17. Identifies the life of the proposed telecommunications facility and major equipment and the basis for the projection;
18. Identifies any proposed access to the site and how often it will be used;
19. Identifies any electrical, gas or telephone service to the site, the name and address of the utilities providing service(s) and the locations of the lines and/or pipes and whether they will be above or below ground;
20. Identifies any batteries used in connection with the telecommunications facilities and their locations;
21. Details plans for emergency power generation including demonstration of percent of electrical demand being proposed in event of loss of commercial power, type of fuel, storage method, and expected means and frequency of fuel delivery to the site for power generation, amount of generator time, based on historical power reliability for the area of the telecommunications facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement, feasibility of wind or solar power in conjunction with storage batteries;
22. Upon request, must provide a structural analysis by a competent structural engineering firm for a proposal to use an existing structure;
23. Provides proof that at the proposed site the applicant will be in compliance with all federal, state and local regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC and federal regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR) including all Environmental Assessments and Historic Preservation requirements and the basis for such representations. (The Selectboard may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.);

24. Identifies the dangers from lightening strikes associated with the telecommunications facilities, the precautions taken by the applicant and the risks remaining;
 25. Provides a decommissioning plan for the decommissioning, dismantling, and removal of the proposed telecommunications facilities;
 26. Includes such other information required by the Selectboard or its consultants necessary to evaluate the application and its potential impact to the environment and to the health, welfare and safety of the residents of the Town of Sharon; and
 27. Includes each engineer's stamp and registration number.
- O. In the case of an application for additional antennas or other equipment to be installed on an existing structure, evidence of agreement with the landowner(s) along with a statement that the owner of the structure will commit its structure to be shared without discrimination if the additional user(s) agree to meet reasonable terms and conditions for shared use, including maintaining compliance with: i.) all applicable FCC regulations, standards and requirements and ii.) the provisions of all state and local permits including any conditional use permit that may exist, as it may be amended or any new (conditional use) permit that may be issued. The Selectboard shall regulate and prohibit expansion and undue perpetuation of nonconforming uses (and noncomplying structures) by controlling i.) the changes of nonconforming uses to another nonconforming use or non-complying structure to another non-complying structure; ii.) the extension or enlargement of nonconforming uses and/or noncomplying structures; iii.) the resumptions of nonconforming uses, by prohibiting such resumptions if such use is abandoned for any period of time or if discontinued for six calendar months regardless of evidence of intent to resume such use, and iv.) movement or enlargement of a structure containing a nonconforming use.
- P. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed telecommunications facility. To the extent the applicant claims an EA is not required, it shall provide an explanation as to why an EA is not required in the form of an opinion, ruling or other certification from the FCC or court of competent jurisdiction. Each application shall be signed by the applicant(s) and the contributing engineer(s) under the pains and penalties of perjury.
- Q. An illustration of the modular structure of the proposed facility indicating the heights of sections which could be removed or added in the future to adapt to changing telecommunications conditions or demands. A written description of the proposed facility and its capacity to support the number of antennas and other facilities/equipment being proposed at different heights and the ability of the facility to be shortened if in the future antennae or other telecommunication facilities no longer require the original height or are removed from the facility.

- R. Two cross-sections of the proposed facility, drawn at right angles to each other, and, if applicable, showing any guy wires or supports. These drawings shall show the proposed height that any structure will extend above the average grade of its base. They shall also show all proposed antenna according to size and shape, including their location on the facility as well as all electrical wires, cables, and other equipment.
- S. A copy of the application for an Act 250 permit or other state permit, if it has been filed with the District Environmental Commission or other state commission or board. If the applicant claims it is exempt from Act 250 or other state process, it shall clearly provide the basis for the exemption to the Selectboard.
- T. An emergency plan in the event of an emergency or in the event the facility is deemed unsafe after inspection by the town, its consultants or agents or by the permittees, its consultants or agents. The emergency plan shall include, at a minimum, measures to warn abutting landowners and the Town of unsafe situations and conditions, to evacuate an area or areas where injury or property damage may occur and to notify local authorities.
- U. The applicant shall demonstrate it has obtained adequate financial surety to cover the cost of remediation of any damage to the landscape resulting from clearing of the site or construction of the facility, and also for the installation of landscaping and replacement of all trees, shrubs, bushes and vegetation that may not survive or do not flourish during the life of the project but only those elements as expected and represented to the Selectboard.
- V. The applicant shall demonstrate it has obtained adequate financial surety to cover the cost of decommissioning, dismantling and removal of the proposed facility(ies) and rehabilitation of the site in accordance with the terms of its permit and site plan approval. The applicant shall also show that it has the financial capability to reduce or extend the height of the facility in the event of changing circumstances requiring a higher or lower facility to meet changing safety, health or telecommunications needs. Any additional height extension of the facility shall be limited to the minimal amounts necessary to meet the changing safety, health and telecommunications needs, consistent with the requirements of this Ordinance. Any changes in the facility height, width or materials shall require that an additional permit be obtained.
- W. Demonstrates the owners are maintaining adequate property and liability insurance on all telecommunications facilities within the Town of Sharon. (The minimum coverage shall be one million dollars unless the owners provide good reasons for the insurance to be less or the Board finds based on the evidence presented to it that the coverage should be greater.)

