

**Westford Wireless Communications Facility RFP**

**TOWN OF WESTFORD - REQUEST FOR PROPOSALS**

**Issued: 9/3/2014**

**Lease of Municipal Real Estate For a  
Wireless Communications Facility**

The town of Westford, Massachusetts invites sealed proposals for a lease agreement to include the installation of a Wireless Communications Facility, to be located at the Westford Highway Facility located at 28 North Street, identified as Assessor's Parcel 030-0030-000, described in a deed recorded with the Middlesex North Registry of Deeds in Book 11232, Page 204. Proposals will be received by the Town Manager's Office at 55 Main Street, until September 30, 2014 at 11:00 a.m. when at such time all proposals shall be opened and publicly read aloud. Requests for Proposals (including instructions, specifications and forms) may be obtained from the Town Manager's Office, weekdays from 8:00 a.m. to 4:00 p.m or online at [www.westfordma.gov/rfp](http://www.westfordma.gov/rfp). The Board of Selectmen is the awarding authority for this project and reserves the right to reject any and all proposals, wholly or in part, and to accept any proposal or part thereof deemed to be in the best interest of the town.

## Westford Wireless Communications Facility RFP

<u>TABLE OF CONTENTS</u>	Page Number
Section 1) Overview	3
Section 2) Location of Site	3
Section 3) Procedure for Obtaining RFP and Submitting Proposals	4
Section 4) Evaluation Criteria	4
Section 5) Instructions and Conditions for Applicants	6
Section 6) Project Description and Terms	7
Section 7) Construction and Installation of Facilities	8
Section 8) Provisions of Lease	10
Section 9) Other Permits and Approvals	10
Section 10) Insurance	11
Section 11) Indemnification	11
Section 12) Form of Lease	11
<hr/>	
Exhibit A) Map of Available Site	12
Exhibit B) Questionnaire	13
Exhibit C) Draft Form of Primary Lease	15
Exhibit D-1) Certificate as to Corporate Applicant	24
Exhibit D-2) Certificate of Taxes/Tax Attestation	25
Exhibit D-3) Certificate of Non-Collusion	26
Exhibit E) Town of Westford Public Safety Equipment Needs	27
Exhibit F) Rent Schedule	28
Exhibit G) Co-Locator Rent Schedule	29
Exhibit H) Proposed Premises Location Plan and Access Route	30
Exhibit I) Required Permits and Development Schedule	31
Exhibit J) Schedule of Tenants Improvement and Equipment	32
Exhibit K) Town of Westford Zoning Bylaw- Section 6.2	33

# Westford Wireless Communications Facility

## REQUEST FOR PROPOSALS

Deadline, September 30, 2014, 11:00 a.m.

### 1. Overview

The town of Westford (town) acting by and through its Board of Selectmen will accept written proposals by interested Proposers for the leasing a portion of the Westford Highway Facility property located at 28 North Street, identified as Assessor's Parcel 030-0030-000, described in a deed recorded with the Middlesex North Registry of Deeds in Book 11232, Page 204 consisting of a portion of approximately 44 acres of land, for the purpose of construction of a new Wireless Communications Facility (WCF), and operation of this facility to support wireless communications activities in the town of Westford.

The intent of this request for proposals (RFP) is to make a site available on a fair and competitive basis for the location of a WCF designed in accordance with guidelines established by the town. Proposers must meet all minimum evaluation criteria, must satisfy all minimum requirements contained in the RFP, must complete the enclosed proposal form and price summary form, and must include all requested documents. The town has attempted in this RFP to be as accurate as possible, but is not responsible for any unintentional errors herein.

The town of Westford has a zoning bylaw governing the installation of wireless communications facilities in the Town, entitled: Town of Westford Zoning Bylaw Section 6.2 SITING OF RADIO TELECOMMUNICATIONS FACILITIES (RTFs) hereinafter referred to as "The Wireless Bylaw". The Wireless Bylaw, which is incorporated herein by reference and is available via the town's website ([www.westfordma.gov](http://www.westfordma.gov)), has various requirements and must be reviewed in detail by each proposer before submitting a proposal under this RFP.

The successful proposer will be required to allow collocation by other wireless telecommunications users for the new telecommunications facility, in accordance with the Wireless Bylaw.

### 2. Location of Site

The address of the subject property is Town of Westford Highway Facility, 28 North Street Westford, MA 01886 The property is located on town owned land, adjacent to conservation lands, an active industrial site, and residential properties. All site analysis, planning, and construction activity shall be undertaken in a manner so as to not disturb the adjacent resource areas. A GIS map of the site is in Exhibit A, attached hereto.

## Westford Wireless Communications Facility

### 3. Procedure for Submitting Proposals

This RFP may be obtained by registering at [www.westfordma.gov/rfp](http://www.westfordma.gov/rfp) or by requesting a copy by e-mail from the Town Manager's Office at the address given below. All persons/firms requesting an RFP shall provide their name, firm name, address, telephone and email contact information.

Sealed proposals shall be addressed to the Town Manager, Westford Town Hall, 55 Main Street, Westford, MA 01886 and endorsed "**Proposal for Westford Wireless Communications Facility**" (Project) will be received at the at the Office of the Town Manager, Westford Town Hall, 55 Main Street, Westford, MA 01886 until Thursday September 30, 2014, at 11:00 a.m. Proposals received after this date will not be considered. Proposals will be reviewed and awarded at a later date and time.

Any proposal may be withdrawn prior to the above scheduled time for the opening of proposals or authorized postponement thereof. Any proposal received after the time and date specified will not be considered. The bidder agrees that its proposal shall be good and may not be withdrawn for a period of 90 days, Saturdays, Sundays, and legal holidays excluded, after the opening of proposals.

Written questions concerning this RFP may be submitted, no later than 7 days before the deadline for submission of proposals to John Mangiaratti, Assistant Town Manager, by email to [procurement@westfordma.gov](mailto:procurement@westfordma.gov). The Town will endeavor but shall not be required to answer any such request for information. If it does, the answer shall be provided to all persons who have obtained copies of this RFP and registered online or filed in the Town Manager's Office.

Proposals will be publicly opened and recorded on September 30, 2014 at 11:00 am in the Office of the Town Manager, Westford Town Hall, 55 Main Street, Westford, MA 01886

**Rule for Award:** A lease contract will be awarded, if at all, to a responsive and responsible proposer whose proposal is deemed by the town to be the most advantageous, taking into consideration price and the evaluation criteria included in Section 4 of this RFP.

Successful Applicants will be required to execute a lease (Lease) for the site within thirty days from the date of notice of acceptance of a proposal, or within such further time as the Board of Selectmen agrees.

### 4. Evaluation Criteria

The purpose of the information requested in this Section is to assist the town in evaluating and comparing proposals. Responses should be complete and full so as to allow evaluation of

## **Westford Wireless Communications Facility**

the following criteria (see also Section 5 for documents required to be included with proposals in connection with the evaluation criteria):

### **4.1 Financial Strength and Credit Worthiness**

A Highly Advantageous rating will be given to a Proposer who has more than sufficient assets to enter into the Lease agreement and make payments for the total annual lease value set forth in the proposal. In particular, this highest rating will be reserved for Proposers whose Dun and Bradstreet (or equivalent) classification for financial strength is “3A” or better, with a composite credit appraisal of 1.

An Advantageous rating will be given to a Proposer who has sufficient assets to enter into the Lease, as shown by its Dun and Bradstreet (or equivalent) classification for financial strength of at least “1A,” with a composite credit rating of at least 2. Ratings of parent or sister companies who have only limited liability for the Proposer shall not be considered.

An Unacceptable rating will be given to a Proposer who does not have sufficient assets to enter into the Lease, as shown by its Dun and Bradstreet (or equivalent) classification for financial strength of lower than 1A.

### **4.2 Most Aesthetically Appropriate Use of the Property**

A Highly Advantageous rating will be given to a Proposer whose proposed plans for the Property involve the most aesthetically appropriate use of the site by minimizing the visual and environmental impacts of the proposed facilities, consistent with the requirements of the Town’s Wireless Bylaw. Design measures taken to minimize the visual impact of the equipment will contribute to a Highly Advantageous rating. The Town has determined that the development of this site for wireless communications purposes is an appropriate use of the Property. Preference will be given to the Proposer utilizing maximum creativity to integrate the new facility into the Site in as aesthetically appealing a manner as possible, as determined by the Town.

An Advantageous rating will be given to a Proposer whose proposed plans for the Property comply with the requirements of the town’s Wireless Bylaw and who will use standard installation techniques, with only modest efforts in the area of mitigating visual impacts and protecting the environment, as determined by the Town.

An Unacceptable rating will be given to a Proposer whose proposed plans for the Property are not for wireless communication tower purposes or otherwise do not comply with the Town’s Wireless Bylaw and the provisions of this RFP, or make no effort to mitigate visual impacts and/or protect the environment, as determined by the Town.

## Westford Wireless Communications Facility

### **4.3 Technical Expertise and Capabilities; Documentation of Need**

A Highly Advantageous rating will be given to a Proposer who has significant technical expertise and capabilities for the construction, operation and maintenance of wireless communications antennas, and other equipment. In particular, this highest rating will be reserved for Proposers whose experience, professional licenses and accreditations, and professional references demonstrate that the Proposer is capable of developing a specialized approach to the operation and maintenance of the wireless communication antennas and communications equipment in a manner that is suitable for this Lease. To obtain this rating, a Proposer must have at least 10 years experience in constructing, operating and maintaining wireless communications antennas, and other equipment. The material submitted pursuant to section VIII of this RFP will be used to evaluate this criterion, and compelling argument must be made by each proposer of the need for the proposed installation at this site.

