



# Board of Selectmen

Bolton, Massachusetts 01740

## REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES

May 17, 2000

These Regulations for Wireless Communication Facilities (these Regulations) are adopted under authority of, and pursuant to, the Zoning Bylaws of the Town of Bolton, Section 2.5.7, Wireless Communication Bylaw; and for the purposes enumerated therein.

No application, plans, or other materials shall be deemed to have been submitted to the Town of Bolton under these Regulations or the Massachusetts General Laws until one (1) copy of a complete application, including all required plans and materials, has been filed in person by the applicant, owner, or petitioner (the Applicant), or its agent, or by registered or certified mail, with the Town Clerk; and until all remaining copies of the complete application, including one (1) copy bearing the date and time of filing with the Town Clerk, have been filed forthwith in person by the Applicant or its agent with the Board of Selectmen (the Board) at a meeting thereof, or in person by the Applicant or its agent with an agent of the Board, or by registered or certified mail with the Board or its agent.

A complete application for a special permit under these Regulations shall consist of a properly executed application form and plans, and all other required forms, fees, and items (together, the Application). The complete Application shall include and conform with all the requirements of these Regulations and the Zoning Bylaws, Section 2.5.7, Wireless Communication Bylaw. Prior to submitting the final complete Application, the Applicant is strongly encouraged to submit a draft copy of the complete Application to the agent of the Board for review as to completeness.

The Board or its agent shall, within five (5) work days of submittal of the Application, or of submittal of additional missing material, determine whether the Application is complete. This determination, which shall be made in writing to the Applicant with a copy filed forthwith with the Town Clerk, shall include a detailed explanation of why the Application is incomplete. This determination shall also include a statement that the Application shall not be considered complete until all missing materials are submitted; and until a written letter confirming that the Application is complete is submitted to the Applicant, with a copy filed forthwith with the Town Clerk. The timeframes and deadlines mandated by Massachusetts General Laws, chapter 40A, section 9 (MGL c. 40A, s. 9) shall not commence until the Application is determined to be complete.

A complete Application for a special permit for a wireless communication facility (the Facility) shall include all of the information listed in paragraphs 1 to 10 below.

1. One (1) original and sixteen (16) copies of a properly completed and executed application form shall be submitted as part of the Application. Except for the copy to be filed with the Town Clerk by the Applicant, all other copies shall be distributed by the Town as follows: the original to the Board of Selectmen file; one copy filed by the Applicant with the Town Clerk; four copies to the Board of Selectmen and staff; four copies to the Planning Board and staff; one copy to the Conservation Commission; one copy to the Police/Communications Department; one copy to Town Counsel; one copy to the Highway Department; one copy to

the Historic Commission; and two copies for public viewing. If there is no application form, the Applicant shall provide all of the information required for a complete Application in a format based upon these Regulations and the Zoning Bylaws. In either case, the Applicant is responsible for including and submitting all information required by these Regulations and the Zoning Bylaws.

2. A list comprised of the following names and addresses shall be submitted as part of the Application.

- a) All abutters to the lots or parcels on which the Facility is proposed (the Property).
- b) All owners of land directly opposite the Property on any public or private street or way.
- c) All abutters to the abutters within three hundred (300) feet of the property lines of the Property.

These names and mailing addresses shall be as they appear on the most recent applicable tax list, notwithstanding that the land of any such owners is located in another city or town. This list of interested parties shall include a certification by the Bolton Assessors or their agent that the names and addresses are accurate and complete based on the most recent applicable tax list. In addition to the above list of interested parties, a separate list shall also include the following names and addresses.

- d) The name and mailing address of the Applicant.
- e) The name and mailing address of the Bolton Planning Board.
- f) The names and mailing addresses of the planning boards of each town abutting Bolton.
- g) The names and addresses of all ham or similar radio operators, other tower users or operators, and other businesses in the communications industry, all located within Bolton or any of the towns abutting Bolton.

If, after the submittal of the Application, the Board determines that other parties would be affected if this special permit were granted, the names and addresses of these parties shall also be submitted.

3. One (1) reproducible, plus sixteen (16) black line copies, of the plans shall be submitted as part of the Application, to be distributed with the other application materials as required in paragraph 1 above. These plans shall be prepared for recording in conformance with the requirements of the Worcester Registry of Deeds, and shall include the following information, all properly and clearly labeled.

- a) Certification by a Massachusetts registered land surveyor.
- b) A key sheet showing the Property and all properties listed in paragraph 2 above.
- c) Detail sheets at appropriate scales of all construction, equipment, structures, features, and activities that are part of the Application.
- d) A detailed and complete legend on each page of the plans that includes the following information.
  - i) The following notation: Special permit issued by the Town of Bolton Board of Selectmen dated:\_\_\_\_\_.
  - ii) A signature and date block with sufficient space for the signatures of all members of the Board.
  - iii) A signature and date block with sufficient space for the Town Clerk's certification of the following notation: The twenty-day appeal period has expired without notice of appeal pursuant to MGL c. 40A, s. 17.

