

Summary of changes

The following three areas are fairly substantive changes to the proposed language, so I am showing them separately. I will also provide an updated copy with more minor technical changes shown.

Regulatory Process:

Original:

Federal law constrains what both the town and the state can regulate. The Telecommunications Act of 1996 bans municipalities and states from denying permitting of cell towers on the basis of the environmental impacts of radio frequency (RF) emissions. This means that the town **cannot regulate based on health impacts of transmitters**, though as a party to a case the town could request evidence showing that a proposed tower will meet FCC health requirements. States and/or municipalities can regulate the impacts of the tower itself and any infrastructure that must be built to accommodate **it on the environment around them**, e.g. the visual impact of the tower, impacts on sensitive habitats **either** from construction or if a tower falls, etc., but the Federal Communications Commission sets the standards for RF emissions. **Vermont law gives the authority to regulate at the state level to the PUC, and does not give towns permitting authority, as described above.**

New:

Federal law constrains what both the town and the state can regulate. The Telecommunications Act of 1996 bans municipalities and states from denying permitting of cell towers on the basis of the environmental impacts of radio frequency (RF) emissions. This means that the town **or state cannot deny a permit for a cell tower based on health impacts of the radio emissions**, though as a party to a case the town could request evidence showing that a proposed tower will meet FCC health requirements. States and/or municipalities can regulate the impacts of the tower itself and any infrastructure that must be built to accommodate it **separately from the impacts of the radio waves**, e.g. the visual impact of the tower, impacts on sensitive habitats from construction or if a tower falls, etc., but the Federal Communications Commission sets the standards for RF emissions.

Rationale for Change:

Make it clearer that the fact that we cannot regulate environmental (including human health) impacts of RF transmission is a separate issue from regulating the environmental and visual impacts of the tower holding the transmitter.

Resources to be protected

Original:

East Montpelier has significant scenic and natural resources, as outlined in Chapter 9 of the town plan. Many of the identified scenic areas act functionally as public parks, with people from outside the area coming to walk the roads there.

The town also has a well-used network of trails maintained by East Montpelier Trails, Inc, as well as a number of other trail resources. The town's trail resources are described in Chapter 4 of the town plan. Many of these trails are permanently protected for public use so access is preserved as it would be for the public roads which are the focus of the scenic resources section of the town plan. Scenic views of forests, farms and vistas are an important element of the trail experience. ~~Communications towers should be placed such that they do not directly impact permanently protected trail networks, and in places where the visual impact on these trails are minimized.~~

The town places a priority on protecting its natural environment, and the *Land Use and Development Regulations* specify minimum distances that towers must be from streams and wetlands to protect them from damage during construction or should a tower fall.

New:

East Montpelier has significant scenic and natural resources, as outlined in Chapter 9 of the town plan. Many of the identified scenic areas act functionally as public parks, with people from outside the area coming to walk the roads there. ~~The town plan's scenic resources section specifically calls out impacts on foreground areas, defined as the area within ½ mile of the viewing area. This distance was chosen based on research showing that this is the distance at which people can see detail. Cell towers can still have a significant impact on scenic areas beyond this distance if they are particularly incongruous with the surrounding area (for example if a tower has significant prominence above a ridgeline).~~

The town also has a well-used network of trails maintained by East Montpelier Trails, Inc, as well as a number of other trail resources. The town's trail resources are described in Chapter 4 of the town plan. Many of these trails are permanently protected for public use so access is preserved as it would be for the public roads which are the focus of the scenic resources section of the town plan. Scenic views of forests, farms and vistas are an important element of the trail experience. ~~Areas of trail that meet the significant scenic resources criteria in Chapter 9, Section G ("at least two exemplary examples of the scenic characteristics" described in that section) should be treated as significant scenic resources for the purposes of this determining whether a site is appropriate for cell tower siting.~~

The town places a priority on protecting its natural environment, and the *Land Use and Development Regulations* specify minimum distances that towers must be from streams and wetlands to protect them from damage during construction or should a tower fall.

Rationale for Change:

Make the reasoning behind the choice of ½ mile for scenic resources more clear, and provide a basis for addressing towers that are more than ½ mile from a key scenic resource but still have a significant impact on it.

Bring treatment of town trails more in line with treatment of other scenic resources. The current language potentially gives all of the town trail network a level of protection similar to designated scenic areas. This change would treat the trails as much more similar to the scenic resources (directly quoting the criteria used in that section).

Areas not suitable for cell towers**Original:**

None (New proposed criterion).

New:

In areas where proximity to homes creates an undue adverse aesthetic impact on them. Aesthetic impact should consider the proximity of the tower to the home, the extent to which screening can mitigate the impact, the apparent prominence of the tower above the forest canopy or other screening, and the centrality of the tower within the view from the home.

Rationale for Change:

30 V.S.A. § 248a (c)(1) requires that “the proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety . . .”. Towers may be needed in areas where the zoning does not allow for other commercial or industrial uses other than agriculture or home business/industry, and where the setbacks and screening are not designed to address the impact of a structure that is very tall. Adding this seeks to address the fact that cell towers can impose significant impacts on a small number of residents for the benefit of a much larger group which does not need to bear any of the cost.