

**WIRELESS TELECOMMUNICATIONS DISTRICT  
MODEL BYLAW  
June 2001**

**COMMENTS**

**I. Purpose**

The purpose of the bylaw is to provide areas where wireless communications facilities can be sited, while:

- A. Preserving the character and appearance of the Town while simultaneously allowing Adequate Personal Wireless Services to be developed.
- B. Protecting the scenic, historic, environmental, and natural or man-made resources of the community.
- C. Providing standards and requirements for regulation, placement, construction monitoring, design, modification and removal of Personal Wireless Service Facilities and Towers.
- D. Providing a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify Personal Wireless Service Facilities and Towers.
- E. Preserving property values.
- F. Locating Towers so that they do not have negative impacts, such as, but not limited to, visual blight, attractive nuisance, noise and falling objects, on the general safety, welfare and quality of life of the community.
- G. Requiring owners of Personal Wireless Service Facilities and Towers to configure them so as to minimize and mitigate the adverse visual impact of the Facilities and Towers.
- H. Requiring the clustering, sharing and camouflaging of Personal Wireless Service Facilities and Towers.

**II. Consistency with Federal Law**

These regulations are intended to be consistent with The Telecommunications Act of 1996 in that: a) they do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent Services; c) they do 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 the FCC's regulations concerning such emissions.

**III. Definitions [see note 1]**

1. Any use not defined in the Definitions section of the Zoning Bylaw should be defined in this section

ACT - The Telecommunications Act of 1996.

**ADEQUATE COVERAGE** - Coverage is considered to be "adequate" within that area surrounding a Base Station where the predicted (by Radial Plot) or measured (by actual field measurements) median field strength of the transmitted signal for at least 75% of the covered area is greater than -95 dbm. It is acceptable if there are holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm farther away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

**ADEQUATE CAPACITY** - Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for a worst case day in a preceding month, based on the Erlang B Tables, prior to the date of Application; or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

**ANTENNA** - A device which is attached to a Tower, or other structure, for transmitting and receiving electromagnetic waves.

**BASE STATION** - The primary sending and receiving site in a wireless telecommunications network.

**CHANNEL** - The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

**COMMUNICATION EQUIPMENT SHELTER** - A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

**DBM** - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

**EMF** - Electromagnetic Frequency Radiation

**FACILITY SITE** - The location or potential site leased by one or more Personal Wireless Service Providers and upon which one or more Personal Wireless Service Facilities and required landscaping are located.

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

**FCC 96-326** - A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated

## COMMENTS

transmitters. This Report and Order is now contained within Title 47 Regulations, Section 1, Section 1.1307.

## COMMENTS

**GRADE OF SERVICE** - A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

**HERTZ** - One hertz is the frequency of an electric or magnetic field, which reverses polarity once each second, or one cycle per second.

**MAJOR MODIFICATION OF AN EXISTING FACILITY** - Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing special Permit. Also any increase, or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support Personal Wireless Service transmission, receiving and relaying antennas and equipment.

**MONITORING** - The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual Personal Wireless Service Facilities, Towers, Antennas or Repeaters.

**MONITORING PROTOCOL** - The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new Personal Wireless Service Facilities and Repeaters. The SPGA may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Board of Selectmen and the Town Clerk.

**MONOPOLE** - A single self-supporting vertical pole with below grade foundations.

**PERSONAL WIRELESS SERVICES** - Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

**PERSONAL WIRELESS SERVICE FACILITY (or FACILITY)** - All equipment (excluding any Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

**PERSONAL WIRELESS SERVICE FACILITY/TOWER SPECIAL PERMIT (PWSF/TSP)** - The Special Permit required in order to install any tower or Personal Wireless Service Facility or for any major modification of an existing facility within the Wireless Telecommunications District.

**PERSONAL WIRELESS SERVICE PROVIDER** - An entity, licensed by the FCC to provide Personal Wireless Services to individuals or institutions.

**RADIATION PROPAGATION STUDIES OR RADIAL PLOTS** - Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining whether a site will provide Adequate Coverage for the Personal Wireless Service Facility proposed for that Site.