An Advantageous rating will be given to a Proposer who has between 5 and ten years experience in constructing, operating and maintaining wireless communications towers, antennas, and other equipment.

An Unacceptable rating will be given to a Proposer who has less than five years experience in constructing, operating and maintaining wireless communications towers, antennas, and other equipment.

### **4.4 Experience with Similar Projects**

A Highly advantageous rating will be given to a Proposer who has significant experience in the development and operation of facilities that are similar in nature, size, and scope. In particular, this highest rating will be reserved for Proposers who have ten or more years experience in dealing with municipalities or other public bodies and leasing of public land, and who have developed sites in Massachusetts, and who have experience using design methods and techniques to minimize visual impacts of the proposed equipment.

An Advantageous rating will be given to a Proposer who has less than ten years experience in the development and operation of similar projects.

An Unacceptable rating will be given to a Proposer who has less than five years experience in the development and operation of similar projects.

## 5. Instructions and Conditions for Applicants

Each Applicant shall submit one original and 3 copies of its proposal along with a digital copy in Adobe pdf format.

## Westford Wireless Communications Facility

Each Applicant shall answer all questions contained in Exhibit B, shall agree to execute a Lease in a form satisfactory to Town Counsel and similar to that attached hereto as Exhibit C, shall execute the certificates attached hereto as Exhibits D-1, D-2 and D-3, and shall execute Exhibits F through Exhibit J.

The Tenant agrees to provide the Landlord with a removal bond in the amount of 15% of the first 5 years of lease payments.

Proposers must identify the square footage they wish to lease on the site, including any ancillary areas for the construction of equipment shelters. The actual lease area, including area necessary for equipment cabinets, shelters, and other associated equipment, but excluding the proposed access route, will be determined prior to lease execution. The desired lease area(s) must be shown with sufficient detail on the Proposed Premised Location Plan and Access Route attached as Exhibit H.

Nothing in this RFP shall be construed as superseding the Town's Wireless Bylaw, which shall at all times control.

The town reserves the right to interview or to seek additional information from any Applicant after opening of proposals but before entering into a Lease, to reject any proposal if it deems it to be in the best interests of the Town, and to award a Lease to the next qualified Applicant.

All proposals once opened shall be deemed to be public records with the meaning of G.L. c. 4, § 7(26).

Proposals may be corrected, modified, or withdrawn prior to the deadline for submission of proposals by submitting the required number of copies of such correction, modification, withdrawal or a new submission, clearly marked on the outside envelope with the appropriate heading, by the deadline listed in *Section 3*.

### 6. Project Description and Terms

The purpose of this RFP is to solicit proposals to lease portions of the Site to Wireless Telecommunications Service Providers for Wireless Telecommunications Facilities under nonexclusive leases of up to fifteen years with an option for one five year extension at the sole discretion of the Town. The Lease will permit the following uses:

- Installation, operation, and maintenance of a wireless telecommunications facility, together with associated equipment, cables, and all other appurtenances necessary for the operation thereof, and associated transmission lines and mounting apparatus on the Lease Site(s);

## Westford Wireless Communications Facility

- Installation, operation, and maintenance of an equipment shelter or cabinet for the housing of associated telecommunications equipment within the Lease Site(s); and
- Nonexclusive pedestrian and vehicular access to the Lease Site(s) and access for utilities.

The Tenant, at its sole cost and expense, will be responsible for installing, operating, and maintaining its Facilities, including any equipment shelter or cabinet on the Lease Site.

The Tenant, at its sole cost and expense, will be required to comply with all applicable federal, state, and local laws and regulations, and will be required to obtain all required permits and approvals for its proposed use of the Lease Site and the proposed Wireless Telecommunications Facilities thereon.

FCC-licensed Wireless Telecommunications Service Providers may be allowed to co-locate, as provided in the Lease.

Proposers must be capable of successfully performing the obligations of Tenant under the Lease.

### 7. Construction and Installation of Facilities

The wireless communications support structure proposed by any Applicant must be designed and constructed in compliance with the Wireless Bylaw. The structure shall be designed to house two or more arrays of antennae serving two or more users, excluding the Town of Westford equipment. Proposers must identify the area necessary for any additional structures, including structures to house equipment and utility connections necessary for operation of the facility. These structures shall be designed and located to have minimal visual impact on the surrounding land and to be screened by suitable landscaping or other means to the maximum extent feasible.

Free-standing, wall mounted and roof-mounted devices may be required to be painted or otherwise colored or finished in a manner which aesthetically minimizes the visual bulk of the devices to the surrounding landscape or on the building or structure to which they are attached.

An Applicant may submit up to two alternative proposals for the proposed wireless communication support structure, provided that each alternative is clearly referenced to the price proposal for that alternative. For example, an Applicant may submit one price for a support structure of height "x" and a different price for a support structure of height "y".

The successful proposal shall include the supply and installation by the Applicant of the equipment listed in Exhibit E which is required to facilitate public safety communications in the Town of Westford.

The successful Applicant shall be designated as the Primary Lessee and shall be responsible for the construction of all the support structure and the installation of all equipment

## Westford Wireless Communications Facility

necessary to operate the facility, including necessary utility and telecommunications connections. Such facilities shall either be removed by the Applicant at its own expense or become the property of the Town at the termination of the Lease, at the option of the Town.

The Primary Lessee will be allowed to locate its antennae in such location within the support structure as it selects (with the exception listed in 7.1 below) and shall be responsible for the maintenance of the structure. Any other Lessee who may be permitted by the Town to locate antennae and other equipment in the support structure or on the site, now or in the future ("secondary or additional Lessees") shall be responsible for installing and maintaining its equipment and any necessary utility connections, which shall not interfere with use of the facility by the Primary Lessee or the Town.

Proposals may include sublet or license agreements with other Service Providers as co-locators on the Facilities, provided the proposal includes additional co-location rent payable to the Town of Westford (see Exhibit G)

The Town makes no representations of any kind with respect to the site, its adequacy to support the equipment, or its appropriateness for the intended use. Applicants will be permitted to inspect any plans, and other records relating to the property in the possession of the Town, and will have access to the site to make inspections, perform engineering surveys and tests at its own expense and with the prior approval of the Town, and otherwise to assure itself that the site will be suitable for the proposed use. Each Applicant will be responsible for determining the suitability of the site for its intended purposes, and agrees to indemnify the Town for any damage to the property of the Town or to any person arising out of its inspection or testing of the site.

The Primary Lessee shall maintain insurance satisfactory to the Town covering the facility as required in *Section 8*, and shall indemnify the Town for any damages arising from construction or use of the facility as permitted by the Lease.

The Town shall have a right of access to the facility at all times, to inspect the facility, to take necessary actions to protect the property or persons in the Town, to enforce the terms of the Lease, or for any other purpose. Except in cases of emergency, the Town will give the Lessee at least twenty-four hours notice of any request for access to the facility.

The Lessee shall agree that the installation of its equipment and its use will not interfere with use of the Town's property for any purpose for which the site is being used at the commencement of the Lease. The Lessee shall also agree that its use of the site will not interfere with use of the site for wireless communications by other lessees and will make such changes or modifications to its equipment as may be required by the Town to eliminate or minimize such interference; provided, however, that the Primary Lessee of the site shall be entitled to be reimbursed by a secondary Lessee for any costs incurred in relocating or modifying its equipment to eliminate inference with equipment installed by such secondary

## Westford Wireless Communications Facility

Lessee.

The Lessee will be required to notify the town before making any modifications to the tower during the lease period.

At the end of the Lease period, the Lessee shall remove all its personal property and equipment installed at the site, and shall, at the request of the Town, remove any structure or building erected by it at the site, including any utility connections, and shall restore the site to its pre-existing condition. If the Applicant fails to apply for all permits necessary to construct or install its facilities within three (3) months after execution of the Lease, and to proceed to construct or install such facilities within three months after obtaining such permits, the Lease shall terminate and the Town shall be free to lease or otherwise dispose of the site as it may determine. It is the intention of the Town to have the facility operational on or before October 1, 2015.

7.1 The public safety equipment described in Exhibit E shall be placed on the support structure, and an equipment cabinet for the Town's equipment, and access thereto, shall be furnished and installed within the leased area at no additional cost to the Town.

### 8. Provisions of Lease

Lease of the site has been authorized by a vote of the March 23, 2013 Annual Town Meeting under Article 17.

The Applicant shall not be permitted to begin construction or installation of equipment before executing a Lease in a form satisfactory to the Town and obtaining all necessary permits as provided in *Section 7*.

The initial term of the Lease shall be 15 years, commencing on the date of execution of the Lease, with one successive option for renewal of five years at the sole discretion of the town.

### 9. Other Permits and Approvals

The Applicant shall obtain all permits, licenses, and approvals (collectively permits) from the United States, the Commonwealth of Massachusetts, and the Town of Westford, necessary for the location and operation of the facility, including but not limited to Site Plan approval from the Board of Selectmen, Special Permit (and possibly Variance) from the Zoning Board of Appeals, Stormwater Management Permit from the Planning Board, Order of Conditions from the Conservation Commission, and shall furnish the Town with copies of such permits before commencing construction or installation of equipment at the site. The Applicant shall comply with all statutes, regulations and by-laws relating to the maintenance and operation of the facility.