- e) The frontage and area of all lots and parcels (the Property) on which the Facility will be located and the frontage and area of the properties of all abutters listed in paragraph 2 above.
  - f) All structures, including residences, on the Property and on the properties within one thousand (1,000) feet of the Property.
  - g) For all lots or parcels upon which any activity associated with the Application will occur, all areas within the Flood Plain and Water Resource Protection Districts; all areas subject to the Wetlands Bylaw, Section 1.18.1 of the Town of Bolton Bylaws (the Bylaws); all areas subject to the Wetlands Protection Act, MGL c. 40, s. 131; and all areas subject to other regulations of the Conservation Commission, the Massachusetts Department of Environmental Protection (DEP), and the U.S. Army Corps of Engineers governing said activity. If there is no area within, or subject to, one or more of these districts, laws, or regulations, the plans shall bear a statement that there is or are no such area or areas, as applicable.
  - h) The distances from the Facility to the nearest property lines; to the nearest structures, each labeled as to use; and to the property and center lines of the nearest accepted or approved public or private streets and ways.
  - i) All stone walls, geologic and other natural resources, including vegetation within and surrounding the sites of all activities.
4. Detailed stamped engineering drawings showing the design and location of the Facility shall be submitted as part of the Application. Said drawings shall include the following information.
- a) The dimensions, including the heights, of the Facility, including all of the elements of said Facility as defined in the Zoning Bylaws, Section 2.5.7.2; and the locations and dimensions, including the heights, of all existing structures and equipment.
  - b) Vegetative clearing and site work required to construct the Facility.
  - c) All signage.
  - d) All accesses to the Facility, designed and built to ensure that the Town of Bolton's emergency services can respond safely to the Facility.
- 5) The following documentation shall be submitted as part of the Application.
- a) For the Facility, a list of all proposed and potential wireless communication devices and their transmission and reception specifications. (Note that all direct line-of-sight transmission devices, such as parabolic devices, are prohibited.)
  - b) Proof that the Applicant and all proposed tenants hold, at the time of the submission of the Application, all federal and state licenses required to operate the Facility.
  - c) Proof that the Applicant is in compliance with the National Environmental Protection Act (NEPA), the Massachusetts Environmental Protection Act (MEPA), and all other applicable federal, state, and local laws and regulations.
  - d) A list and plan indicating the locations of all existing, permitted, and potential wireless communication facilities owned, leased, or used by the Applicant within four (4) miles of the Facility; and a separate list and plan indicating the locations of all other existing, permitted, and potential wireless communication facilities with four (4) miles of the Facility.
  - e) An explanation as to why the facilities identified in paragraph 5.d) above cannot provide

the proposed services.

- f) Certification by an appropriate professional that the Applicant cannot co-locate on the facilities identified in paragraph 5.d) above for technical reasons, or because co-location would not further the purposes of the Zoning Bylaws or these Regulations.
- g) Certification by the appropriate agency that the Applicant has inquired about, and been denied the use of, federal or state lands potentially suitable for the Facility.
- h) Proof that the size and height of the Facility are the minimums necessary to accommodate all users thereon.
- i) Certification that any tower, including all appurtenant equipment and communication devices, does not exceed seventy-five (75) feet above the average grade of the existing terrain at the tower's base, unless the Applicant demonstrates to the satisfaction of the Board that a taller structure is needed.
- j) Certification that no tower shall be of such a height or location as to require aviation warning lights.
- k) Certification that the Facility will be designed, and contracts will be offered, to allow the co-location of the facilities of Town of Bolton, the Nashoba Regional School District, and other service providers, with an indication of the number of other such facilities to be co-located on the Facility.
- l) Certification that any accessory buildings and structures:
  - i) do not exceed one (1) story in height;
  - ii) contain no more than three hundred (300) square feet in floor area for each user;
  - iii) are located within the required fenced area; and,
  - iv) are compatible in appearance with the style and character of surrounding structures.
- m) Detailed information explaining and showing how the Facility's impacts on viewsheds will be minimized; and detailed information explaining and showing the proposed methods of minimizing the visibility of the Facility and all existing structures, buildings, and equipment, and all activities required to construct the Facility, from surrounding properties, including the use of existing vegetative screening (the use of which shall be maximized), landscaping, other screening, painting, cladding materials, etc.
- n) Detailed information showing that any clearing will preserve existing vegetation and topography to the maximum extent practicable, and that, to the maximum extent practicable, any disturbed areas will be restored as near to their original conditions before the completion of construction.
- o) Detailed information showing how existing and new vegetation will provide a noise buffer to neighboring properties, and showing that the best available noise reduction technology will be used to minimize any noise emitted from the Facility, both during and after construction.
- p) Detailed information showing that all utilities will be installed underground.
- q) A schedule showing that any emergency backup generators will be installed such that they only cycle periodically during non-holiday weekdays, between 8 a.m. and 5 p.m.
- r) Information showing that lighting shall be limited to that needed only for emergencies.
- s) Information showing that the Facility will be fenced to control access, and that any fencing is designed to be as unobtrusive as possible.
- t) Certification that emergency access to the Facility will be available at all times to the Town of Bolton's emergency services.
- u) Detailed information showing the signage that will be posted visibly on the Facility. The



type, size, and location of such signage shall be acceptable to the Board, and, at a minimum, shall consist of an announcement sign, a no trespassing sign, and a sign listing the telephone number where the owner or operator can be reached on a twenty-four (24)-hour basis.