SECTION VII: EVIDENCE OF NEED

The applicant shall provide to the Selectboard a description of the need for its facility within the town or other geographical area it wishes to serve. It shall be specific in terms of its intended service coverage, identify existing providers and any present deficiencies in coverage. If a section or paragraph of this Ordinance does not apply, in whole or in part, to a particular type of telecommunications facility the applicant shall state that the provision does not apply and provide the reasons supporting its position. The description shall include:

A. Existing Coverage: Applicant shall provide written documentation to the Selectboard demonstrating that existing telecommunications facility sites within a 30-mile radius of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to areas within the town which lack such coverage and/or capacity. The documentation shall include, for each telecommunications facility site listed which is owned or operated by the applicant, the exact location (in longitude and latitude, to degrees, minutes and seconds, to the nearest tenth), ground elevation, height of the structure, type of antenna, antenna gain, height of antennas on structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing telecommunications facility sites, including changes in antenna type, orientation, gain, height, or power output shall be specified. Tiled coverage plots showing each of these telecommunications facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.

B. Use of Repeaters: The applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters in conjunction with all telecommunications facility sites listed in compliance with Section VII.A. to provide adequate coverage and/or adequate capacity to areas lacking such coverage and/or capacity. Tiled coverage plots of all repeaters considered for use in conjunction with these facilities sites shall be provided as part of the application. Site plan review shall be required for the use of Repeaters. If repeaters are not applicable the Applicant shall explain why.

C. Indirect Service. Applicant shall demonstrate which portion of a facility and which antennas, if any, are to reduce or eliminate reliance on land-lines, or otherwise provide telecommunications capability to the applicant, as opposed to providing direct service to its customers.

D. Five and Ten Year Plans: All applications shall be accompanied by written five and ten-year plans for the utilization of the proposed facilities. These plans should include justification for potential capacity in excess of immediate needs, the ability to use repeaters or other enhancing technologies to meet existing or new demands, as well as plans for any further development within the town.

SECTION VIII: AUTHORITY TO HIRE INDEPENDENT CONSULTANTS

Due to the complex technical character of the information to be provided by the applicant pursuant to these regulations and the monitoring, testing, and inspection of facilities and operation provisions, the Selectboard may determine that it and/or the planning commission

require the assistance of an independent consultant or consultants to evaluate the application, monitoring, testing or inspection of the site, and/or development of the proposed or existing facility, including modifications, alterations, decommissioning, dismantling and/or removal of a telecommunications facility. Upon making such determination, passed by a majority of its members, the Selectboard may hire independent consultant(s), the reasonable costs of whose services shall be paid by the applicant(s). Applicant(s) shall place in escrow sufficient funds to cover such reasonable costs, as estimated by the independent consultant(s). These consultants shall be qualified professionals with an appropriate combination of education and training, record of service, and or certification in one or more of the following areas of expertise: 1.) telecommunications/radio frequency engineering; 2.) structural engineering; 3.) assessment of electromagnetic fields; 4.) aesthetic and landscape planning; 5.) local, state and/or FCC radio, television or wireless regulation; 6.) environmental assessments; 7.) historic and archaeological assessments; and/or 8.) similar expertise relating to the regulation of a particular proposal under this Ordinance.

Any consultants retained by the Town shall report directly to the Selectboard.

SECTION IX: CO-LOCATION REQUIREMENTS

An application for a new telecommunications facility shall not be approved unless the Selectboard finds that the antennas and other equipment planned for the proposed facility cannot be accommodated on an existing or approved facility due to one of the following reasons:

- A. The proposed antennas and other equipment would exceed the structural or spatial capacity of the existing or approved facility, as documented by a qualified engineer licensed to practice in the State of Vermont, and the existing or approved facility cannot be reinforced, modified or replaced to accommodate planned or equivalent antennas and other equipment at a reasonable cost to provide coverage and capacity comparable to that of the proposed facility;
- B. Compliance with Section VI, N. 7 and 8 of these Bylaws.
- C. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost;
- D. The proposed antennas and equipment, either alone or together with existing facilities, and equipment, would create radio frequency interference (RFI) in violation of federal standards or requirements;
- E. The proposed antennas and other equipment, either alone or together with existing facilities, antennas and other equipment would create radio frequency radiation (RFR) in violation of applicable standards or requirements;

- F. Existing or approved facilities cannot accommodate the planned antennas and other equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the state of Vermont;
- G. Aesthetic considerations make it unreasonable to locate the planned antennas and equipment upon an existing or approved facility or structure;
- H. There is no existing or approved facility in the area for which coverage is sought; or
- I. Other unforeseen specific reasons make it unreasonable to locate the planned antennas and other equipment upon an existing or approved facility.