## **Westford Wireless Communications Facility**

### **10. Insurance**

The Lessee shall maintain insurance coverage on the facility as required by the Town with minimum limits of coverage for bodily injury and property damage liability of \$5,000,000, naming the Town as an additional insured on all such policies.

### **11. Indemnification**

The Lessee shall indemnify the Town against all claims arising from the use of the facility.

### **12. Form of Lease**

The Lessee shall enter into a Lease with the Town in form satisfactory to the Town. The Town may in its sole discretion request or agree to changes or additions to the Lease.

Westford Wireless Communications Facility

EXHIBIT A  
MAP OF AVAILABLE SITE



## Westford Wireless Communications Facility

### EXHIBIT B CONTENTS OF PROPOSALS

The following questions must be answered in full by each Applicant and the certificate executed by an authorized officer of the Applicant.

1. Provide the full name and address of the Applicant, which shall be the company or other entity that is licensed and will operate the wireless facility, and the name, address, telephone and fax number of the person who is authorized to act for the Applicant and to execute the Lease.
2. Provide the name and address of any other entity owned, controlled by or affiliated with the Applicant, which will be responsible for construction or installation of the proposed facility.
3. Provide the name, address, telephone number, fax number and email address of a person or persons who will (a) be responsible for construction and installation of the facility (hereafter called Project Manager) and (b) is able to answer questions concerning technical aspects of the proposed facility (hereafter called the Technical Representative).
4. Provide a description of Proposer's technical expertise and capabilities pertinent to this project, including a list of Proposer's professional licenses, accreditations, and references pertinent to the Proposer's performance and experience.
5. List the locations of all wireless communication facilities the Applicant has installed in Massachusetts over the past three years, and the name, address and telephone number of the owner of the site. If the Applicant has not yet installed facilities in Massachusetts it may provide information about sites of comparable facilities which it has installed in neighboring states.
6. Provide a list of at least 5 towns and public bodies in Massachusetts where you have either sought permission to install a wireless communication facility in the past three years, or are presently engaged in negotiating or have in the last three years negotiated for a lease or permission to use a site for installation of such a facility.
7. List any proceeding by the federal, state, or local government, or any officer, commission, board or instrumentality of such government, to revoke any license or permit or impose any fines or penalties relating to the location or operation of wireless communication facilities owned or operated by the Applicant.
8. List any litigation involving the Applicant concerning the location or use of a wireless communication facility in Massachusetts over the last three years, giving the names of the parties, the court and case number and the outcome of such litigation.
9. Provide a description of the facility you propose to install, including (1) a plan showing the location of the facility, (2) a plan showing the elevation of all buildings or other

## Westford Wireless Communications Facility

structures you propose to construct, (3) a description of all buildings or other structures necessary to support or contain your equipment, including (a) a list of the proposed equipment to be installed, (b) any utility or tele-communication wires or services needed to operate the facility, and (c) landscaping and security structures you propose. Detailed plans and specifications for the proposed facility are not required. However, plans or pictures of similar facilities you have installed in other locations will assist the Town in considering your proposal.

The following certificate must be signed by an authorized officer of the Applicant:

"I represent and agree that the enclosed proposal by [Name of Applicant] will remain subject to acceptance by the Town of Westford for 90 days after [date of submission of proposal], and that the [Applicant] will execute a Lease satisfactory with the Town of Westford within 30 days from award of the contract, or such further time as the Board of Selectmen agree."

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Name of Applicant By:

---

Authorized Officer

# Westford Wireless Communications Facility

## EXHIBIT C

### DRAFT FORM OF PRIMARY LEASE

#### LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014, is entered into by Town of Westford, having a mailing address at 55 Main St, Westford, Massachusetts, 01886, (called "Landlord") and \_\_\_\_\_, having an office at \_\_\_\_\_ (called "Tenant" or "Primary Lessee").

#### BACKGROUND

Landlord owns that certain property, together with all rights and privileges arising in connection therewith, off North Street, in the Town of Westford, Middlesex County, Commonwealth of Massachusetts, more particularly shown as Parcel 030-0030-000 on the Westford Tax Assessor's Map (collectively "Property"). This property is the location of the Town of Westford Highway facilities with the address 28 North Street, Westford, MA. Tenant desires to use a portion of the property, in connection with its federally licensed communications business pursuant to its proposal as a Primary Applicant, dated \_\_\_\_\_, in response to the Town of Westford Request for Proposals issued \_\_\_\_\_, said documents are incorporated herein by reference as if set forth in full. Use of the site for the purpose intended has been authorized by vote of the 2013 Annual Town Meeting, under Article 17, authorizing the Board of Selectmen to enter into a least with a telecommunications service provider to construct, install, operate and maintain a Wireless Communication Facility.

NOW, THEREFORE, the parties agree as follows:

1. **LEASE OF PREMISES.** Landlord leases to Tenant a certain portion of the Property (hereafter Leased Premises) described on plan entitled **Westford Wireless Communications Facility** dated September 3, 2014 (Exhibit 1) together with non-exclusive appurtenant rights-of-way for ingress and egress, seven (7) days a weeks, twenty-four (24) hours a day, on foot or by motor vehicle (including by truck), said access to be located in conjunction with the Town of Westford Assistant Town Manager.
2. **USE.** (a) Subject to compliance with all Laws (defined below), Tenant shall at its own cost and expense, use the Leased Premises for the following: (i) transmission and

## Westford Wireless Communications Facility

reception of communications signals; (ii) to construct, install, operate, maintain, repair, replace, protect and secure its :fixtures and related equipment, cables, accessories and improvements (collectively called "Wireless Services Facility"; hereinafter "Facility"); including the right to construct a flagpole or similar monopole structure capable of accommodating two or more antennae arrays contained within the structure for the Primary Tenant and other carriers. Additionally, approved Town of Westford Public Safety equipment furnished by Tenant must be installed on the monopole exterior in a location approved by the Police Chief. Tenant shall provide an equipment area with the capacity to provide for the equipment of Tenant, equipment of the Town's Public Safety Departments furnished and installed by Tenant, and equipment of additional co-locators, fencing and other accessories necessary to the successful and secure operation of the Wireless Services Facility as shown as Exhibit 2, and (iii) any activities related to the forgoing. Landlord also grants to Tenant rights to (i) install and operate transmission cables from the equipment to the antennae, electric lines from a source to be determined to the equipment shelter, and telephone lines from the main telephone entry point to the equipment shelter, and (ii) erect, construct or make Property improvements, alterations or additions ("Tenant's Changes") appropriate for Tenant's use. Notwithstanding that the Facility shall be constructed to allow use by a Primary Tenant, the Town Public Safety Departments and additional co-locators, this lease provides for use by the Primary Tenant and the Town Public Safety Departments.

Additional co-locator space is reserved for future use subject to the approval of the Town and a further request for proposal.

(b) Landlord will allow Tenant to make reasonably appropriate alterations to the Property in order to accomplish Tenant's Changes, in accordance with plans and specifications ("Plans") to be submitted to Landlord for approval by the appropriate Town agencies in accordance with the Town Bylaws. After acceptance, Plans will be considered incorporated in this Lease as Exhibit 3. Any subsequent Tenant's Changes shall require the same approval process. Site Plan review is required for any increase or decrease in equipment on the tower or any changes to the site, pursuant to the Town of Westford Zoning Bylaw, Section 6.2

(c) Landlord further agrees that all Plans remain the property of Tenant and shall become public records.

(d) Tenant's use of the premises shall not interfere with the Landlord's use of the property or the use by others with the Landlord's approval. The Landlord acknowledges that the Tenant's proposed use as contemplated hereunder does not interfere with Landlord's use of the property.

(e) The tenant will be required to notify the town before making any modifications to

## Westford Wireless Communications Facility

the tower during the lease period.

(f) All portions of the Facility brought onto the Property by Tenant shall remain Tenant's personal property and shall be removed by Tenant at any time during the term, but no later than ninety (90) days after the Lease has terminated. Tenant agrees that, upon termination or expiration of this Lease, the Tenant shall restore the Leased Premises to its condition as of the Commencement Date (as defined in Paragraph 3 herein below), damage from the elements excepted. All rental fees paid to the Landlord prior to said termination date shall be retained by the Landlord.

(g) The Tenant agrees to provide the Landlord with a removal bond in the amount of 15% of the first 5 years of lease payments. This will be utilized by the Town if the criteria for abandonment are met in accordance with Town of Westford Zoning Bylaws Section 6.2.4 Sub Section 5, par. d., Removal of Abandoned Antenna Towers and PWSF's.

3. **TERM.** Subject to Paragraph 6 below, the initial Lease term will be fifteen (15) years, commencing upon the date of the execution of the Lease ("Commencement Date"). The initial term shall terminate on the day before the tenth (10th) anniversary of the Commencement Date. As used herein, "term" refers to the initial term and any renewal term effectuated as herein provided.
4. **RENT.** Commencing on the Commencement Date set forth in Paragraph 3, Tenant will pay Landlord annual rent in the amount of \_\_\_\_\_ (\$\_\_\_\_\_). All annual rental payments thereafter shall be made on the anniversary of the Commencement Date and in each successive lease year the rental payment shall be increased by \_\_%.
5. **CONTINGENCIES.** Landlord agrees that Tenant's ability to use the Leased Premises is contingent upon Tenant's ability to obtain any and all governmental licenses, permits, approvals or other relief required or deemed necessary or appropriate for the Tenant's use of the Leased Premises (called "Governmental Approvals") by that date which is six (6) months from the date of this Lease as set forth on Page 1 hereof, unless otherwise extended, provided that Tenant shall have the right, without obligation, to appeal any denial and the contingency date for obtaining Governmental Approvals shall be extended until such time as a final decision is rendered and is not the subject of any further appeal made or defended by Tenant. Landlord agrees to cooperate with Tenant and, at Tenant's expense, join in any applications for Governmental Approvals.  
  