**REPEATER** - A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** - The Planning Board shall be the SPGA for this bylaw.

**TELEPORT** - A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

**TOWER** - A lattice structure or framework, or Monopole that is designed to support Personal Wireless Service transmission, receiving and relaying antennas and equipment.

**WIRELESS COMMUNICATION DEVICE** – shall mean antenna, appurtenance, wiring, or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

#### **IV. Exemptions**

This bylaw specifically exempts the following wireless telecommunications facilities: police, fire, ambulance and other emergency dispatch; local business dispatch; citizens band radio. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower shall be removed upon loss or termination of said FCC license. No Personal Wireless Service Facility or Repeater shall be considered exempt from this bylaw for any reason whether or not said Facility or Repeater will share a Tower or other structure with such exempt uses.

#### **V. Provision of Independent Consultants**

- A. Upon submission of an Application for any Special Permit under this bylaw, the Applicant shall pay a review fee determined by the SPGA, in accordance with MGL c.44 §53G [see note 2], consisting of reasonable costs to be incurred by the SPGA for the

2. Massachusetts state laws enable all municipalities with the rights to seek professional consultation at the expense of the applicant. The review board upon adoption of this bylaw should establish the fee.

employment of independent consultants. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: a) telecommunications engineering, b) structural engineering, c) monitoring of electromagnetic fields, and, if determined necessary by the SPGA.

- B. The SPGA shall select the Independent Consultant(s) after consultation with the Board of Selectmen, the Board of Health, and the Conservation Commission, each of which may propose a list of qualified candidates.

## VI. General Requirements

- A. Wherever feasible, wireless communications facilities shall be located on existing towers or other non-residential structures minimizing the proliferation of new towers [see note 3].
- B. Towers and Personal Wireless Service Facilities shall be located only within Wireless Telecommunications District(s) within the Town. Repeaters may be located within these District(s) [see note 4].
- C. The Wireless Communication facility shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.
- D. Access shall be provided to the Tower or Facility or Repeater Site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the SPGA and the Chiefs of all emergency services in the Town to assure emergency access at all times . Consideration shall be given to design which minimizes erosion, construction on unstable soils and on steep slopes, and impacts on wetlands as defined in M.G.L. Chapter 131 Sec. 40 and in the Regulations (310.CMR).
- E. Wireless Communication building shall be no larger than 500 square feet and 12 feet high, shall be designed to match other accessory buildings on site, and shall be used only for the housing of equipment related to this particular site.
- F. The following signs shall be posted: A sign no greater than two (2) square feet indicating the name of the Personal Wireless Service Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs may be posted on the fence. All signs shall otherwise conform to the sign requirements of Section \_\_\_\_ of this bylaw. No other signs shall be permitted.
- G. New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed use. In no event shall a tower exceed 150' measured from the grade at the base of the tower before construction to its

## COMMENTS

3. A community should consider, during the process of creating a bylaw, where and how an applicant will be allowed to site a tower that is co-located with another use (i.e. water tower, steeple). Co-location should always be investigated upon each submission so as to reduce the proliferation of single monopolies.

4. It may be possible for a repeater to be located outside of the District provided it is co-located with another use and does not cause visual disturbances.

highest point. If required by the SPGA, Independent Consultant(s) will verify adequate coverage and justify tower height.

- H. The SPGA shall have the right to determine the type of construction of a tower (either monopole or lattice, guyed or unguyed), as well as the type, configuration, size and color of camouflage, painting, finish, lighting and screening (including types of trees and shrubs used in screening).
- I. No night lighting of a tower, or personal wireless facility is permitted, except for manually operated emergency lights for use only when operating personnel are on site or if required by the FAA. Lighting must be reviewed by the SPGA.
- J. The Wireless Communication structure shall be fenced.
- K. Vegetative screening shall be used to screen abutting properties and roadways.
- L. No Wireless Communication Facility with the exception of repeaters shall be located within any of the following prohibited areas:
  - a. A Massachusetts or federally regulated wetland;
  - b. A Massachusetts Certified Vernal Pool;
  - c. The habitat of any state-listed rare or endangered wildlife or rare plant species;
  - d. Within 100' horizontally from any Massachusetts regulated wetlands;
  - e. Within 200' horizontally of the outer riparian zone of any river or perennial stream;
  - f. Within 500' horizontally from any Historic District or property listed or eligible to be listed on the state or federal Register of Historic Places;
  - g. Within 500' horizontally from any known archaeological site.
- M. There shall be no Teleport(s) within the Town.

