TOWN OF RINDGE

TELECOMMUNICATIONS FACILITIES ORDINANCE

Adopted March 8, 2011

TELECOMMUNICATIONS FACILITIES ORDINANCE

SECTION I – AUTHORITY AND PURPOSE

This Ordinance is adopted by the Town of Rindge in March, 2011 to replace the WIRELESS TELECOMMUNICATION FACILITY ORDINANCE adopted by the Town of Rindge in March, 2001 which is hereby rescinded, in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16 and 674:21. This Ordinance shall be known as the Town of Rindge Telecommunications Facilities Ordinance. The provisions in this Ordinance shall overlay and supplement the provisions contained in the Town of Rindge Zoning Ordinance and shall be considered part of the Zoning Ordinance for the purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other town ordinances or regulations, the provision imposing the greater restriction or more stringent standard shall control.

The purpose of this ordinance is to:

A. Define the authority of the Town of Rindge to regulate telecommunications facilities as hereinafter defined;

B. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of telecommunication facilities;

C. Protect the historic, cultural, natural, and aesthetic resources of the Town of Rindge and property values therein by minimizing the adverse impacts of telecommunication facilities;

D. Locate telecommunication facilities and/or antennas in a manner which promotes the general safety, health, welfare, and quality of life of the residents of the Town of Rindge and those who visit here; and

E. Encourage the use of co-location, camouflaged facilities, monopoles, stealth facilities, and construction of facilities with the ability to serve multiple providers.

SECTION II – DEFINITIONS

Amateur Radio Operator: An individual, licensed by the Federal Communications Commission, who sends and receives radio signals on radio frequencies reserved for amateur radio operation.

Amateur Radio Facility: Any tower and appurtenances or building-mounted structure intended for communication purposes by a person operating in compliance with the Federal Communications Commission requirements for licensed amateur radio operations.

Antenna: A device for transmitting and/or receiving electromagnetic waves.

Average Tree Canopy Height: The average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

Camouflaged: Telecommunication Facilities that are disguised or hidden, as part of an existing or proposed structure or placed within an existing or proposed structure. Such facilities may include, but are not limited to, man-made trees, clock towers, bell steeples, light or flag poles and similar alternative design mounting structures.

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 the telecommunications equipment of more than one provider on a single structure.

Communication Tower: A guyed or self-supporting telecommunications facility constructed as a free-standing structure or in association with a building, other permanent structure, or equipment, containing one or more antennas intended for transmitting and/or receiving electromagnetic waves.

Equipment Shelter: An enclosed structure, cabinet, shed, vault or box near the base of a mount within which is housed equipment used in connection with telecommunications facility transmissions.

FAA: Federal Aviation Administration.

Fall Zone: A safety area surrounding a ground-mounted wireless facility.

FCC: Federal Communications Commission.

Fresnel zone: The area around a line-of-sight radio signal which should be free and clear of interfering objects, such as branches..

Ground-mounted: Mounted on the ground.

Guyed Telecommunications Facility: A telecommunications facility that is secured to the ground or other surface by diagonal cables for lateral support.

Height; Shall mean the distance measured from the ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Mast-mounted Antenna: An antenna mounted on a supporting mast or pipe attached to a structure or base.

Mount: The structure or surface upon which antennas are attached.

Monopole: A single self-supporting vertical pole, usually consisting of a galvanized or unpainted metal pipe on a below-grade foundation.

Non-Conforming Telecommunications Facility: Any telecommunications facility which is not in conformance with the requirements of this ordinance, but existed lawfully prior to the adoption, revision, or amendment of this ordinance.

Permit: Written authorization by the Town of Rindge to an operator to own, construct, maintain, and operate a Telecommunications Facility within the boundaries of the municipality.

Provider: An entity providing telecommunication services to individuals or institutions.

Radiofrequency (RF) Engineer: An engineer specializing in electrical or microwave engineering.

RFR: (Radiofrequency Radiation): The emissions from Telecommunications facilities.

RFI: (Radiofrequency Interference): The emissions from Telecommunications facilities, which can affect the normal operation of electronic devices.

Receiving Antenna: A device used for receiving radio frequency signals.

