

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Ben McDougal, Code Enforcement Officer
Maureen O'Meara, Town Planner
DATE: April 20, 2021
SUBJECT: Wireless communication infrastructure permitting

Introduction

Town staff are recommending that the Zoning Ordinance be amended to clarify how new wireless infrastructure should be treated as a land use. (Telecommunication towers and antennas are already explicitly regulated in the Zoning Ordinance and are not intended to be included in this wireless infrastructure regulation discussion).

Existing status

A wireless communication company would like to install electrical cabinets in the Town Center that would enhance wireless services to residents. The proposed infrastructure fits well under the definition of "Essential Services" in the Zoning Ordinance.

Essential Services: Utility facilities including gas, electrical, communication, steam, fuel, water or sewage transmission, collection, or distribution systems.

"Essential Services" are only explicitly listed as a permitted use in the Resource Protection Districts. In other districts, "Essential Services" can probably be considered an "Accessory Use." (See Zoning Ordinance definition below)

Accessory Use: A use that is incidental and subordinate to the principal use. The principal use shall not become subordinate to accessory uses, when aggregated.

Residents may object to wireless infrastructure facilities and consequently consider classification as an "accessory use" as staff overreach.

Conclusion

The Town Council may want to initiate a zoning ordinance amendment that clarifies the status of wireless infrastructure (excluding telecommunication towers and antennas) as a permitted use and applicable regulatory review.