**VII. Application Requirements**

No Personal Wireless Service Facility, or Tower shall be erected, constructed, or installed or undergo Major Modification without first obtaining a Special Permit from the SPGA in accordance with the requirements set forth herein.

- A. Adequate Coverage, Adequate Capacity, and Justification of need for PERSONAL WIRELESS SERVICE FACILITIES/TSP:
  - a. Applicant shall provide written documentation of any Facility Site(s) in Town, and any sites in abutting towns located within eight miles of any boundary of the Town, in which it has a legal

or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and Adequate Capacity to the Town. The documentation shall include, for each Facility Site listed;

- i. The exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
  - ii. Ground elevation above mean sea level at the Tower location,
  - iii. Height of Tower or structure.
  - iv. Type, manufacturer and model number of Antennas,
  - v. Antenna gain,
  - vi. Height of Antennas on Tower or structure,
  - vii. Output frequency,
  - viii. Number of channels,
  - ix. Power input and
  - x. Maximum power output per channel
- b. Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.
- c. Applicant shall demonstrate with written documentation that it has examined all existing Facility Sites located in Town and any sites in abutting towns located within eight miles of any boundary of the Town, in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise to determine whether those existing Facility Sites can be used to provide Adequate Coverage and Adequate Capacity to the Town. The documentation shall include, for each existing Facility Site examined,
- i. The exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
  - ii. Ground elevation above mean sea level at the Tower location,
  - iii. Height of Tower or structure, and documentation of the capacity of the Tower to hold the applicant's Personal Wireless Service Facilities,
  - iv. Type, manufacturer and model number of proposed Antennas,
  - v. Proposed Antenna gain,
  - vi. Height of proposed Antennas on Tower or structure,
  - vii. Proposed output frequency,
  - viii. Proposed number of channels,
  - ix. Proposed power input and
  - x. Proposed maximum power output per channel

- d. Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.
- e. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites in compliance with above requirements to provide Adequate Coverage and Adequate Capacity to the Town. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.

**B. Required Documentation for PERSONAL WIRELESS SERVICE FACILITIES/TSP:**

The Applicant shall include reports prepared by one or more professional engineers, which shall demonstrate that the proposed Personal Wireless Service Facility and Tower comply with all applicable standards of the Federal and State governments.

Specifically:

- a. Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.
- b. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122.000: NON-IONIZING RADIATION LIMITS FOR: THE GENERAL PUBLIC FROM NON-OCCUPATIONAL EXPOSURE TO ELECTROMAGNETIC FIELDS, EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO ELECTROMAGNETIC FIELDS, AND EXPOSURE FROM MICROWAVE OVENS or any revisions thereof as the Department of Public Health may, by written notice, create.
- c. The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.
- d. The names, title, addresses and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers

may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.

**COMMENTS**

- e. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Personal Wireless Service Facility and Tower shall be located, or of the owner(s) of the Tower or structure on which the proposed Personal Wireless Service Facility shall be located.
- f. The documentation shall include, for each Facility Site listed, the exact Tower or Repeater location (in Longitude and Latitude, to degrees, minutes, seconds) and by street address or Pole number (if applicable), ground elevation above mean sea level at the Tower or Repeater location and proposed height of Tower or structure.
- g. Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below. Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.