Consistent with Section XI.A., below, telecommunications facilities, and specifically any new structure, shall be designed to allow for future rearrangement of antennas upon the facility and to accept antennas mounted at varying heights where overall permitted height and environmental concerns allow. Subject to Sections V. C., above, XI.A., below, and other relevant provisions of this Ordinance, facilities shall be designed structurally, electrically and in all other respects to accommodate both the applicant's antennas and additional antennas where overall permitted height and environmental concerns allow.

SECTION X: ALLOWED AND PROHIBITED LOCATIONS AND USES

A. Allowed Areas.

Wireless telecommunications facilities may be allowed only upon compliance with the provisions of this Ordinance in the following areas identified in the Sharon Town Plan:

Small Enterprise Areas
Industrial Area
Rural Residential Areas

In all other areas including the Village Center and Conservation areas in Town telecommunications facilities are prohibited, subject to the waiver provision below.

An applicant may request a waiver from the Selectboard of the requirement to locate facilities only in the Rural Residential Areas, Industrial Area, and Small Enterprise Areas, if it demonstrates by clear and convincing evidence that it cannot provide adequate service in such areas and that the Forest Conservation Area provides an adequate location for its facility and meets all other requirements of this Ordinance.

- B. Nonconforming Uses and Noncomplying Structures. Any nonconforming use or noncomplying structure may be continued indefinitely, but:

- 1.) shall not be re-established if such use(s) have been abandoned or terminated for any period of time except as provided herein. Once abandoned or terminated any future uses including any future use of a structure, antenna(s) or other equipment and/or facility(ies), or addition or replacement proposed for the same site, may be re-established only if the proposal is shown to be in accordance with the requirements of this Ordinance and all other applicable regulations and laws in effect at the time of the new application.
- 2.) shall not be re-established if such uses have been discontinued for a period of six (6) months regardless of evidence of intent to resume such pre-existing use(s), structure(s), antenna(s) or other equipment and/or facility(ies). Once discontinued any future use(s) or the re-establishment of existing or replacement structure(s), antenna(s) or other equipment and/or facility(ies) proposed for the same site, may be established only if the proposal is shown to be in accordance with the requirements of this Ordinance and all other applicable regulations and laws in effect at the time of a new application.
- 3.) shall not be extended, expanded, enlarged, replaced, altered or modified by adding to, changing or redesigning the location, placement or size of the antennas or other equipment, or replacing, extending, expanding, enlarging, altering or modifying the structure(s) or facility(ies), unless such extension, enlargement, expansion, replacement, alteration, or modification is first approved by the Sharon Selectboard in accordance with the existing standards and criteria of the Town's Telecommunications Ordinance.
- 4.) Noncomplying structures, antennas or other equipment and/or facilities may be restored or rehabilitated to a safe condition if the structure(s), antenna(s) or other equipment, and/or facilities or portions thereof, are declared unsafe by a proper authority or certified unsafe by an appropriate licensed engineer. Restoration or rehabilitation shall be of the same or a more restricted nature than the existing structure(s), antenna(s) or other equipment, and/or facility(ies) with regard to scale, height, width, intensity of operation, impact on adjacent properties and overall aesthetic and visual impact to the area.
- 5.) Noncomplying structures, antenna(s) or other equipment and/or facility(ies) requiring repair or rebuilding if damaged by fire, storm or accident may be repaired or rebuilt in-kind provided the repair, or rebuilding is started within twelve (12) months of the fire, storm, or accident and is substantially completed within two (2) years of the fire, storm or accident. Repair, or rebuilding shall be of the same or a more restricted nature than the existing structure(s), antenna(s) or other equipment and/or facility(ies) with regard to scale, height, width, intensity of operation, impact on adjacent properties and overall aesthetic and visual impacts to the area.
- 6.) Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming use or noncomplying structure, including

maintenance and repair to antenna(s) or other equipment and/or facility(ies), provided that such action does not increase the degree of nonconformance or noncompliance.