Landlord specifically authorizes Tenant to prepare, execute and file all necessary or appropriate applications to obtain Governmental Approvals for its use under this Lease.
6. **TERMINATION.** This Agreement may be terminated, without penalty or further

## Westford Wireless Communications Facility

liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Paragraph 15 of this Agreement after the applicable cure periods;

(b) by Tenant on sixty (60) days prior written notice, if Tenant is unable to obtain, maintain, or otherwise forfeits or cancels any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Facility as now and hereafter intended by Tenant; or if the Premises become unsuitable for Tenant's operation due to governmental regulations or if Tenant determines in its sole discretion that the cost of obtaining or retaining the same is commercially unreasonable;

(c) by Landlord or Tenant on sixty (60) days prior written notice, if either determines that interference by or to use of the Premises cannot be resolved satisfactorily;

(d) by Tenant immediately upon notice, if a taking thereof (by partial condemnation or otherwise) is sufficient, in Tenant's reasonable judgment, to adversely affect Tenant's use of the Premises; or

7. **NON-INTERFERENCE.** (a) Tenant acknowledges that this Lease does not exclude other wireless services facilities on the Property and/or other uses by the Landlord, located on said Property (other than the Leased Premises), and Tenant agrees to reasonably cooperate with Landlord and other potential wireless services facility operators as to their proposed operations not inconsistent with this Lease. Further, Tenant acknowledges that it has performed adequate testing for interference from any existing and/or currently proposed transmission and receiving equipment, and that same does not or would not, if properly installed and operated as described and in accordance with law, interfere with its permitted use. If Tenant experiences any interference problems caused by the other party, Tenant shall reasonably cooperate with said other parties to resolve such interference. Any subsequent Lease or other subsequent agreement with Landlord shall include this Paragraph or a comparable provision and all of such other party's reciprocal obligation to Tenant.

8. **INSURANCE/LIABILITY.** (a) Tenant shall carry during the Lease term, at its own cost and expense, the following insurance; (i) "All Risk" property insurance for its property's replacement cost; and (ii) comprehensive general liability insurance with a combined single limit of \$5,000,000 for bodily injury and property damage arising out of any one occurrence and (iii) Worker's Compensation Insurance as required by law.

(b) Tenant shall name Landlord as an additional insured under its liability policy and require its insurance company to give at least thirty (30) calendar days' written notice of termination or cancellation of the policy to Landlord. Such endorsement shall be delivered

## Westford Wireless Communications Facility

to Landlord within thirty (30) calendar days from the execution of this lease.

9. **INDEMNIFICATION.** Tenant agrees to indemnify, defend and hold Landlord harmless from and against any direct injury, loss, damage or liability (or claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) resulting from the installation, use, maintenance, repair or removal of the Wireless Services Facility or the breach of any provision of this Agreement.

10. **WARRANTIES.** Landlord covenants that Tenant, on paying the rent and performing the covenants, shall peaceably and quietly have, hold and enjoy the leased property subject to the terms of this agreement. Landlord covenants that Landlord is seized of good and sufficient title and interest to the property and has full authority to enter into and execute this agreement. Landlord further covenants that there are not other liens, judgments or impediments of title on the property or affecting Landlord's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Property by the Tenant as set forth above. Landlord covenants that Landlord has not dealt with, nor is any brokerage commission due to, any broker in connection with this Lease. Lessee shall indemnify and hold the Landlord harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the property by the Lessee, its servants or agents. The Lessee hereby waives any and all rights of action for negligence against the Landlord which may hereafter arise on account of damage to the premises or to property, resulting from any fire, or other casualty, to indemnify the Landlord for any third-party claim arising out of injuries to Lessee's employees or other performing services Lessee directly or indirectly.

11. **ENVIRONMENTAL.** Landlord releases Tenant from and covenants not to sue Tenant for any and all claims, causes of action, liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees, arising out of or relating to (a) the presence at the Property or the Premises of any oil, hazardous materials, hazardous substances or solid waste, (b) the release at or from the Property or the Premises of any oil, hazardous materials, hazardous substances or solid waste; and (c) compliance with all applicable Environmental Laws applicable to any oil, hazardous materials, hazardous substances or solid waste found or released on or about the Premises or the Property, unless the oil, hazardous materials, hazardous substances or solid waste were brought onto or released at or from the Property as a result of the operation of Tenant's Facility on the Premises or in connection with the construction, maintenance, or repair thereof Tenant represents, warrants and agrees to conduct its activities on the Premises in compliance with all applicable Environmental Laws. Tenant agrees to defend, indemnify and hold harmless Landlord from and against any and all direct liabilities, damages, losses, costs, assessments, penalties, fines, expenses and fees, including reasonable legal fees, that Landlord may suffer due to the

## Westford Wireless Communications Facility

existence of discovery of Hazardous Substance on the Property, or released into the environment that are caused by Tenant's use of the Premises. The indemnifications of this Paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remedial, removal or restoration work required by any governmental authority. The provisions of this Paragraph will survive the expiration or termination of this Agreement.

12. **ACCESS TO LEASED PREMISES.** Landlord shall be permitted access to the Leased Premises (i) for emergencies without prior notice to Tenant, so long as Tenant is notified as soon thereafter as reasonably practicable; and (ii) otherwise with reasonable prior notice to Tenant to make necessary repairs, in all cases provided that Tenant's equipment technology and proprietary interests remain secure and the Facility's operation is not adversely affected. Notwithstanding the foregoing, it is agreed that only authorized employees, agents, contractors, or representatives of Landlord or persons under direct supervision will be permitted to enter the Leased Premises.

13. **MAINTENANCE AND REPAIRS; UTILITIES.** (a) Tenant shall perform all repairs necessary to keep its Facility located on or about the Leased Premises in good condition, damage from the elements excepted.

(b) Tenant, at its sole expense, shall arrange for its own metered electrical supply from the local utility company and shall pay for all electricity and other utility charges consumed by Tenant.

14. **DEFAULT AND RIGHT TO CURE.** The following shall be deemed a default by Tenant and a breach of this Lease: (a) Non-payment of rent or other Tenant monetary obligations due as specified hereunder, if remaining unpaid more than thirty (30) calendar days; or (b) Tenant's failure to perform any other agreement, representation or warranty under this Lease within thirty (30) calendar days after receipt of such notice from Landlord reasonably specifying the failure. No such failure, however, shall be deemed to exist if Tenant in fact shall honestly commence to rectify the same within such thirty (30) calendar day period and provided such efforts shall be prosecuted to completion with reasonable diligence. Delay in rectifying the same shall be excused if due to causes beyond the reasonable control of Tenant.

15. **ASSIGNMENT/SUBLEASE.** Landlord may assign this Lease, provided said assignee will assume, recognize and become responsible to Tenant for the performance of all of the terms and conditions to be performed by Landlord under this Lease.

This agreement may not be sold, assigned or transferred by the Tenant without the prior approval or consent of the Landlord except to Tenant's principal, affiliates, subsidiaries

## Westford Wireless Communications Facility

of its principal or to any entity which acquires all or substantially all of Tenant's assets in the market defined by the Federal Communications Commission in which the property is located by reason of merger, acquisition or other business reorganization. As to other parties, this agreement may not be sold, assigned or transferred without the written consent of the Landlord, which such consent will not be unreasonably withheld or delayed. In the event of any sale, assignment, or transfer for which prior consent of the Landlord is not required, Tenant shall remain liable to the Landlord for all the terms of this agreement if the party to whom the agreement has been sold, assigned or transferred is in default after any applicable notice and cure period.

Additionally, Tenant may mortgage, assign and/or grant a security interest in this Lease and the Facility, to Tenant's mortgagees or holders of security interests, including their successors or assigns (hereinafter collectively referred to as "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant's Mortgagees (if notified of any such Mortgagees) simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant except that the cure period for any Mortgagee shall not be less than fourteen (14) calendar days after receipt of the default notice.

16. NOTICES. Unless otherwise provided herein, any notice or demand required or permitted to be given hereunder shall be given in writing by hand delivery, first class certified or registered mail, return receipt requested, or by recognized overnight mail, in a sealed envelope, postage prepaid, to be effective when properly sent and received, refused or returned marked undeliverable. Notice shall be addressed to the parties at the addresses set forth above (as to Tenant, Attn: \_\_\_\_\_ and as to Landlord, Attn: Town Manager; copy to \_\_\_\_\_ Town Counsel\_\_\_\_\_). Either party hereto may change the place for the giving of notice to it by like written notice to the other as provided herein.

17. SEVERABILITY. If any term or condition of this Lease be held unenforceable, the remaining terms and conditions shall remain binding upon the parties as though said unenforceable provision were not contained herein.

18. STRUCTURE MARKING AND LIGHTING. Tenant shall be liable and responsible for compliance with all tower marking and lighting requirements which may be required by the Federal Aviation Administration ("FAA") or the Federal Communications Commission ("FCC").

19. AMENDMENT; WAIVER. No Lease revision shall be valid unless made in writing

## Westford Wireless Communications Facility

and signed by an authorized officer of Tenant and an authorized agent of the Landlord. No provision may be waived except in a writing signed by the party waiving the right.

20. **SHORT FORM LEASE.** Neither this Lease nor any Short Form Lease or Memorandum of Lease thereof shall be recorded by either party without the written consent of the other party.