C. Applicant shall, as part of its application, provide the SPGA with the following plans and maps:

- a. Proposed Site Plans: Proposed Facility Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity. within a 400' radius of the Tower site with topography drawn with a minimum of 2'(0.6 meter) contour interval. The Site Plan shall show existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed Tower (labelled with their current heights). Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water within 200' from the Tower or any related facilities or access ways or appurtenances.
- b. A Professional Land Surveyor must have completed the Site Plan, on the ground, within two years prior to the application date. Site Plan shall show:
  - i. Proposed Tower location and appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of the Overlay District and setback distances to the base(s) of the Tower and to the

- nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements.
- ii. Proposed spot elevations at the base of the proposed Tower and at the base of any guy wires, and the corners of all appurtenant structures.
  - iii. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
  - iv. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
  - v. Any direct or indirect wetlands alteration proposed (per 310.CMR).
  - vi. Detailed plans for drainage of surface and sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
  - vii. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc; any exterior lighting or signs.
  - viii. Plans of proposed access driveway or roadway and parking area at the Facility Site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
- c. Proposed Tower and Appurtenances:
- i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
  - ii. Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Dimension the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.

- iii. Details of typical Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
  - iv. Detail proposed exterior finish and camouflage of the Tower.
  - v. Indicate relative height of the Tower to the tops of surrounding trees as they presently exist.
  - vi. Illustration of the modular structure of the proposed Tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.
  - vii. A Structural Professional Engineer's written description of the proposed Tower structure and its compliance with state building code.
  - viii. Structural Professional Engineer's written description of the proposed Tower structure and its capacity to support additional Antennas or other communications facilities at different heights and the ability of the Tower to be shortened if future communications facilities no longer require the original height.
  - ix. A description of Available Space on the tower, providing illustrations and examples of the type and number of Personal Wireless Service Facilities which could be mounted on the structure.
- d. Proposed Communications Equipment Shelter:
- i. Floor Plans, elevations and cross sections at a scale of no smaller than  $1/4" = 1'$  (1:48) of any proposed appurtenant structure.
  - ii. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
- e. Proposed Equipment Plan:
- i. Plans, elevations, sections and details at appropriate scales but no smaller than  $1" = 10'$ .
  - ii. Number of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by degrees, minutes and seconds of Latitude and longitude.

- iii. Mounting locations on Tower or structure, including height above ground.
- iv. Antenna type(s), manufacturer(s), model number(s).
- v. For each Antenna, the Antenna gain and Antenna radiation pattern.
- vi. Number of channels per Antenna, projected and maximum.
- vii. Power input to the Antenna(s).
- viii. Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
- ix. Output frequency of the Transmitter(s).

f. Balloon Test:

Within 35 days of submitting an Application, Applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height and at the location of the proposed Tower. The dates, (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised, by the Applicant, at 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the Town. The Applicant shall inform the SPGA and the Board of Selectmen, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 9:00 am and 5:00 pm of the dates chosen.

**VIII. Approval Criteria:**

- A. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not simultaneously installing a Personal Wireless Service Facility on the Tower, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. Said Provider shall provide all necessary data to comply with the terms of this Article, as a part of Applicant's application or the Special Permit shall not be granted.
- B. In acting on any Special Permit application, the SPGA shall proceed in accordance with the procedures and timelines established for Special Permits section of this bylaw.
- C. In addition to the findings required by the bylaw, the SPGA shall, in consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit, as follows:

- a. That Applicant is proposing to locate its Personal Wireless Service Facility or Tower (other than Repeaters) within a Wireless Telecommunications Overlay District; and
- b. That Applicant is not able to use Existing Towers/Facility Sites in or around the Town, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town; and
- c. That proposed Personal Wireless Service Facility/Tower or Repeater will not have an undue adverse impact on historic resources, scenic views, residential property values, natural or man-made resources; and
- d. That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Towers and Facilities; and
- e. That the proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.
- f. Any decision by the SPGA to deny an Application for a Special Permit under this bylaw shall be in conformance with SEC. 332 [47 U.S.C. 332] (7)(B)(ii),(iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

**IX. Removal Requirements**

Any wireless communication facility, repeater or tower which is not in operation for a period of one year shall be removed by the Personal Wireless Service provider or the owner of the tower. Operation is defined as performing the normal functions associated with the Wireless Service Facility, Repeater or Tower and its equipment on a continuous and ongoing basis.