Roof-mounted: Mounted on the roof of a building.

Scenic View: A wide angle or panoramic field of sight that may include natural and/or human-made structures and activities. A scenic view may be seen from a stationary position 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, such as an historic building.

Side-mounted: Mounted on the side of a building.

Stealth Facility: Any Telecommunications Facility designed to blend into the surrounding environment. Examples of Stealth Facilities include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light or flag poles, and structures designed to resemble natural features such as trees or rock outcroppings.

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed equipment under all reasonable predictable conditions as determined by a professional structural engineering analysis.

Structure-mounted: Mounted on a structure other than a building.

Telecommunications Facility: Any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic transmission/reception. It includes all accessory structures and improvements

(e.g. roads, parking areas, fencing, equipment buildings, etc.). Such Telecommunication Facilities may be guyed, self-supporting or monopole design.

Telecommunication Facility Classifications:

Class 1 Telecommunications Facility: A communication tower for cellular wireless services and/or to act as a hub for broadband wireless services. Towers in this class must be located on land either leased to or owned by the tower owner, may have an accessory building located adjacent to them and must have a dedicated electrical service. Towers in this class may have either a tower face dimension in excess of 14" or be of monopole design and shall be designed for co-location of wireless services to the greatest possible degree.

Class 2 Telecommunications Facility: A telecommunication facility for broadband wireless internet signal reception to service the property upon which the Telecommunication Facility is located (on-site service) and which has the capacity to relay or retransmit the broadband wireless internet signal for service to another property (off-site service).

Class 3 Telecommunications Facility: A telecommunication facility for broadband wireless internet signal reception to service solely the property upon which the Telecommunications Facility is located (on-site service) and without the capacity to relay or retransmit a broadband wireless internet signal for service to another property (off-site service).

Class 4 Telecommunications Facility: This Ordinance adopts the provisions and limitations as referenced in RSA 674:16 IV (Amateur Radio Preemption). This Ordinance shall not govern any tower that is less than 150 feet in height that is owned and operated by a federally licensed Amateur Radio operator. The provisions of this Ordinance shall apply only for towers greater than 150 feet in height. The Fall Zone requirement for Amateur Radio towers shall be 100% of the total height of the tower.

Class 5 Telecommunications Facility: Satellite television and satellite internet antennas are not regulated by this Ordinance.

Class 6 Telecommunications Facility: A Telecommunications Facility for broadband wireless internet reception, relay or transmission in which antennas are attached to a Utility Pole.

Temporary Telecommunications Facility: Any tower, pole, antenna, etc., designed for use while a permitted permanent wireless facility is under construction or repair, or for a special event or conference.

Tower: Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. Such Towers may be guyed, self-supporting or of monopole design.

Utility Pole: A wooden or concrete pole, partially buried in the earth, to which are attached antennas and other related equipment.

Vantage Point: A point located on a public roadway, waterway, or path from which a proposed Telecommunication Facility will be visible.

SECTION III - DISTRICTS

Class 1 and Class 2 Telecommunications Facilities use shall be permitted in the following Districts subject to all applicable local, state, and federal regulations and Site Plan Review and approval by the Planning Board. Class 1 and Class 2 Telecommunication Facilities shall be prohibited in the Village District.

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Table

Zoning District	New Tower Construction	Collocation on Existing Tower	Collocation on Existing Structure
Residential	Yes	Yes	Yes
Residential-Agricultural	Yes	Yes	Yes
College	Yes	Yes	Yes
Village	No	No	No
Commercial	Yes	Yes	Yes
Gateway	Yes	Yes	Yes
Business-Light Industry	Yes	Yes	Yes

Yes Permitted subject to Site Plan approval and provided that all other requirements of federal and state law and the zoning ordinance have been met.

No Not permitted.

SECTION IV - STANDARDS FOR TELECOMMUNICATIONS FACILITIES

1. General: Any upgrade of a Telecommunications Facility from one Class to another Class shall make it subject to the provisions in this Ordinance governing the new Class.

2. Federal and State Requirements: All Class 1 Telecommunications and Class 2 Telecommunications Facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal or state government with the authority to regulate such facilities.