21. **BIND AND BENEFIT.** The Lease terms and conditions contained shall run with the Property and insure to the benefit of and be binding upon Landlord and Tenant and each of their respective heirs, executors, administrators, successors and permitted assigns.

22. **ENTIRE AGREEMENT.** This Lease and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

23. **GOVERNING LAW.** This Lease shall be governed by the laws of the State in which the Leased Premises are located without regard to conflict of laws.

24. **INTERPRETATION.** Unless otherwise specified, the following rules of construction and interpretation apply: (a) Captions are for convenient reference only and in no way define or limit the construction of the terms and conditions hereof, (b) use of the term "including" shall be interpreted to mean "including but not limited to;" use of the terms "termination" or "expiration" are interchangeable; use of the terms "will" and "shall" are interchangeable; (c) except as otherwise expressly stated, whenever a party's approval or consent is required under this Lease, such consent shall not be unreasonably withheld or delayed; (d) reference to a default shall take into consideration any applicable notice, grace and cure periods; and (e) exhibits are an integral part of the Lease.

25. **ESTOPPEL.** (a) Either party shall, at any time upon fifteen (15) days' prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease,

as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder of specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrance of the Leased Premises or Facility. Failure to timely deliver such a statement shall be conclusive as a self-operative statement from the party from whom requested that (i) this Lease is in full force and effect (without modification except as may be properly represented by the requesting party), (ii) there are no uncured defaults in the requesting party's performance.

**Westford Wireless Communications Facility**

26. TAXES. Tenant shall pay real property taxes directly attributable to Tenant's construction of improvements on the Leased Premises, provided Tenant shall be entitled to appeal any such increase payable by it.

27. MISCELLANEOUS. Any inconsistencies in description of the leased premises shall be resolved in favor of the information supplied within Exhibit 1.

28. COUNTERPARTS. This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

INWITNESS WHEREOF, the parties have executed, or have caused their properly authorized representatives to duly execute, this Lease, under seal, on the date and year first above written.

LANDLORD:

TOWN OF WESTFORD

By: \_\_\_\_\_

Name: Jodi Ross

Title: Town Manager

As authorized by vote of Board of  
Selectmen on \_\_\_\_\_

Date: \_\_\_\_\_

TENANT:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

**Westford Wireless Communications Facility**

**EXHIBIT D-1**

**CERTIFICATE AS TO CORPORATE APPLICANT**

I, \_\_\_\_\_(Name of Officer), certify that I am the  
\_\_\_\_\_(Title) of the Corporation named as Applicant in the  
within Proposal Form; that \_\_\_\_\_(Name of Officer  
signing form) who signed said Proposal Form on behalf of the Submitter was then  
\_\_\_\_\_(Title) of said Corporation; that I know his/her  
signature and that his/her signature is genuine and that said Proposal was duly signed,  
sealed and executed for and on behalf of said Corporation by authority of its governing  
body.

**AFFIX CORPORATE SEAL**

**Instruction:** This certificate must be completed where Applicant is a Corporation, and should be so completed by its Clerk. In the event that the Clerk is the person signing the Proposal on behalf of the Corporation, this certificate must be completed by another Officer of the Corporation.

**Westford Wireless Communications Facility**

**EXHIBIT D-2**

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**CERTIFICATE OF TAXES/TAX ATTESTATION**

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**CERTIFICATE OF TAXES/TAX ATTESTATION**

Pursuant to M.G.L Chapter 620,,Section 49A, I certify under penalties of perjury that \_\_\_\_\_ has/have complied with all laws of the Commonwealth Of Massachusetts relating to taxes, reporting of employees and contractors and, withholding and remitting child support.

\_\_\_\_\_  
Social Security Number, or  
Federal Identification Number

\_\_\_\_\_  
Signature of Individual or Corporation Name

\_\_\_\_\_  
Corporate Officer& Title (if applicable)

**AFFIX CORPORATE SEAL**

**Westford Wireless Communications Facility**

**EXHIBIT D-3**

**CERTIFICATE OF NON-COLLUSION**

The under-Signed certifies under penalties of perjury that this proposal, or proposal, has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person; business, partnership, corporation, union, committee, club; or other organization, entity, or group of individuals.

\_\_\_\_\_  
Signature of Individual or Corporation Name

By: \_\_\_\_\_  
Corporate Officer & Title (if applicable)

**AFFIX CORPORATE SEAL**

## **Westford Wireless Communications Facility**

### **EXHIBIT E**

#### **TOWN OF WESTFORD PUBLIC SAFETY EQUIPMENT NEEDS**

1. Town of Westford Public Safety needs include a single antenna with a split connection. The Town will provide the antenna, which may be up to 5' tall, and the Tenant will be required to provide the mount, cable and installation. It is the Town's preference that the necessary support equipment be located in or near the Highway Garage. The Tenant may also provide space for this equipment in their building, at no cost to the Town.

**Westford Wireless Communications Facility**

**EXHIBIT F**

Rent Schedule

(to be completed by the proposer)

The proposed **Rent** for Lease-year 1 payable by **Tenant** to **Landlord** on the **Rent Commencement Date** is \$\_\_\_\_\_. **Tenant's** proposed **Rent** is subject to an annual increase of \_\_\_\_\_%. Accordingly, proposed **Rent** for years 2 through 15, payable by **Tenant** to **Landlord** in advance, annually, on the anniversary of the **Lease Commencement Date**, is as follows:

**RENT**

Lease-year 2 \$ \_\_\_\_\_

Lease-year 3 \$ \_\_\_\_\_

Lease-year 4 \$ \_\_\_\_\_

Lease-year 5 \$ \_\_\_\_\_

Lease-year 6 \$ \_\_\_\_\_

Lease-year 7 \$ \_\_\_\_\_

Lease-year 8 \$ \_\_\_\_\_

Lease-year 9 \$ \_\_\_\_\_

Lease-year 10\$ \_\_\_\_\_

Lease-year 11 \$ \_\_\_\_\_

Lease-year 12 \$ \_\_\_\_\_

Lease-year 13 \$ \_\_\_\_\_

Lease-year 14 \$ \_\_\_\_\_

Lease-year 15 \$ \_\_\_\_\_

**Rent increases for each Sublease Agreement in accordance with Section 5 of the Lease and as scheduled in Exhibit G.**

**Westford Wireless Communications Facility**

**EXHIBIT G**

Co-Locator Rent Schedule

(to be completed by the proposer)

**Co-locator Rent** is due to **Landlord** as determined by **Tenant's Sublease Agreement** with each **Co-locator**. **Co-locator Rent** is calculated as a percentage of the rent (“**Percentage Rent**”) due annually to **Tenant** as described in the **Co-locator's Sublease Agreement**, and in accordance with the provisions of § 5.4 of this **Lease**. After Lease-year 1, **Percentage Rent** is payable with the **Rent** payments scheduled in Exhibit F.

After Lease-year 1, **Percentage Rent** for each **Co-locator** is subject to an annual increase of \_\_\_\_\_%.

**Percentage Rent** for each **Co-locator** due annually by **Tenant** to **Landlord** is proposed as follows:

<u>Co-Locator Rent</u>	<u>x</u>	<u>% of Co-locator Rent</u>	<u>=</u>	<u>Percentage Rent</u>
Lease-year 1 \$ _____	x	_____	=	\$ _____
Lease-year 2 \$ _____	x	_____	=	\$ _____
Lease-year 3 \$ _____	x	_____	=	\$ _____
Lease-year 4 \$ _____	x	_____	=	\$ _____
Lease-year 5 \$ _____	x	_____	=	\$ _____
Lease-year 6 \$ _____	x	_____	=	\$ _____
Lease-year 7 \$ _____	x	_____	=	\$ _____
Lease-year 8 \$ _____	x	_____	=	\$ _____
Lease-year 9 \$ _____	x	_____	=	\$ _____
Lease-year 10 \$ _____	x	_____	=	\$ _____
Lease-year 11 \$ _____	x	_____	=	\$ _____
Lease-year 12 \$ _____	x	_____	=	\$ _____
Lease-year 13 \$ _____	x	_____	=	\$ _____
Lease-year 14 \$ _____	x	_____	=	\$ _____
Lease-year 15 \$ _____	x	_____	=	\$ _____

\*Pursuant to Sections F of this **Lease**.

Add Separate Schedule for Each Co-Locator as Necessary

**Westford Wireless Communications Facility**

**EXHIBIT H**

Proposed Premises Location Plan and Access Route

(to be completed by the proposer)

**Westford Wireless Communications Facility**

**EXHIBIT I**

Required Permits and Development Schedule

(to be completed by the proposer)

## Westford Wireless Communications Facility

### EXHIBIT J

#### Schedule of Tenant Improvements and Equipment

(to be completed by the proposer)

A complete (i) description of improvements to be constructed and/or installed by **Tenant** and (ii) itemization of equipment being brought onto the **Premises** by **Tenant** must be provided and inserted in this **Lease** immediately following this page, before commencement of construction/installation.