At such time that a Wireless Communication Facility provider or the owner of the tower plans to abandon or discontinue operation of a Personal Wireless Service Facility, repeater or tower, it will notify the Town by certified US mail of the proposed date of abandonment or discontinuation of operations.

Upon abandonment or discontinuation of use, the Wireless Communication Facility provider or the owner of the tower shall remove the Personal Wireless Facility, repeater or tower within 90 days of the date of abandonment or discontinuation of use.

If all Personal Wireless Facilities have ceased to operate, the tower shall be removed by its owner. Removal shall include, but not be limited to

disposal of waste materials from the site in accordance with local and state solid waste disposal requirements and restoring the site to its natural condition, except that any landscaping and grading improvements may remain.

If a Wireless Communication Facility, repeater, or tower is not removed in accordance with this section, the town may remove the structure(s) at the cost of the owner.

## **X. Bonds, Indemnities and Insurance**

Applicant or the current permittee shall post and maintain in effect the following bonds at all times commencing with the construction or installation of a Personal Wireless Communication Facility, repeater or tower, each in an amount and on terms reasonably satisfactory to the Town [see note 5].

- A. A remediation bond covering the costs of remediation of the Facility Site if damage occurs during construction or installation and the costs of removal of the Personal Wireless Facility, repeater, and tower and remediation of the Facility Site, should the tower, facility and/or repeater cease to operate.
- B. A maintenance bond covering the costs of maintenance of the access road, tower and facility site.
- C. No construction or installation of any Personal Wireless Service Facility, repeater or tower shall be commenced, and none of the foregoing shall be put in operation, unless the SPGA shall have received : 1) an agreement from each of the owners and operators of such equipment indemnifying the town and its officers, agents, boards and employees on terms satisfactory to the Town against all liability, cost and expense (including legal fees and expenses) incurred in connection with the construction, operation and removal of such equipment; and 2) satisfactory evidence that insurance determined by the town to be adequate (as to coverage, amount and terms) has been obtained by all appropriate parties (including, without limitation, owners, operators, contractors and subcontractors) and is in effect. Such insurance shall cover liability, bodily injury and property damage, shall name the town as an additional insured and shall be maintained in effect for the entire period the Tower, all facilities installed thereon and repeaters used in connection therewith are in existence. Satisfactory Certificates of Insurance shall be filed with the Town on an annual basis.

## **XI. Transfers**

Each holder of a Special Permit issued under this bylaw shall give not less than 30 days prior written notice to the SPGA of each transfer by

## **COMMENTS**

5. A municipality should be sure to include this language in order to protect themselves from any unforeseen liabilities.

such holder of any ownership, leasehold or other interest (including any right of use but not any stock, limited partnership or other similar indirect interest) in any Personal Wireless Service Facility, repeater or tower which is the subject of such Special Permit. Such notice shall specify the name and address of the transferee and describe the item(s) and the interest transferred. The transferor and the transferee shall provide to the SPGA such documents and information relating to the transferee and such item(s) and interest as the SPGA may reasonable request.

Effective at the time of such transfer, the transferee shall be bound by all of the obligations of the transferor, and be subject to all of the conditions to which the transferor is subject, under this bylaw, such Special Permit and any documents executed by the transferor in connection with such Special Permit to the extent such obligations and conditions relate to the item(s) transferred.

**XII. Permit Expiration and Renewal**

- A. Any Special Permit granted under this bylaw shall lapse if the Applicant fails to begin construction on the Personal Wireless Communication Facility or Tower within a two year period of said grant.
  
- B. All Special Permits granted under this section shall be granted for a five year period with the SPGA retaining the option, at their discretion, to renew said Special Permit for additional five year period(s), if the SPGA determine that the Tower and/or Facility so permitted shall have been and shall remain in compliance with all terms and conditions of the bylaw and any of the conditions placed upon the original Special Permit at the time of granting.