SECTION XI: HEIGHT AND SETBACK REQUIREMENTS

A. **Height:** Any new telecommunications facility shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the structure regardless of their location. The facility or structure may be built to accommodate co-location if an existing letter of intent or contract with a telecommunications provider has been provided to the Selectboard and is supported at a public hearing by the provider asking to be co-located on the facility or structure. The new facility may not be built on speculation of a future letter of intent or future contract with a telecommunications provider. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for facilities, antennas or other equipment and related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. If a telecommunications facility is proposed to be built on the side of a hill or mountain, then the height of the antenna should be evaluated in terms of the favorable ridgeline impacts as well as its view from other locations in terms of the immediate tree cover and topography. Should a proposed facility to be built on a hillside or mountain extend above the ridgeline, then the height should be regulated to reduce its aesthetic impacts after evaluating the height necessary to provide adequate service in town. An applicant may submit a request for additional height to accommodate sharing, and shall provide design information to justify such additional height but only if the applicant can provide a letter of intent or contract with a telecommunications provider desiring such sharing. Notwithstanding the above, additional height may be approved upon a finding by the Selectboard that i.) the additional height is necessary in order to provide adequate coverage in the Town of Sharon; and ii.) the additional height will not cause an undue visual impact on the scenic character or appearance of the area; and iii.) the additional height will not have an undue adverse impact on safety and welfare of the community; and iv.) there is not a less intrusive means or better location for providing similar service and v.) compliance with all other requirements of this Ordinance. The burden of demonstrating that the height should be extended beyond that necessary to provide adequate coverage for present purposes or 20 feet above the average height of the tree line shall remain with the applicant. The need to meet the existing needs for other providers applying for a permit may justify the construction of a facility higher than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility only if a letter of intent or contract with a telecommunications provider is produced to the Selectboard and the applicant(s) meet all substantive requirements of this Ordinance. Speculative needs for future co-location, however, are not sufficient to construct higher than necessary facilities and the Selectboard shall not grant such approval.

B. **Set Backs And Fall Zones.** Setbacks and fall zones shall be measured from the base of the facility or structure (unless guy-wired) to the nearest point along each property line of the parcel on which it is located. Where guy wired supports are used, setbacks and fall zones shall be measured from the base of the guy wires anchored to the ground, not the base of the facility. The minimum fall zone required by these bylaws for the safety and welfare of the

community for guy wired facilities shall be at least three times the facility's height; and for non-guy wired facilities the minimum fall zone shall be at least two times the facility's height. Within these distances there shall be no agricultural structure, school playground, park, recreation or conservation area or other similar area where it is known that the public may walk, recreate or spend time. The Selectboard may extend the minimum fall zone requirements based on evidence that demonstrates that the minimum fall zone provided herein is inadequate to protect agricultural enterprises or the public at large.

Additionally, telecommunications facilities shall not be located within any of the following locations:

- i. Within 300 feet horizontally of a State or Federally designated wetlands;
- ii. Within 100 feet horizontally of the habitat of any State-listed Rare or Endangered Wildlife or Species;
- iii. Within 1,000 feet horizontally from any Historic District or property listed or eligible to be listed on the State or Federal Historic Register;
- iv. Within 1,000 feet horizontally to any structure existing at the time of application which is used as a primary or secondary residence or seasonal camp, school property (both public and private), a hospital, senior care center, child care center, building used for religious worship, or to any other building used regularly by the public;
- v. Within 300 feet of the edge of a bank, as measured horizontally from any river or perennial stream or lake or pond;
- vi. Within 500 feet horizontally of any known archeological site (The Applicant shall submit evidence that there is no known archeological site within this distance from the proposed facility and the Selectboard may consult with the State Archeologist as to the significance of any proposed site).

These distances may be modified by the Selectboard only upon a showing of good cause by the applicant(s). It is the purpose of the set back distances to preserve natural, historic, residential, recreational and other sensitive areas listed above from commercial intrusion and aesthetic impacts. Good cause shall include information why the facility location being requested by the applicant(s) is the best location available for the proposed telecommunication facility or use in terms of environmental impacts and telecommunication needs, and will have the least impacts on the residents and town in terms of their health, safety and welfare. The burden to present convincing evidence shall be with the applicant(s). The Selectboard may request any additional information including, but not limited to, the identification of alternative locations (both within and outside the town) and technology that may be available to the applicant(s), as well as available measures to mitigate impacts on the sensitive areas listed above.

If an applicant requests a reduction in the distances from those set forth above, the Selectboard shall provide public notice of the request and provide the Planning Commission and members of the public an opportunity at a public hearing to provide information and testimony why the request should be granted or denied.

The Selectboard may retain one or more consultants pursuant to Section VIII of this Ordinance to advise it in its deliberations.

SECTION XII: LIGHTING, NOISE AND SIGNAGE REQUIREMENTS

- A. Telecommunications facilities shall not be illuminated by artificial means and shall not display strobe or similar type lights unless such lighting is specifically required by FAA, FCC or other federal or state authority, or the Selectboard otherwise determines lighting is necessary. If any lighting is required solely because of the height of a facility, the Selectboard may review the plan to determine if the lighting requirement can be eliminated by a reduced height or a change in location of the facility. The burden shall remain on the applicant(s) to demonstrate by clear evidence that it cannot provide the intended service in an adequate manner by a less intrusive means.
- B. No commercial signs or lettering shall be placed on the facility or its appurtenances except the fences shall contain a clear sign that identifies that radio frequency radiation is emitted from the facility and that the entry is prohibited except to the company's employees and consultants. A telephone number shall be given for the FCC and to the company's headquarters. No other signs may be placed on facilities without Selectboard approval.
- C. The owners of the facilities shall take all reasonable measures to minimize noise from the operation of any telecommunications facilities as detected at the site perimeter. The owners shall identify the steps they have taken to reduce noise. The noise level of the equipment and machinery employed on site shall be no greater than forty (40) decibels at any property boundary.