**Westford Wireless Communications Facility**

**EXHIBIT K**

Town of Westford Zoning Bylaw Section 6.2 SITING OF RADIO TELECOMMUNICATIONS  
FACILITIES (RTFs)

# Town of Westford, Massachusetts

## Zoning Bylaw



### From the Bylaws of the Town of Westford

First adopted on March 12, 1955

With amendments through Annual Town Meeting of March 24, 2012  
As approved by the Attorney General's Office on May 1 and 2, 2012,  
Which, on May 17, 2012 are Retroactive to October 17, 2011 and March 24, 2012

## SECTION 6.0 SPECIAL REGULATIONS

### 6.1 ADULT USES

**6.1.1 Special Permit Required.** The following adult uses may be allowed under a special permit by the Board of Appeals:

1. Adult Bookstore
2. Adult Live Entertainment Establishment
3. Adult Motion Picture Theater

**6.1.2 Dimensional Restrictions.** Adult uses hereunder shall be separated by not less than seven hundred fifty (750) feet from:

1. Each other;
2. Residential districts;
3. Public or private schools;
4. Churches or places of worship; or
5. Establishments licensed under provisions of G.L. c. 138, s. 12 where alcoholic beverages are sold or served.

**6.1.3 Special Permit Procedures.** The Board of Appeals shall act on an application for a special permit according to the procedures set forth in G.L. c. 40A, s. 9A. The Board of Appeals may impose reasonable conditions upon the grant of any special permit.

### 6.2 SITING OF RADIO TELECOMMUNICATIONS FACILITIES (RTFs)

[Replaced 10-17-2011 STM, Art. 12]

**6.2.1. Purposes.** The purposes of this section are:

1. To enable Radio Telecommunications to benefit the people of Westford in a manner that is consistent with the purpose and intent of the Zoning Bylaw.
2. To ensure that Westford's regulation of RTFs is in compliance with applicable federal and state law and regulations, including but not limited to:
  - a. For Personal Wireless Service Facilities (PWSFs), the Telecommunications Act of 1996 Section 704 provisions relating to the placement, construction, and modification of personal wireless service facilities.
  - b. For Amateur Radio RTFs, the federal and state laws requiring minimum practicable regulation of Amateur Radio facilities.
  - c. For Other Radio Services, federal and state laws enabling the public to employ certain types of antennas.
3. To minimize undesirable impacts of RTF development in Westford.
4. To ensure that the benefits of RTFs outweigh potential detrimental impacts on the Town's scenic and historic assets, safety, health, environment, general welfare, values and quality of life.

- 6.2.2. Scope of Authority.** Pursuant to the purposes stated in Section 1.3 and 6.2.1, the Town will exercise its bylaw authority with the following scope:
1. To ensure that RTF's comply with local, state and federal regulations.
  2. To ensure that the location, height and design of RTFs are reasonably regulated within a public review process.
- 6.2.3. Special Permit Granting Authority (SPGA).** The SPGA for all Special Permits issued pursuant to this Section 6.2 shall be the Board of Appeals.
- 6.2.4. Personal Wireless Service Facilities (PWSFs).**
1. **Applicability.** No PWSF shall be erected, installed or modified except upon issuance of a special permit in compliance with the provisions of this bylaw, whether the PWSF is considered a principal use or an accessory use. However, a PWSF is exempt from the special permit requirement ("Exempt PWSF") if it is an Indoor RTF, including but not limited to internet-connected "femtocells," indoor distributed antenna systems and bi-directional amplification systems.
  2. **Preferences: PWSF Locations and Types.**
    - a. **PWSF Locations.** PWSF may be permitted within any district by Special Permit, subject to the purposes and standards established in this bylaw. The following list of allowable PWSF Locations is presented in order of preference:
      - i. **First Preference: PWSF Non-Residential.** A site located within any Commercial (CH) or Industrial District (IA, IB, IC, ID or IH).
      - ii. **Second Preference: PWSF Residential.** A site located within any Residential (RA, RB) or Business District (B, BL).
    - b. **PWSF Installation Types.** The following list of PWSF Installation Types is presented in order of preference:
      - i. **First Preference: PWSF Site Sharing.** Of highest preference, a new PWSF may employ Site-Sharing with existing PWSFs, to the extent that such site-sharing is found by the SPGA to be consistent with the purposes and standards established in this bylaw.
      - ii. **Second Preference:** The following PWSF Installation Types are of equal preference to one another, and collectively are subordinate to the First Preference: PWSF Site Sharing:
        - (i) **PWSF Collocation.** A new PWSF may Collocate on any existing structure, to the extent that such Collocation is found by the SPGA to be consistent with the purposes and standards established in this bylaw.
        - (ii) **PWSF on Existing Electrical Utility Infrastructure.** A PWSF may Collocate on existing electrical utility infrastructure such as utility poles or streetlights using unobtrusive architectures such as Distributed Antenna Systems (DAS). With respect to the use of utility poles, Collocation on existing electrical utility poles (and replacements thereof) is preferred above the installation of new electrical utility poles in public/private ways. In neighborhoods with underground electrical utilities, pole-mounted PWSF on existing electrical utility infrastructure are discouraged in favor of less

visually obtrusive alternatives, such as placing a small antenna installation on existing electrical utility poles on a nearby street.

- (iii) **Other Implementations.** A PWSF may be located using innovative alternatives that are in keeping with the purpose and intent of this Bylaw and that may become available after the adoption of this bylaw.
  - iii. **Third Preference: PWSF with new Antenna Tower.** PWSFs which require the construction of a new Antenna Tower are least on the order of preference.
  - c. **Waiver of Preferences.** The SPGA may waive the preference orders designated for siting and types of PWSF pursuant to Section 6.2.4.5.c upon a finding that the siting at a location of lesser preference, or the installation of a PWSF type of lesser preference, would achieve a result more consistent with the purposes and standards established in this bylaw.
3. **General Requirements.**
- a. **Use.** PWSFs shall only be employed for the purpose of delivering PWS to subscriber devices or supporting public safety communications, and shall not be used for storage, office, manufacturing, repair, or other activities unless separately permitted for such other activities.
  - b. **Demonstration of Need.**
    - i. **Need for Service.** The Applicant must demonstrate the service objectives in Westford that the proposed PWSF will address in whole or in part. Such demonstration shall include:
      - (i) substantial written evidence including technical documentation demonstrating that there is a substantial deficiency in the Applicant's provision of service to Westford which fails to satisfy the service objectives;
      - (ii) detailed information about all existing and pending PWSFs regardless of the Applicant proposing the PWSF or the jurisdiction in which they are located, and associated coverage maps;
      - (iii) information about terrain, vegetation and land use within the proposed coverage area;
      - (iv) estimates with supporting documentation of the number of mobile and stationary subscribers affected by the substantial deficiency;
      - (v) network performance factors; and
      - (vi) other information relevant to the Applicant's service objectives, or as may be required by the SPGA.
    - ii. **Need for Location.** The Applicant must provide substantial written evidence including clear documentation showing how the improved service to Westford that the Applicant seeks could not be substantially provided by utilizing one or more locations of higher preference as described in Section 6.2.4.2, or, alternatively, how the proposed PWSF achieves a better result as described in Section 6.2.4.2.c.
  - c. **Availability of Alternatives.** The SPGA, at its discretion, may require the Applicant to consider specific potential alternatives at any level of the

hierarchy in Section 6.2.4.2, if the SPGA determines that such locations may better achieve the purposes established in this bylaw.

- d. **Visual Guidelines.** The construction, erection, installation and/or placement of all PWSF shall be reviewed by the SPGA within the public hearing process based on the following visual guidelines:
  - i. **Concealment.** To the maximum extent practicable, PWSFs shall conceal equipment, cables, and antennas within architectural surfaces that are ordinary and consistent with the context of the PWSFs Westford environs, such as steeples, concealed-antenna monopoles, flagpoles, smokestacks, faux chimneys and cupolas.
  - ii. **Screening, Camouflage and Landscaping.** Wherever possible, PWSF shall be sited so as to minimize the visibility of such devices from adjacent property and shall be suitably screened from abutters and residential neighborhoods. Where elements of a PWSF will be visible to residential parcels and public or private ways, PWSFs shall employ screening and/or camouflage methods that are consistent with the context of the surrounding area such as fencing, vegetation, and paint color or patterns to match underlying surfaces in order to mitigate any undesirable visual bulk and distraction. Installation of free-standing PWSF shall minimize the removal of trees and other existing vegetation.
  - iii. **Scale.** The visual characteristics of a PWSF shall be minimized with respect to being unreasonable in scale, such as a dominant or looming visual experience, disproportion to the site and its surroundings, or undesirable shadowing impacts.
  - iv. **Color.** Free-standing, wall mounted and roof-mounted devices may be required to be painted or otherwise colored or finished in a manner which aesthetically minimizes the visual bulk of the devices to the surrounding landscape or on the building or structure to which they are attached.
  - v. **Signs.** There shall be no advertising permitted on or in the vicinity of PWSF. There shall be a sign not exceeding four square feet in area at each PWSF which shall display a phone number where the person responsible for the maintenance of the PWSF may be reached on a 24 hour basis.
  - vi. **Lighting.** Outdoor lighting of PWSFs shall be limited to that which is necessary for security and temporary maintenance at the discretion of the SPGA. PWSFs that are required to be marked and lighted for air navigation safety are discouraged.
  - vii. **Maintenance.** The visual characteristics of a PWSF shall be maintained, repaired and replaced as necessary and as an ongoing condition of compliance to retain the characteristics approved by issuance of a special permit.
  - viii. **Prohibitions.** The following are specifically prohibited:
    - (i) Lattice style Antenna Towers and facilities requiring three or more legs and/or guy wires for support; and

