

## **ARTICLE 8: WIRELESS TELECOMMUNICATION FACILITIES** *(added 23 October 2000)*

### *8.0 Purpose:*

The purpose of this *Wireless Telecommunications Facilities* Bylaw is to protect the scenic, historic and natural resources of the Town of Conway while accommodating the wireless telecommunications needs of town residents and businesses. *(Amended 11 April 2005)*

### *8.1 Definitions:*

***Wireless Communications Facility*** (“WCF”) *refers to equipment (typically tower mounted) at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; and radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.*

***Monopole:*** *a self-supporting structure consisting of a single pole of structurally suitable materials used to support antennas and related equipment. This includes a “monopine” or similar monopoles camouflaged to resemble trees or other objects.*

***Small Cell Wireless Communications Facilities: (“SCWCF”)*** *are telecommunications facilities typically mounted on structures 50 feet or less in height including their antennas (as defined in FCC 47 CFR § 1.1320(d)); or*

*a) Are typically mounted on structures no more than 10 percent taller than other adjacent structures; or*

*b) Do not typically extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;*

*And, where each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR § 1.1320(d)), is typically no more than 3 cubic feet in volume;*

*And, where all other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is typically no more than 28 cubic feet in volume.*

*And, where the facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by 47 CFR, section 1.1307(b).*

This Bylaw does not apply to satellite dishes and antennas for residential use.  
(Amended 11 April 2005)

## **8.2 Wireless Communications Facility Requirements**

The Conway Planning Board shall issue Special Permits to a *Wireless Communications Facility* (“WCF”) developer, or duly licensed wireless carriers as defined in the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7)(ii), in Conway, providing the following:

Applicants shall:

- (a) Recognize the Conway Planning Board as the sole permit granting authority, for the town of Conway.
- (b) Demonstrate that existing WCF cannot accommodate applicant’s needs.
- ~~e) Be responsible for the cost of designing the entire wireless communication infrastructure for the entire Town of Conway.~~
- (c) Contact other wireless carriers, currently licensed in Massachusetts, and demonstrate having made sufficient provisions for their shared and cooperative use of WCF.
- (d) Demonstrate that proposed new WCF will:

(1) Maximize use for all currently licensed carriers.

(2) Protect the town’s aesthetic concerns by addressing *issues such as* color, camouflage *and screening of the WCF*, protection of ridge lines, preservation of on-site vegetation, and illumination — *all* to minimize visual impact.

(Amended 11 April 2005)

(3) Use existing structures where possible. (i.e., high tension tower, inside steeples, disguised on water towers, on public buildings), and where free-standing antennae are proposed, that only monopoles shall be used.

(4) Yield to the Conway Planning Board concerns of monopole height and number of monopoles. New towers shall be the minimum height necessary to comply with the purpose of this Bylaw, and not exceed 120 feet. (*Amended 11 April 2005*)

*(5) If mounted to an existing structure, be allowed to extend above the height of that structure if the Planning Board finds that the mount is appropriately camouflaged and/or screened from view, or the mount is otherwise compatible with the context of the site on which it is located; provided that no such mount may extend more than 12 feet above the building or structure.*

*(6) If a free-standing monopole, not be sited: within a distance equal to the height of the tower from a structure, or private or public ways that are not part of the WCF; or from a property line.*

*(7) Minimize fragmentation of open space areas and permanently protected open space when feasible and shall not have a significant harmful impact on native plant and animal species in the vicinity protected under the Massachusetts Endangered Species Act (M.G.L. c. 131A).*

(8) Comply with existing building codes and the Conway Protective Bylaw.

*(9) Not alter the character-defining features, distinctive construction methods, or original historic materials of any historic structure or of any building within a state, local or federal historic district. Any alteration made to a historic structure to accommodate a WCF shall be fully reversible.*

*(10) Be surrounded by a barrier sufficient to provide safety and security.*

*(11) Ensure equipment shelters and outdoor equipment for WCF shall, under normal operations, together not generate noise in excess of 50 decibels at the property line of any abutter — except for temporary emergencies.*

(e) Meet requests by the Town for access and antenna space to serve the needs of the Town's emergency service providers. (*Amended 11 April 2005*)

(f) Comply with requirements set forth by the Planning Board to demonstrate the visibility of any proposed new tower(s), e.g., by a balloon or mast raised at the location of the proposed WCF. *(Amended 11 April 2005)*

(g) Not post any advertising on proposed facilities.

(h) Pay for the cost of the Planning Board's communications consultants and attorneys to evaluate the application and provide any information requested by these agents.

(i) Post bond sufficient to cover the cost of seizing and dismantling the proposed facilities, if not in continuous active use, for said purpose, for a period of six months and recognize the Conway Planning Board's authority to order such.

(j) Provide, if applicable, a written statement that the proposed WCF complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

(k) *Ensure all equipment proposed for the WCF shall be authorized per the most recent revision of "FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation" or any other applicable FCC Guidelines and regulations, and provide annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Department of Public Health and the National Standards Institute and required maintenance shall be filed with the Building Inspector by the Special Permit Holder.*

*(l) Provide access to the site by a roadway that respects the natural terrain, does not appear as a scar on the landscape, and is approved by the Fire Chief to assure emergency access at all times. Designs must minimize erosion, construction on unstable soils and steep slopes.*

*(m) Submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the WCF, which plan will be binding on future owners.*

*(n) File an agreement by the town, property owner and applicant governing town access to the site in case of decommissioning.*

*(o) File an agreement signed by the town, property owner and applicant creating a no-cut zone around the WCF, per Planning Board order of conditions specific to the site.*

*All material modifications to a WCF made after issuance of the required building permit shall require approval by the Planning Board.*

### **8.3: Small Cell Wireless Communication Facility Requirements**

*Small cell wireless communication facilities (“SCWCF”) are a type of broadband infrastructure that typically takes the form of small antennas that are placed on existing infrastructure (both indoors and outdoors) and poles along public rights of way. These facilities help to compliment or stretch longer distance WCF coverage and add capacity in high demand areas. SCWCF typically have a range that varies from a few hundred feet to upwards of 1,000 feet, and operate at lower power. SCWCF, typically intended for 4G and 5G equipment, are not a substitute for macrocell sites.*

*Siting of SCWCF facilities is subject to Planning Board special permit approval and shall seek to:*

- (1) Prevent interference with the use of streets, sidewalks, alleys, roads, traffic light poles or other light poles, and other public ways and places;*
- (2) Prevent creation of visual and physical obstructions, or other conditions that are hazardous to vehicular and pedestrian traffic;*
- (3) Protect against environmental damage;*
- (4) Preserve the character of neighborhoods by preventing visual blight;*
- (5) Preserve the historical character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods that are in local historic districts or on the National or State Register of Historic Places.*
- (6) Minimize adverse visual and auditory impacts on abutters.*

### **8.4 Severability:**

If any portion of this Bylaw is determined to be invalid, it shall not render the rest of the bylaw invalid.

*Original adopted 23 October 2000; Approved by Attorney General 26 February 2001 Amended 11 April 2005*