SECTION XIII: SITE PLAN REVIEW

A site plan application for a telecommunications facility shall also be filed with the Sharon Planning Commission.

No permit may be issued by the Selectboard until the Planning Commission reviews and makes an advisory recommendation to the Selectboard as to whether the site plan application should be approved as submitted or whether changes should be made.

If an applicant intends to request a waiver under Section X, "Allowed and Prohibited Areas", in order to locate a facility within the Forest Conservation Area, it must first explain to the Planning Commission its reasons for its request and ask for the Planning Commission's favorable recommendation. The Planning Commission shall provide its recommendation to the Selectboard.

In reviewing site plans the Planning Commission may recommend appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening and the protection of renewable energy resources; and compliance

with other provisions of the Ordinance. The Planning Commission shall make its advisory recommendation to the Selectboard within sixty (60) days of the Planning Commission receiving a complete copy of the proposed plan. Failure to act within such period shall be deemed a favorable recommendation.

Applications shall, at a minimum, include the following: The applicant shall submit ten copies 11" x 17" and two (2) large format 24" x 36" site development plan drawings showing the name and address of the applicant(s), owner of record of the land on which the proposed telecommunications facility is to be located, the names of the adjoining property owners, the parcel size and location, access road, existing and proposed structures, existing and proposed drainage and grading, erosion plans, landscape features significant for the proposed telecommunications facility, the name and address of the person or firm preparing the drawing, scale of map, north arrow and map. In addition the following is required to be filed with the Planning Commission:

1. site location map of the proposed facility;
2. building information, including elevations and floor plans, if any;
3. identification of any equipment shelters or cabinets, showing the dimensions, colors and location of the shelter(s) or cabinet(s);
4. a survey of the property or a portion of the property prepared by a licensed Vermont engineer and or land surveyor showing boundaries, contours, vegetation and natural features, structures, access points, utility easements and rights-of-way;
5. information showing any deed restrictions on file in the town land records;
6. storm water drainage plan, including site grading, prepared by a Vermont licensed engineer;
7. plan and specifications for primary access(es) and emergency vehicle access;
8. detailed specifications of existing and proposed plantings and other landscape elements, fences, etc.;
9. erosion plans;
10. timetable for completion of improvements, construction sequence and time schedule for completion of construction of facilities, including any structures, equipment cabinets or buildings, access and landscaping.
11. cost estimate of all project construction and landscaping to be installed.
12. a layman's description of the equipment and facilities to be attached and/or connected to any telecommunications facility with dimensions of each piece of equipment or machinery;
13. decommissioning and dismantling plans, including plans to rehabilitate the area, and cost estimates for both;
14. Any other information or data the Planning Commission may reasonably require to carry out its responsibilities.

Review Standards: In reviewing site plans, the Planning Commission shall follow the requirements of 24 V.S.A. Section 4407 (5). The Planning Commission shall consider and may advise the Selectboard to impose conditions in relation to the following objectives:

Adequacy of on-site circulation, parking, access and loading, in particular attention given to safety and visibility. Adequacy with respect to construction periods shall also be evaluated.

Adequacy of landscaping, screening and setbacks in achieving maximum compatibility with and protection of adjacent properties by screening from them any unsightly equipment, facilities, storage areas, and equipment cabinets or machinery; assurance that landscape materials will not interfere with visibility or safety and that the materials and plantings are of a type that can survive and be maintained as proposed.

Adequacy of provision for safety and convenience of pedestrians. Included in this evaluation shall be a recommendation that the applicant meets the minimum set back and fall zone standards set forth in the Ordinance.

Protection of renewable energy resources, including a recommendation that the proposed telecommunications facility does not adversely affect the ability of adjacent properties to use renewable forms of energy.

Compliance with other provisions of this Ordinance especially those that deal with siting requirements and location of facilities, safety, erosion, landscaping, screening and aesthetic impacts, ridgeline and hilltop impacts, set backs and fall zones, access and decommissioning and final rehabilitation of the land.

SECTION XIV: FACILITY DESIGN REQUIREMENTS

All telecommunications facilities, including antennas and other equipment and any support structures, shall be designed to blend into the surrounding environment through the use of color camouflaging, architectural design, and other alternative design structures, and to cause minimal disruption of existing vegetation. Materials used for the exterior of any structure shall be of a type, color and location so as to minimize glare and the impact on any scenic or historic areas, public vantage points or abutting properties.

SECTION XV: SCREENING

Screening shall be required at the perimeter of the site. The telecommunications facility and all ancillary improvements shall be adequately screened. This may be provided by existing natural foliage or by planted new foliage or other means approved by the Selectboard. A planted or natural vegetative screen shall be a minimum of 25 feet in depth with a minimum height of 8 feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the facility shall be preserved or improved as determined by the Selectboard. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

SECTION XVI: ACCESS ROADS AND ABOVE-GROUND UTILITIES

Where telecommunications facilities require construction of a new access road or improvement to existing access roads, to the extent practicable, roads shall follow the contour of the land. Access roads, when consistent with the purposes of this Ordinance and when economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Year round access shall be the responsibility of the permittee(s). Utility or service lines shall be designed and located so as to minimize or prevent disruption of the scenic character and beauty of the area. Underground wires should be evaluated as an alternative to overhead lines.