6. If the Application proposes a tower, the Application shall include an artist's renderings, or photographic images, of the Facility showing all components of the Facility and the vegetative and other screening to be employed.
7. If any Application includes a tower, or a modification to an existing tower, the Applicant shall place, not more than twenty one (21) days prior to the public hearing, and on two (2) different occasions, a balloon or crane at the location and height of the proposed tower, in accordance with the following requirements.
  - a) The balloon or crane shall be of a size and color that accurately reflect the appearance of the proposed tower to the extent feasible.
  - b) The balloon or crane shall remain in place at least from 8 a.m. through 5 p.m.
  - c) One (1) of the trials shall take place on a weekday; the other trial shall take place on a Saturday.
  - d) The Applicant shall post notices of the time and place of the trials at the Town Hall at least two (2) weeks prior to the first trial, shall publish the notices in a newspaper of general local circulation, and shall deliver a copy of the notices to the Board and to all the parties listed in paragraph 2 above. The notices shall be published for two (2) consecutive weeks immediately preceding the trials, and shall be at least two (2) columns wide and two (2) columns long. The notices shall specify a "rainy or windy day date" in the event that weather causes a delay in the trials.
8. The operator must provide immediate acceptable written notice to the Board of Selectmen in the event of any change of ownership in any wireless communication facility, tower, communication device, accessory building, or of the underlying property. The operator or the property owner must provide immediate notice to the Board of Selectmen if the use of any wireless communication facility, tower, communication device or accessory structure is discontinued. Any unused wireless communication facility, tower, communication device and/or accessory structure, shall be removed from the Town of Bolton within one (1) year of cessation of use, and the property shall be restored to substantially the same condition as it was in prior to the alteration. To ensure that these requirements are met, the Application shall include the following documents required by the Zoning Bylaws, Section 2.5.7.7, Non Use.
  - a) As required by the second paragraph of Section 2.5.7.7, adequate and acceptable surety as determined solely by the Board of Selectmen.
  - b) As required by item (i) of the fourth paragraph of Section 2.5.7.7, the draft agreement with the Town of Bolton whereby the property owner is liable for all costs incurred by the Town of Bolton directly related and incidental to any dismantling and/or removal of the Facility, and/or any restoration of the site, including the conditional lien on the property as set forth below.
  - c) As required by item (ii) of the fourth paragraph of Section 2.5.7.7, the draft document, in a form suitable for recording at the Registry of Deeds, creating a lien on the property,

which by its terms shall become effective in the event that the Facility has not been used for two (2) years, and has not been removed and the site restored, within thirty (30) days of written notice by certified mail to the owner. This lien document shall be recordable upon the attachment of an affidavit signed by the chair of the Board of Selectmen that the Facility was unused for two (2) years and has not been removed by the owner, and setting forth as the amount of the lien a sum equal to all costs incurred by the Town of Bolton to dismantle and remove the Facility and restore the Property

- d) As required by item (iii) of the fourth paragraph of Section 2.5.7.7, the draft Notice of Contract, in a form suitable for recording at the Registry of Deeds, and which shall be recorded at the time of recording the special permit.
9. If the Facility requires a special permit pursuant to the Zoning Bylaws, Section 2.5.2.5, Agricultural/Business Use, the Application shall include one of the following documents.
- a) The draft Agricultural Development Restriction and right of first refusal in perpetuity required by paragraph e) of Section 2.5.2.5.
  - b) The draft Agricultural Preservation Restriction required by paragraph e) of Section 2.5.2.5.
10. The Application shall include the following filing fees.
- a) An application fee of eighty dollars (\$80).
  - b) A review fee deposit of three thousand dollars (\$3,000), with any additional review fees to be paid as incurred by the Town prior to issuance of the special permit. Any remaining deposit shall be returned to the Applicant.

In addition, the Board may impose an annual monitoring fee deposit based on the estimated cost of annually monitoring the facility to confirm that the facility complies with the approved plans and application, and the requirements of the special permit. The first annual monitoring fee shall be determined as part of the review of the Application, and included as a requirement of the special permit; subsequent monitoring fees shall be determined annually thereafter.

Failure to pay any required fee may result in the denial or revocation of the special permit.

The Applicant shall attend the public hearing and present the Application; representatives of the Applicant may also attend the public hearing and assist in the presentation.

The Board shall act upon a complete application, to include holding a public hearing and making and filing its decision, in accordance with the requirements of MGL c.40A, ss. 9 and 11, and the Zoning Bylaws, Section 2.2.3, Special Permits. In the event of a conflict between c. 40A and Section 2.2.3, c. 40A shall prevail. Approval of special permits issued by the three (3)-member Board requires a unanimous vote.

Public hearing: 5/11/00

Adopted by Board of Selectmen: 5/11/00

Filed with Town Clerk: 5/17/00.