- (ii) Fences utilizing razor wire or barbed wire or similar wire types.
- e. **Height and Setbacks.**
  - i. **PWSF Non-Residential.** PWSFs in PWSF Non-Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:
    - (i) **Non-Residential Height.**
      1. New Antenna Towers in PWSF Non-Residential locations are limited to a height of up to 100 feet.
      2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section 6.2.4.5.c, the SPGA may approve a PWSF Antenna Tower at a height up to 150 feet upon a finding that:
        - a. Such greater height is more consistent with the purposes established by this bylaw than a lesser height;
        - b. The PWSF is at least 2 times its height from the nearest residential structure not on the PWSF parcel; and
        - c. The PWSF is substantially screened from view to residential buildings, public or private ways and public or private conservation land by existing terrain, vegetation, camouflage and/or development.
    - (ii) **Non-Residential Setbacks.**
      1. PWSFs must satisfy the property line setbacks of the underlying district.
      2. New Antenna Towers that are greater than the building height limit of the underlying zoning district shall be set back from all parcels in residential districts by a factor of 1.0 times the height above ground of the Antenna Tower, including appurtenances.
      3. On existing structures, PWSFs that are greater than 15 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.0 times the height above ground of the PWSF, including appurtenances.
  - ii. **PWSF Residential:** PWSFs in PWSF Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:
    - (i) **Residential Height.**
      1. New Antenna Towers in PWSF Residential locations are limited to:
        - a. Sixty feet above ground in areas where there is no significant tree cover; or
        - b. Ten feet above the average existing tree cover within a 150 foot radius, as determined by the SPGA; or

- c. Such lesser height that the SPGA finds is appropriate for the site of the PWSF based on the purposes and standards established in this bylaw.
    - 2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section 6.2.4.5.c, the SPGA may approve a PWSF Antenna Tower at a height of between 60 feet and 150 feet upon a finding that:
      - a. the location of the Antenna Tower is visually remote from surrounding residential uses; and
      - b. such height increase is consistent with the purposes and standards established in this bylaw.
  - (ii) **Residential Setbacks.**
    - 1. PWSFs must satisfy the property line setbacks of the underlying district.
    - 2. New Antenna Towers that are greater than the building height limit of the underlying zoning district shall be set back from all parcels in residential districts by a factor of 1.25 times the height above ground of the Antenna Tower, including appurtenances.
    - 3. On existing structures, PWSFs that are greater than 12 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.25 times the height above grade of the PWSF, including appurtenances.
  - iii. **Additional Required Setbacks.** In all districts, PWSFs shall be placed no closer than 3 times the height of the Antenna above grade to an existing Dwelling, school, Child Care Facility, Nursing or Convalescent Home, or an Assisted Living Facility.
  - f. **National, State and Local Environmental Policy.** PWSFs shall be compliant with the National Environmental Policy Act (“NEPA”) and relevant state and local regulations pertaining to environmental compatibility. The Applicant shall provide an evaluation, prepared by a qualified independent expert, of the NEPA criteria demonstrating that an Environmental Assessment is not required, pursuant to 47 CFR §1.1307.
  - g. **Special Permits Criteria.** In addition to the standards in this Section 6.2, the SPGA shall review the Special Permit application for compliance with Section 9.3.2 Special Permits Criteria.
4. **Application Procedures.**
  - a. **Application Process.** For PWSFs other than Exempt PWSFs, the application process consists of two distinct phases: the Preliminary Application Phase and the Application Phase.
    - i. **Preliminary Application Phase.** Applicants are strongly encouraged to contact the SPGA’s office to initiate a dialogue well before final site selection and detailed application development. The Preliminary Application Phase is intended to:
      - (i) Provide the Applicant with the opportunity to discuss and clarify Zoning Bylaws and SPGA Rules and Regulations (hereinafter

- “Regulations” adopted by the SPGA pursuant to Section 9.3.7) relevant to the Applicant’s prospective PWSF proposal; and
- (ii) To review general concepts related to the PWSF and alternative means of implementation to determine the SPGA’s preferences.
- ii. **Application Phase.** The Application Phase of the process begins with the receipt by the SPGA of a complete application including all elements required by this bylaw and the Regulations, including receipt of all required technical review fees and administrative fees.
- (i) **Timing.**
    - 1. **Completeness Review.**
      - a. The SPGA may adopt Regulations on the format and content of specific information the SPGA, in its discretion, may require from PWSF Applicants before and during the public hearing process. Such information may include, without limitation: publicly noticed visibility testing and photography; photo-simulations of the proposed PWSF; alternative designs or placements on the parcel; evidence submitted by a registered structural engineer based on site inspection, if applicable, demonstrating that the Tower or structure to which the PWSF will be mounted has the structural integrity to support such device, and a certification that a proposed use of an Antenna Tower is designed to withstand stresses in accordance with TIA 222 standards (latest revision); and analysis of economic or safety impacts; each as determined by the SPGA in the context of the specific application.
      - b. Within 30 days of receipt, the SPGA or its designee shall review the application for consistency and completeness with respect to the Application Requirements in this bylaw and the Regulations, including receipt of all required technical review fees and administrative fees, and shall notify the Applicant in writing of any deficiency in the completeness of the application.
    - 2. **Final Action.** The SPGA shall take regulatory notice of the Federal Communications Commission (FCC) presumption that the final action of the SPGA on a new Antenna Tower should take no more than 150 days from the date of receipt of the completed application, and that final action on a Collocation or Site Sharing application should take no more than 90 days from the date of receipt of the completed application except upon written extension of these timelines by mutual agreement between the SPGA and the Applicant, said written extension to be placed on file with the Town Clerk. (FCC Declaratory Ruling, Nov. 18, 2009). The SPGA shall comply with any relevant

successor regulation or bulletin, as same may be amended from time to time.

- (ii) **Modification to Existing PWSF.** A modification of an existing Special Permit and/or a new Special Permit is required for any change in the facility that would be visible from or beyond a property boundary, including but not limited to an increase in height, bulk, surface area presented to one or more viewpoints, size or quantity of any exterior elements of an individually permitted PWSF, including without limitation, additions or changes to outdoor equipment or antennas.
- (iii) **Site Plan Review.** Nothing in this section is intended to exempt PWSF from the requirement to receive Site Plan Approval pursuant to Section 9.4.
- iii. **Consultant Review.** When considering an application for a PWSF, the SPGA may determine the need for the assistance of a consultant technical expert in matters involving the placement, construction and modification of PWSFs, under the Zoning Bylaw and the Telecommunications Act of 1996, at the Applicant's expense pursuant to G.L. c. 44 s. 53G. To make the most productive use of the limited time authorized by the FCC to hear the application, the SPGA may at its discretion engage a consultant immediately upon receipt of an application.

5. **Decision.**

- a. **Required Findings.** To approve a Special Permit for a PWSF, the SPGA must make the following findings:
  - i. That the Applicant or co-Applicant has:
    - (i) demonstrated that it is a PWS provider in the Westford area, and has sufficient leasehold interest in the proposed site to construct the PWSF;
    - (ii) provided written assent to the Town that the Applicant will allow Site-Sharing, to the extent reasonably practicable and that is appropriate for the site and surroundings, in a reasonable and nondiscriminatory manner; and
    - (iii) demonstrated that the construction, operation and maintenance of the proposed PWSF are consistent with applicable environmental regulations including, but not limited to, NEPA criteria.
  - ii. That the proposed PWSF (with conditions, if applicable):
    - (i) is part of the orderly development of PWSFs in Westford, and will result in a substantial improvement in the provision of Personal Wireless Service in Westford;
    - (ii) is compatible with Westford's character and is designed and screened in a manner that is sensitive to the surrounding neighborhood as well as the community at large;
    - (iii) protects adjacent properties from unreasonable risks of PWSFs, to the extent permitted by law, including without limitation excessive noise levels, falling objects, fuel spills, and attractive nuisance;

- (iv) if the proposed PWSF will Site-Share with an existing PWSF(s), that such Site Sharing is found by the SPGA to be consistent with the purposes established in this bylaw;
  - (v) conforms with the PWSF Location and PWSF Installation preferences of Section 6.2.4.2 to the extent necessary to conform with the purposes established in this bylaw;
  - (vi) ensures that all RF emissions shall comply with the FCC requirements codified in 47 CFR § 1.1307 *et seq* as further interpreted by FCC Office of Engineering and Technology Bulletin 65, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Magnetic Fields*, or any successor regulation or bulletin, as same may be amended from time to time.
  - (vii) if proposed as a new Antenna Tower, the Applicant has documented that no combination of one or more alternative Collocations and/or Site Sharing can:
    - 1. substantially satisfy the Applicant’s coverage objectives; and
    - 2. present a substantially less detrimental impact on Westford.
  - (viii) satisfies the Purposes established by the Zoning Bylaw and, without limitation, the specific requirements and guidelines established in this bylaw; and
  - (ix) if applicable, that:
    - 1. Existing vegetation will be preserved or improved, and disturbance of the existing topography has been minimized; or
    - 2. Proposed manipulation of vegetation and disturbance of topography results in a lesser visual impact.
- b. **Form of Decision.** The SPGA shall act on a Special Permit request for the placement of a PWSF in accordance with G.L. c. 40A, s.9 and may approve, approve with conditions, or deny an application. The Decision of the SPGA shall be timely, in writing and based upon substantial evidence in the written record.
- i. **Approval.** Any approved Special Permit shall authorize specific PWS provider(s) and specific wireless service(s) to be operated by the Applicant(s) at the Antenna height(s) or positions specified in the application or approval document.
  - ii. **Approval with Conditions.** The SPGA may impose conditions of approval as necessary to ensure that the purposes of this bylaw are achieved. For any condition that the SPGA establishes with reporting or monitoring requirements, including without limitation noise or radio frequency emissions, the SPGA shall seek the advice of an expert in the relevant field pursuant to Section 6.2.4.4.b.iii to identify the least burdensome protocol that is consistent with a legitimate public purpose identified by the SPGA.
  - iii. **Denial.** Any denial shall be in writing and supported by substantial evidence contained in the record as required by the Telecommunications Act of 1996.