SECTION XVII: PROTECTION OF SCENIC RIDGES AND HILLSIDES

Although not prohibited, telecommunications facilities are strongly discouraged from being sited directly on or near a ridgeline or hilltop. Facilities are encouraged to be located at an elevation lower than the ridgeline so that they will be folded within the hillside and blend with the natural tree growth. Should an applicant propose a telecommunications facility directly on or near a ridgeline or hilltop, it shall have the burden to demonstrate by clear evidence that a less intrusive means of providing a similar service is not available by either different facilities, including a stealth facility, or a different location consistent with the requirements of this Ordinance.

The Selectboard, in consultation with the applicant and others, shall determine the likely visual impact of any proposed telecommunications facility and may require balloon tests, photographs, simulations, and any other necessary, helpful and relevant information, as well as an evaluation of other telecommunications providers and other types of telecommunications equipment that may provide similar coverage in a less intrusive manner. Based on the information presented, the Selectboard may identify an alternative location for the facility to be considered by the applicant, may request a redesign in order to minimize the visual impact on the scenic character and beauty of the area, or may add further conditions or deny the application. In determining whether or not a facility would have an undue adverse visual impact and when to deny or set conditions in the permit, the Selectboard shall consider:

- A. The period of time during which it would be viewed by persons traveling on public highways;
- B. The frequency with which persons traveling on public highways will view the facility;
- C. The degree to which it will be screened by existing vegetation, the topography of the land, and existing structures;
- D. Background features that will either obscure it or make it more conspicuous;
- E. Its distance from key vantage points and the proportion of it which will be visible above the skyline or tree line;
- F. The number of members of the traveling public or residents of and neighboring towns who will be affected by the alteration of the scenic character and beauty of the area;

- G. The sensitivity or unique value of the particular view affected by it in terms of federal, state and/or local significance;
- H. Significant disruption of a viewshed that provides context to a historic or scenic resource;
- I. Alternative less intrusive locations or equipment, including a stealth facility, that may be available to the applicant;
- J. Existing service coverage in the area; and
- K. Any community standards, including the town and regional plans.

SECTION XVIII: CONTINUING OBLIGATIONS

A. Upon receiving a permit, the permittee(s) shall annually demonstrate that it is in compliance with all FCC standards and requirements regarding RFR, the basis for its representations and the date that the most recent actual readings of RFR were performed at the site. The permittee(s) shall provide a list of RFR readings, their distances from the tower/transmitter, dates of the readings, names of the person or company who took the readings and affirm that the measurements were taken by an adequate instrument or system that had been recently calibrated and that the person(s) certifying the measurements is qualified to take such measurements.

B. The telecommunications facility owner shall maintain adequate insurance on the facility and the entire site and annually shall provide a certificate of insurance to the Selectboard. It is the obligation of the facility owner/permittee(s) to identify the insurance and explain why its coverage is adequate and to thereafter supply proof of its insurance.

C. All telecommunications facilities and sites shall be properly fenced and clearly identified by signage that indicates the presence of RFR and any other appropriate warnings required by the permit conditions.

D. The permittee(s) shall demonstrate that the facility is in compliance with all laws by filing with the Selectboard annually a report certifying that the telecommunications facility is in compliance with all federal, state and local laws and regulatory requirements, including, but not limited to, its FCC license, Act 250 permit, if applicable, and its approval under this Ordinance. The report shall be certified by a Vermont licensed engineer and signed by the permittee(s).

The dates for filing compliance with this Section shall be set forth in the permit. If the permit does not contain a date or dates for compliance filings under this section then the annual compliance filings shall be made on or before January 15th of each year.

SECTION XIX: REMOVAL OF ABANDONED, UNUSED, OBSOLETE, DAMAGED OR DANGEROUS PORTIONS OF FACILITIES

Abandoned, unused, obsolete or damaged facilities or portions of telecommunications facilities shall be removed as follows:

- A. The owner of a telecommunications facility shall annually, on January 15, file a declaration with the Selectboard certifying the continuing safe operation of the entire facility or portion thereof installed subject to this Ordinance. Failure to file a declaration shall mean that it is no longer in use and the Selectboard shall declare it abandoned.
- B. Abandoned, unused, obsolete or damaged facilities shall be removed within 180 days of cessation of operations unless a time extension is approved by the Selectboard. If the facility is not removed within 180 days of cessation of operations at a site, the municipality shall notify the owner and may remove the facility and all associated equipment and improvements. Costs of removal and rehabilitation of the site shall be assessed against the property owner, and/or facility owner.
- C. Abandoned, unused, obsolete or damaged portions of facilities shall be removed within 180 days of the time that such portion is no longer used or is abandoned, damaged or becomes obsolete. Replacement of portions of a facility previously removed shall require a new permit.
- D. An owner who has failed to file an annual declaration with the Selectboard by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility or portion of the facility.