3. Safety Standards: Installation plans for Class 1 Telecommunications Facilities shall be stamped by a licensed professional engineer. All Class 1 Telecommunications Facilities shall be inspected every two years by a licensed professional engineer approved by the Town with the cost thereof to be paid by the owner. The engineer shall submit a report to the Board of Selectmen's designated representative(s). If the report concludes that a structure fails to comply with applicable codes and/or generally accepted standards and thus constitutes a danger to persons or property, the facility owner shall be notified that he/she has 30 days to correct all deficiencies. If the owner fails to comply within 30 days, such action shall constitute abandonment in accordance with Section VII.

All Classes of Telecommunications Facilities must be installed in conformance with national electrical code requirements and to generally accepted engineering and installation safety standards, such that if inspected by a professional engineer, they would be deemed to be safe and well installed. The towers of Class 2 and Class 3 Telecommunications Facilities shall not have a tower face width of more than 14 inches. Class 2 Telecommunications Facilities may be subject to inspection at the discretion of the Board of Selectmen or its designated representative(s).

4. Additional Requirements for Telecommunications Facilities: Class 1 and Class 2 Telecommunications Facilities cannot be installed on trees.

5. Setbacks: All Telecommunications Facilities shall comply with the setback provisions of the Zoning District in which the facility is located, as provided in the Rindge Zoning Ordinance.

6. Fall Zones:

A. Fall Zones for Existing and New Ground-Mounted Facilities: To ensure public safety the minimum distance of any ground-mounted Class 1 or Class 2 Telecommunications Facility to any property line, habitable dwelling, business, right-of-way, or institutional or public building shall be no less than 100% of the height of the facility, including antennas or vertical appurtenances. This setback is also referred to as a Fall Zone. The Fall Zone may cross property lines, so long as the applicant secures a recorded Fall Zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan review.

B. Fall Zones for Non-Ground-Mounted Facilities: In the event that an existing structure such as a building, barn silo, church steeple, or utility pole is proposed as a mounting for a Class 1 or Class 2 Telecommunications Facility, a Fall Zone setback shall not be

required unless the Planning Board determines that under the circumstances a Fall Zone setback is required.

7. Height Limitations: .

A. Height Limitations for Ground-Mounted Facilities/Towers: In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for any Class Telecommunications Facility in all Districts shall be twenty (20) feet above the average height of the tree line within one hundred fifty (150) feet of the base of the facility. Notwithstanding the above, an additional height may be approved upon a finding by the Planning Board as part of their review that the additional height is necessary in order to provide adequate coverage to create an appropriate Fresnel zone or to provide for co-location and that the additional height will not have an adverse visual impact on the scenic character or appearance of the area.

B. Height Increase for Existing Structures and Buildings: In the event that an existing structure (other than a telecommunication tower) is proposed as a mount for a Class 1 or Class 2 Telecommunications Facility, the height of the original structure shall not be increased by more than fifteen (15) feet above the highest point of a flat or mansard roof or fifteen (15) feet above the height at the midpoint between the peak and the eave of other roof styles, unless the facility is completely camouflaged (for example, a facility within a flag pole, steeple or chimney) and in no event shall the height exceed the 45 foot height limitation for buildings provided in Article III, Paragraph L, of the Zoning Ordinance. Any increase in height shall be in scale and proportionality to the structure as originally configured. A provider may locate a Telecommunications Facility on a building that is legally non-conforming with respect to height, provided that all the provisions of this Section are met.

8. Camouflaging Facilities: To the greatest extent feasible, all Telecommunications Facilities shall be designed to blend into the surrounding environment through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.

A. Camouflage for Ground-Mounted Facilities/Towers: All Class 1 or Class 2 Telecommunications Facilities which are in public view shall have buffer planting around the perimeter of the safety fence to screen the facility from view. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions and add other conditions to the Permit regarding screening and landscaping. The easement or lease shall specify that the trees within the buffer shall be maintained and shall not be removed or trimmed unless the trees are dead or dying and present a hazard to persons or property, or an approval to trim or remove is granted by the Planning Board.