- iv. **Reconsideration pursuant to Telecommunications Act.** If the SPGA fails to find in favor of all elements of Section 6.2.4.5.a, the SPGA shall reconsider the proposed PWSF in the context of the Telecommunications Act of 1996. To approve the Special Permit under this section, the SPGA must make the following findings:
  - (i) That a significant gap exists in the coverage area of the proposed PWSF, which significant gap is not necessarily equivalent to the lack of the Applicant's stated coverage objectives;
  - (ii) That there are no viable alternatives involving one or more PWSFs to serve the significant gap;
  - (iii) That not granting a Special Permit for the proposed PWSF (including conditions, if any) would effectively prohibit the provision of PWS;
  - (iv) That not granting a Special Permit for the proposed PWSF (including conditions, if any) would unreasonably discriminate among providers of functionally equivalent services; and
  - (v) That, in addition to any findings in this Section 6.2.4.5.b.iv, the SPGA has made any other findings that are necessary to grant approval under local, state and federal law.
- c. **Waivers.** The SPGA may at its discretion authorize waivers in the Special Permit Approval with respect to the orders of preference in Section 6.2.4.2, and any dimensional or other requirements of Section 6.2.4.3.e upon a finding that such waiver will achieve better results consistent with the purposes and standards established in this Section 6.2.4.
- d. **Removal of abandoned Antenna Towers and PWSFs.** Any PWSF Antenna Tower, PWSF Communications Device, or PWSF that is not commercially operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Antenna Tower, PWSF Communications Device, or PWSF shall remove same within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. If such tower or facility is not removed within said ninety (90) days, the Town may cause such tower or facility to be removed at the owner's expense. If there are two or more users of a single tower, the height may be reduced to that required by the remaining user(s). If the permit holder for the tower ceases operation, the remaining users may be required to apply for a new Special Permit.

**6.2.5. Amateur Radio Services.**

- 1. **Authority.** Pursuant to G.L. c. 40A s. 3, and 47 CFR §97.15, this Zoning Bylaw does not prohibit the construction or use of an Antenna Tower for the purpose of operating Amateur Radio Services by a federally licensed radio amateur. The use is allowed in all districts subject to the permitting processes established herein.
- 2. **Purposes.** This bylaw sets forth applicable criteria and review processes in order to:
  - a. comply with federal and state obligations to reasonably regulate the location and height of such antenna structures for the purposes of health, safety, or aesthetics; and

- b. reasonably allow for sufficient height of such antenna structures so as to effectively accommodate amateur radio communications by federally licensed amateur radio operators applying the minimum practicable regulation necessary to accomplish the legitimate public purposes of the Town of Westford.
- 3. **Dimensional Standards.** The dimensional setback of an Amateur Radio Service Antenna Tower shall conform to the dimensions that apply generally to the zoning district in which the Antenna Tower is built.
- 4. **Review Process.**
  - a. **Amateur Radio Service allowable By Right.** A height of up to the district height limits specified in the Table of Dimensional and Density Regulations in Appendix C is allowed by right.
  - b. **Amateur Radio Service allowable by Site Plan Review.** A height of up to 70 feet above ground is permitted by right, subject to site plan review by the Planning Board. There shall be no application fees or fees related to public hearing notice and mailings for Site Plan Review of an Amateur Radio Service Antenna or Amateur Radio Service Antenna Tower.
  - c. **Amateur Radio Service allowable by Special Permit.** Heights greater than 70 feet (above grade) are permissible without variance, subject to a Special Permit from the Special Permit Granting Authority (SPGA), which shall be based only on the following findings:
    - i. The Amateur Radio Service licensee is the Applicant.
    - ii. The Applicant has made a reasonable demonstration that the requested height (greater than 70 feet above grade) is necessary for the intended use of the facility.
    - iii. The proposed Amateur Radio Service Antenna does not substantially derogate the health, safety, general welfare and quiet enjoyment of the Antenna site's neighbors and public and private ways.
    - iv. The RF emissions of the proposed Amateur Radio Service Antenna will be compliant with federal and state regulations (47 CFR 1.1307 *et seq.*, and 105 CMR 122).
- 5. **Fees.** There shall be no application fees or fees related to public hearing notice and mailings imposed for Special Permit applications for an Amateur Radio Service Antenna or Amateur Radio Service Antenna Tower.

**6.2.6. Other Radio Services.**

- 1. **Broadcast Radio and Television Reception Antennas.** Broadcast Radio and Television Reception Antennas shall be afforded the same rights and responsibilities as Subscriber Antennas subject to relevant criteria of Section 6.2.6.2, below.
- 2. **Certain Reception and/or Transmission Antennas at Subscriber Locations.** Subscriber Antennas are allowed in all districts subject to the following permitting processes:
  - a. **Subscriber Antennas Allowable By Right.** Pursuant to Massachusetts Building Code regulation of television Antennas, Subscriber Antennas may be installed by right provided that the total height above ground of a

Subscriber Antenna, including mast or mounting apparatus, shall not exceed the following:

- i. Located on existing building or structure: 12 feet above the point of attachment to the building or structure, regardless whether the overall height above ground exceeds the height limit for the district.
  - ii. New Antenna Tower: 12 feet above the district height limit.
- b. **Subscriber Antennas allowable by Site Plan Review.** Subscriber Antenna installations that exceed the height restrictions of the previous subsection (“Subscriber Antennas Allowable By Right”), and/or are not compliant with other dimensional criteria the district in which the Subscriber Antenna will be installed, shall be subject to Site Plan Review as limited by the following:
- i. Site Plan Review shall not impair installation, maintenance, or use of a Subscriber Antenna. Impairment occurs if implementation:
    - (i) Unreasonably delays or prevents installation, maintenance, or use;
    - (ii) Unreasonably increases the cost of installation, maintenance, or use; or
    - (iii) Precludes reception or transmission of an acceptable quality signal.
  - ii. Application fees and fees related to public hearing notice and mailings, if any, for Site Plan Review shall be waived for Subscriber Antenna Applicants.
  - iii. Pursuant to federal regulation 47 CFR 1.4000, Site Plan Review of a proposed Subscriber Antenna shall be limited to the following controls:
    - (i) The proposed Subscriber Antenna shall not derogate public safety from hazard such as falling objects, Antennas, and support structure; attractive nuisance; lightning or fire; or other matters of safety that are regulated under Site Plan Review.
    - (ii) The proposed Subscriber Antenna shall be placed and installed in a manner that its impact on any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places is compliant with the National Historic Preservation Act of 1996, as amended.
    - (iii) If the proposed subscriber antenna is not compliant with a dimensional requirement of the zoning district in which the Subscriber Antenna will be installed, the Applicant for Site Plan Review shall demonstrate that there is no location on the parcel that is both more compliant with the dimensional criteria and is capable of reliably providing the service of the Subscriber Antenna. If there is a more dimensionally compliant location for the Subscriber Antenna, the SPGA may require the Applicant to install the Subscriber Antenna at such location.
    - (iv) The SPGA may require the Applicant to perform reasonable mitigation of the visual impact of the proposed Subscriber Antenna and mounting apparatus.
3. **Public Safety Service Facilities.** Radio communications antennas and equipment installed exclusively for the use of municipal and/or state

communications for police, fire, EMS, highway and other public safety purposes may be installed by right if the antennas and mounting apparatus extend no more than 20 feet above an existing structure. Site Plan Review is required for such antenna facilities if new structures are proposed or if antennas and mounting apparatus will exceed 20 feet above the existing structure to which they are mounted.

4. **Other Personal, Business, Institutional or Unlicensed Facilities.**

a. **Applicability.** Antennas used for purposes other than those described in the previous subparagraphs of this Section 6.2.6 may be installed by right if they extend no more than 12 feet above the ground or the existing structure to which they are attached, provided that from any horizontal perspective the surface area of the antennas and related apparatus does not exceed 20 square feet. Antennas and related apparatus attached to an existing building or structure, or to a new Antenna Tower, may extend to the height limit of the zoning district in which they are located either by and/or exceed 20 square feet from any horizontal perspective, but not more than 40 square feet, subject to Site Plan Review. Among the criteria of Site Plan Review, the visual characteristics that will be visible from public ways and abutting properties shall be considered.

b. **Limitations.** This section 6.2.6.4 is not applicable to uses in conjunction with an educational, religious, or day care use that is partially excepted from local zoning regulation pursuant to G.L c. 40A s. 3. The requirements of Section 9.4 of this Zoning Bylaw remain applicable to the extent indicated in said Section 9.4.

**6.2.7. Severability.** The provisions of this section are severable. If any provision of this section is held invalid, the other provisions shall not be affected but shall remain in full force.

**6.3 GROWTH MANAGEMENT** [Added 2-12-1996, STM; Amended 7-17-2000; 11-13-2000, STM; 5-11-2002, ATM; 5-5-07 ATM, Art. 21; 5-10-08 ATM, Art. 27]

**6.3.1 Intent and Purpose.** This Section 6.3 is adopted pursuant to the provisions of Massachusetts General Laws, Chapter 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution, for the following purposes:

1. To ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year-to-year variations in the development rate;
2. To provide the Town with time to study the effect of growth on the municipality's infrastructure, character and municipal services;
3. To relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads, municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's