SECTION XX: ENFORCEMENT AND PENALTIES

- A. The Selectboard shall be the enforcement officer for the Town.
- B. If any telecommunications facility is or is proposed to be placed, erected, constructed, reconstructed, altered, converted, maintained, used or failed to be removed in violation of any portion of this Ordinance the Selectboard shall institute in the name of the Town any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate such placement, construction, reconstruction, conversion, alteration or use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation or potential violation including failure to remove such facility or portion thereof.
- C. In the event the applicant fails to comply with material terms and/or conditions of its permit, or made a material misrepresentation in its application, or a series of misrepresentations during or after its application process, the Selectboard shall identify in writing such failures, violations and/or misrepresentations and submit them to the permittee(s) and landowner(s). Failure to present such alleged misrepresentations, failures or violations shall not constitute a waiver by the Town of its rights to enforce this Ordinance and any conditions included within a permit. Should the failures, violations or misrepresentations, individually or

collectively, be deemed material by the Selectboard it shall seek enforcement and remedies.

- D. The Selectboard shall identify the costs incurred by the Town of Sharon pursuant to any enforcement action, including but not limited to reasonable attorney fees, court costs, and removal of the facility or parts of the facility and shall request a court of competent jurisdiction to assess such costs against the property owner and/or facility owner and shall pursue collection of such costs and fees.

SECTION XXI: SEVERABILITY CLAUSE

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of the Ordinance.

SECTION XXII: DEFINITIONS

Adequate Capacity: Capacity is considered to be "adequate" if during the busiest hour of the day on at least fifty percent (50%) of the days in any month preceding the date of application, ninety five (95%) or more of the attempted calls are able to connect on their first attempt, as measured using direct traffic measurement of the coverage area in question.

Adequate Coverage: Coverage is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment like Sharon's, this would be a signal strength of at least -90dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength farther away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Affiliate: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Structure: Artificial trees, light poles, silos and similar alternative-design mounting structures that substantially camouflage or conceal the presence of antennas and other equipment consistent with good engineering and environmental practices (See also: Stealth Facility.)

Antenna: A device which is attached to a telecommunications facility for transmitting and receiving electromagnetic waves/signals. An antenna may be considered to be a telecommunications facility and is considered to be part of the equipment of a facility.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the facility or structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant: A person who applies for a telecommunications facility siting. An applicant may be the landowner of record, or the telecommunications service provider or agent of record, with the landowner's (or other designated representative's) written permission.

Areas within the Town: The physical areas located within the Town of Sharon identified by the Sharon Town Plan as commercial, conservation, industrial, rural residential and village, as the Town Plan may be modified.

Available Space: The space on a telecommunications facility to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single facility.

Channel: The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

Co-location: Locating wireless communications equipment from more than one telecommunications provider on a single structure or site.

Directional Antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Engineer: An engineer who is licensed to practice in the State of Vermont and who is qualified in the relevant field of knowledge or engineering specialty (e.g., a structural engineer in questions of load-bearing, shear forces, etc.; an electrical engineer in questions of radiation effects, interference, etc.).

Equipment: Any lines, wires, batteries, antennas, machinery or ancillary materials, parts or apparatus associated with a telecommunications facility.

Facility: see Telecommunications Facility

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications facility, and where required landscaping is located.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

Frequency: The number of cycles completed each second by an electromagnetic wave measured in Hertz (Hz).

GIS: Geographic Information Services.

Location: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

Material Change: means any alteration to a project that has the potential for a significant impact on any finding, conclusion, term, or condition of the project's conditional use permit or site plan approval and which affects or has the potential to affect one or more of the values sought to be protected by this Ordinance.

Modification of an Existing Facility: Any change, or proposed change in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing permit.

Modification of an Existing Tower or Structure: Any change, or proposed change in dimensions of an existing and permitted tower or other structure, including ancillary improvements, designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

Monitoring: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from telecommunications facilities.

Monitoring Protocol: The testing protocol, such as the Cobbs Protocol, or the FCC Regulations (Title 47, Part 1, Section 1.1307 referenced as IEEE C95.3 1991) or ones substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, (Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from telecommunications facilities.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations.

Nonconforming use: The use of land, or a structure, including antennas or other equipment and facilities, which does not comply with all provisions of the Sharon Telecommunications Ordinance where such use (structures, antennas and other equipment and facilities) conformed to all applicable laws, ordinances, and regulations prior to the enactment of the Town's Telecommunication's Ordinance and other applicable regulations and laws.

Noncomplying structure: A structure, or part thereof, including antenna(s), equipment and/or facilities not in conformance with the Sharon Telecommunications Ordinance covering access, building bulk, dimensions, height, width, set backs, fall zones, area, yards, density, or off-street parking or loading requirements, where such structure(s), or parts thereof, including

antennas and other equipment and/or facilities conformed to all applicable laws, ordinances, and regulations prior to the enactment of the Town's Telecommunications Ordinance and other applicable regulations and laws.