B. Camouflage for Facilities on Existing Buildings or Structures – Roof-Mounts: When any Class Telecommunications Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility. Facilities mounted on

a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

C. Camouflage for Facilities on Existing Buildings or Structures – Side-Mounts: Telecommunications Facilities that are side-mounted shall be camouflaged to greatest practical degree.

D. Camouflaging for Equipment Shelters: Equipment shelters shall be camouflaged or made architecturally harmonious with surrounding structures to the greatest practical degree. Such camouflage may be achieved with plantings or fencing, as approved by the Planning Board as part of Site Plan review. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure.

9. Lighting:

A. Telecommunications Facility Lighting: Telecommunications Facilities shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular Telecommunications Facility because of its height. If any lighting is required solely because of the height of the facility, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in its FAA applications. The Planning Board, as part of Site Plan review, 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.

B. Ground Lighting: Emergency, safety, or security ground lighting may be utilized when there are people at the site. All ground lighting shall be shielded and directed downward towards the facility and away from neighboring properties.

10. Bulk, Height, and Glare: All Telecommunications Facilities shall be designed in such a manner as to minimize the visual impact of height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and location so as to minimize glare and to minimize visual impact from any historic or scenic view, public vantage point, or abutting properties.

11. Finish: New Class 1 and Class 2 Telecommunications Facilities shall have a corrosion resistant matte finish unless otherwise required. The Planning Board, as part of its Site Plan review, may require Telecommunications Facility to be painted or otherwise camouflaged to minimize any adverse visual impact.

12. Fencing: The area around any ground-mounted Class 1 Telecommunications Facility and its communications equipment shall be completely fenced and gated for security. Class 2 and Class 6 Telecommunications Facilities shall either be completely fenced or have adequate anti-climb devices installed. Fencing shall be chosen to minimize visual impact and be consistent with its intended safety purpose. Class 3 and Class 5 Telecommunications Facilities are exempt from these provisions.

13. Signs: All ground-mounted Class 1 Telecommunications Facilities shall be identified with a sign, the location and dimensions of which shall be in compliance with the Rindge Sign

Ordinance, stating the name of the facility's owner and a 24-hour emergency telephone number posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs and the federal Telecommunications Facility registration plate, where applicable, shall be posted on the fence. No commercial signs or lettering shall be placed on the tower or facility.

14. Noise: The Planning Board may impose conditions to minimize the effect of noise upon nearby properties from the operation of machinery or equipment.

15. Co-location:

The applicant must demonstrate to the satisfaction of the Planning Board, such demonstration to include supporting engineering calculations, that any Class 1 Telecommunications Facility cannot be accommodated on an existing or approved facility or structure for one of the following reasons:

A. Structural or Spatial Capacity: The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved facility, as documented by a structural engineer licensed to practice in the State of New Hampshire. Additionally, the Applicant shall demonstrate to the satisfaction of the Planning Board that the existing or approved Class 1 Telecommunications Facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment to provide coverage and capacity comparable to that of the proposed facility.

B. Radio Frequency Interference: The proposed antennas and equipment, alone or together with existing facilities, equipment, and/or antennas, would create radio frequency interference (RFI) in violation of federal standards or requirements as documented by a qualified radio frequency engineer.

C. Radio Frequency Radiation: The proposed antennas and equipment, alone or together with existing facilities, equipment, and/or antennas, would create radio frequency radiation (RFR) in violation of federal standards or requirements without unreasonable modification or mitigation measures.

D. Coverage: There are no existing or approved Telecommunications Facilities in the area in which coverage is sought.

E. Other: Other specific reasons make it unreasonable or not feasible to locate the planned equipment upon an existing or approved Telecommunications Facility.

16. Access Roads: If available, existing entrances and driveways shall be utilized, unless the Applicant can demonstrate that a new entrance and driveway will result in less visual and environmental impact. To the extent practicable, new access roads shall minimize disturbances to the natural contour of the land and be located within existing forest or forest fringe areas and not in open fields. Erosion control for the design, construction, and maintenance of access roads shall follow the standards set forth in the Driveway Regulations

17. Utilities: Utility or service lines for Class 1 Telecommunications Facilities shall be designed and located so as to minimize or prevent disruption to the scenic character of the area. . The Planning Board may require underground utilities as a part of its Site Plan review.

18. Determination of Minimal Visual Impact: Upon review of the Applicant's visual analysis (which analysis shall include visual testing using balloon or crane and photo simulation), supporting materials, appropriate testimony and inspections from designated vantage points, the Planning Board shall evaluate the visual impact of the proposed facility in order to determine if the design minimizes its visual presence in the landscape. The Planning Board may require changes to the design in order to further minimize the visual impact of Class 1 and Class 2 Telecommunications Facilities. The Planning Board shall consider, among other things, the following in making their determination:

A. The amount of time and time of year during which the proposed facility will be viewed by the traveling public on a public highway, public trail, or public water body;

B. The view of the proposed facility by the traveling public;

C. The degree to which the view of the proposed facility is screened by existing and/or proposed vegetation, the topography of the land, and existing structures;

D. Background features in the line of sight to the proposed facility that obscure the facility or make it less conspicuous from all angles of view;

E. The distance of the Telecommunication Facility from key vantage points and the proportion of the facility which will be visible above the skyline or treeline;

F. Any sensitivity or unique value of the particular view affected by the proposed facility; and

G. Significant disruption of a view that provides context to an historic or scenic resource.

19.Non- Conforming Telecommunications Facility: Any changes to a pre-existing, legally non-conforming Telecommunications Facility must comply with this Ordinance and with Article XII of the Rindge Zoning Ordinance.

SECTION V - APPLICATION AND PERMITTING

Applications for all Classes of Telecommunication Facilities, except Class 4 Towers up to 150 feet and Class 5 Telecommunication Facilities, require Site Plan Review by the Planning Board, All applications shall contain all the information required by this Ordinance and Site Plan Review Regulations.

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SECTION VI – MONITORING AND MAINTENANCE

1. Maintenance: The owner of any Class 1, 2, or 3 Telecommunications Facility shall maintain the Telecommunications Facility in good condition. Such maintenance shall include but shall not be limited to painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

2. Monitoring: As part of the issuance of the site plan approval for a Class 1 Telecommunications Facility, the property owner shall agree that the Town of Rindge may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany Town representatives when the measurements are conducted.

3. Security for Removal: Recognizing the hazardous situation presented by abandoned and unmonitored Class 1 and Class 2 Telecommunications Facilities, the Planning Board shall set the form and amount of any security to assure that the Town is protected for the cost for removal and disposal of abandoned facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section VII herein.. The Planning Board shall accept a performance bond, irrevocable letter of credit or other type or types of security to ensure that final removal and reclamation to the site is satisfactorily completed. The amount of such security shall be determined by the Board and shall be released by the Town only after a final inspection of the property by the Planning Board or its designee. The property owner shall be obligated to remove the Telecommunications Facility even if the security would not cover the entire cost of removal and restoration.

SECTION VII – ABANDONMENT OR DISCONTINATION OF USE

1. Notification: At such time as a carrier or owner plans to abandon or discontinue operation of a Class 1, Class 2, Class 4 or Class 6 Telecommunications Facility, such carrier or owner will notify the Town by Certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given not less than thirty (30) days prior to abandonment or discontinuation of operations.

2. Removal: Upon abandonment or discontinuation of use, the carrier or owner shall physically remove the Telecommunications Facility within ninety (90) days from the date

of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

A. Removal of the tower, antennas, mount, equipment shelters, and security fences from the subject property.

B. Proper disposal of any waste materials from the site in accordance with local and state solid waste disposal regulations.

C. Restoration of the property to its natural condition.

3. Failure to Remove: If such removal and restoration does not take place within the time period set forth in 7.2 above, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall then dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Board of Selectmen may execute the security to pay for removal and restoration.

SECTION VIII - ENFORCEMENT

It shall be the duty of the Board of Selectmen or its authorized agent to enforce the provisions of this Ordinance.

SECTION IX – SEVERABILITY

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance or any other Town ordinance, by-law, or regulation.

SECTION X – APPEALS

Appeals shall be made in accordance with the requirements of NH RSA Chapters 676 and 677.

Adopted March 8, 2011