Ordinance: refers to the Town of Sharon's Civil Ordinance to Regulate Telecommunications Facilities.

Permit: An official action which embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality subject to any conditions imposed by the Selectboard.

Personal Wireless Services: Commercial mobile services, unlicensed wireless exchange access services. These services include cellular services, personal communications services, specialized mobile radio services, and paging services. Each of these services, however, may provide different types of telecommunications services that may affect the review under this Ordinance.

Preexisting Telecommunications Facilities: Any facility for which a permit has been issued prior to the effective date of these regulations or which were in existence without the requirement of a permit.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

Roof and/or Building Mount Facility: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Scenic View: A wide angle or panoramic field of sight that may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

Stealth Facility: A telecommunications facility designed to have a reduced impact on the environment by substantially camouflaging or concealing telecommunications facilities, including their antennas and equipment, consistent with good engineering and environmental practices. See **Alternative Design Structure**.

Structure: Any building, pole, tower or other edifice, including an alternative design structure, which supports a device or facility used in, or accessory to, the transmitting and/or receiving of electromagnetic signals.

Structurally Able: The determination that a facility is capable of safely carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis including the windload and any other structural requirements.

System: The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Equipment Shelter or Cabinet: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions including any foundation that may be required.

Telecommunications Facility: A telecommunications facility includes a tower or other structure and consists of all equipment (including repeaters and antennas), structures and locations of equipment and structures with which a telecommunications provider transmits and receives the waves which carry their services. A facility may be located on one or more towers or other structure(s) (e.g. poles, buildings) owned and permitted by the provider or another owner or entity, or it may be placed on existing natural objects (e.g. trees). This term may be used to include all structures, equipment, ancillary improvements and property at the site necessary to transmit and maintain the service according to a Town of Sharon Telecommunications Facility Permit. A telecommunications facility includes wireless telecommunications facilities, as well as radio, television and other facilities not exempt under Section IV of this Ordinance.

Telecommunications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Telecommunications Services: Any telecommunications services that are not exempt under Section IV of this Ordinance and include, but are not limited to, FCC-licensed radio, and television, and personal wireless services as defined by the Telecommunications Act of 1996.

Telecommunications Structure: See Structure.

Temporary Communications Facility: Any tower, pole, antenna, equipment, etc., designed for use while a permanent facility is under construction, or for a special event or conference where a majority of people attending are users.

Tiled Coverage Plots: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Tiled plots (in comparison to radial plots 1.) provide a uniform distribution of points over the area of interest, 2.) usually allow the same grid to be used as different sites are examined, and 3.) do not necessitate the transmitter site to be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. Tile plotting requires more topographic data and longer (computer) execution time than radial plotting, but is preferable for comparable analysis.

Tower: See Structure.

USGS: United States Geological Survey.

VCGI: Vermont Center for Geographic Information.

View Corridor: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a hill or mountain, which would result in a narrow corridor, or a group of objects, such as a group of hills or mountains, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Wireless Service: A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones. This term is not intended to eliminate other types of wireless services such as personal communication devices that may be in evidence or may yet to come into existence.

Wireless Telecommunications: A commercial Low Power Mobile Radio Service band width licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic areas within a service area and which are capable of being reused in different areas within the service area.

Wireless Telecommunications Facility: A wireless telecommunications facility may include a tower or structure, and consists of all equipment, structures, and property at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Any term used in the singular may include the plural, and any term used in the plural may include the singular. It is the intent of this Ordinance to have the provisions read together so that they are harmonized and make sense to both the Town of Sharon and its citizens and the regulated company(ies).

SECTION XXIII: APPLICATION FEES

Upon submission of a signed application that meets all of the criteria herein described, including all supporting documents and maps, a non-refundable application fee shall be submitted to the Town of Sharon in the amount of \$750.00.

SECTION XXIV: This Civil Ordinance is adopted this 15th day of June, 2004 at the Town of Sharon, County of Windsor, State of Vermont.

A summary of this Ordinance shall be published in the Herald of Randolph and Valley News Legal Advertisements on or before the 29th day of June and within 14 days of the date of adoption.

This Ordinance shall be filed in the records of the Town of Sharon.

SHARON SELECTBOARD

By: _____, Chair	DATE: _____
_____, Vice Chair	DATE: _____
_____, Clerk	DATE: _____

SECTION XXIV: EFFECTIVE DATE

This Ordinance shall become effective August 14, 2004 which is sixty (60) days after its adoption by the Sharon Selectboard. If a petition is filed under 24 V.S.A. Sec. 1973, that statute shall govern the taking effect of this Ordinance.

RECORDED on August 14, 2004 at Book 71 Page 321 in Sharon Land Records.

Joanne Slater, Sharon Town Clerk