

# **ZONING BYLAW AMENDMENTS**



**ADOPTED: FEBRUARY 12, 2001**

**ATTORNEY GENERAL APPROVAL: MAY 9, 2001**

## Article 10

### Final Version of By-law as Amended:

#### TOWN OF STOW ZONING BY-LAWS

##### Section 3.9

##### NON-CONFORMING USES AND STRUCTURES

- 3.9.5 An amendment to the Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such by-law required by section five, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. In cases involving construction, such construction shall be carried through to completion continuously and expeditiously. If such construction has ceased for a period of two or more years, it shall be considered abandoned, and exemptions from zoning bylaw amendments shall cease to apply.

## Article 12

### Final Version of By-law as Amended:

#### TOWN OF STOW ZONING BY-LAWS

##### Section 3.12

##### Wireless Communications Facilities Moratorium

### 3.12. Wireless Communications Facilities Moratorium

#### 3.12.1 Purpose

The purpose of the wireless communications facilities moratorium is to allow the Planning Board and a 5 member Wireless Subcommittee of Town residents, appointed by the Planning Board, sufficient time to undertake a comprehensive study and analysis with respect to regulating the use of land in the Town of Stow for wireless communications facilities and develop a comprehensive proposed zoning bylaw amendment regulating the location, height, size, appearance, screening, site standards, land structure relationships, buffer requirements and all other aspects of wireless communications facilities. Town Meeting believes it prudent and appropriate to have conducted a comprehensive study and analysis prior to adopting a zoning bylaw amendment regulating all aspects of wireless communications facilities.

#### 3.12.2 Justification

There have been significant changes in the past five years in the federal law regulating wireless communications facilities because of the enactment of the Telecommunications Act of 1996 by the United States Congress; and

The telecommunications field is experiencing rapidly evolving technology that offers alternatives to the erection of wireless communications towers such as the placement of antennas in and on buildings and other structures; and

The Town of Stow has a limited number of potential sites which would be suitable for the construction of wireless communications facilities, and a comprehensive study of the suitability of such sites was not done prior to the adoption of the existing provisions of the Zoning Bylaw relative to wireless communications facilities; and

The Town of Stow must take into account probable future development according to the plans and programs established by the Town, as may be amended, so as to prevent inappropriate development and to plan for the protection of the public health, safety and welfare of its present and future inhabitants; and

Recent federal and state case law has supported a municipality's ability to ensure the appropriate siting of telecommunication facilities, consistent with a municipality's

obligation under the Telecommunications Act and the municipality's police power obligations to protect public health, safety and welfare; and

The existing provisions of the Zoning Bylaws relative to wireless communications facilities need to be studied in order to give complete consideration to the appropriate limits on height of towers, separation between towers, setbacks for towers, facility testing and monitoring, so-called stealth technology, testing requirements for visual impact, the appropriate types of structures to be permitted, locations of structures and other factors; and

The Planning Board and the appointed Subcommittee has begun an earnest and comprehensive study of said subjects and factors but needs an additional six (6) months to complete its study and make recommendations to the Planning Board and Town Meeting.

Now, therefore, and consistent with the rationale provided above and consistent with the Town's police powers and coincident obligations, the Town adopts the following moratorium with respect to Wireless Communication Facilities.

### **3.12.3. Moratorium Provisions**

No wireless communications facility or structure appurtenant or accessory to a wireless communication facility shall be constructed, nor shall any building permit, special permit, variance or site plan approval decision for any such facility be issued in the Town of Stow for a period of six (6) months from the effective date of this Zoning Bylaw amendment.

### **3.12.4 Moratorium Expiration**

Unless extended, continued or modified by a subsequent action of Town Meeting, the provisions of this Moratorium shall expire six (6) months from its effective date or upon approval by the Attorney General and subsequent posting by the Town Clerk, of the Wireless Service Facility bylaw contained in Article 13 of the February 12, 2001 Special Town Meeting Warrant, whichever is sooner.

### **3.12.5. Exemptions**

The following types of wireless communications facilities are exempt from the provisions of Section 3.12.3:

#### **3.12.5.1**

Wireless communications facilities insofar as they qualify for exemptions from zoning regulation as set forth in G.L. c. 40A, Section 3, but only to the extent of the degree exempted by said G.L. c.40A, Section 3; and

#### **3.12.5.2**

Wireless communications facilities constructed by the Town of Stow for public safety communications purposes, if the applicant for said facility is an office, department or agent of the municipal government of the Town of Stow, Massachusetts.

**Article 13-A**

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 2.1.2**

2.1.2 Overlay Districts:

Flood Plain/Wetlands District  
Water Resource Protection District  
Wireless Service Facility District

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 2.3**

2.3 Location of Boundaries of Districts:

- 2.3.1 Where the boundary lines are shown upon said map within the STREET LINES or utility transportation lines, the center lines of such rights-of-way or lines shall be the boundary lines unless otherwise indicated.
- 2.3.2 Boundary lines located outside of such STREET LINES or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such transmission lines are the distance in feet of such boundary lines from the center line of such lines, such distances being measured at right angles to such lines unless otherwise indicated.
- 2.3.3 Where the boundary lines are shown approximately on the location of property or LOT lines, and the exact location of property, LOT or boundary lines is not indicated by means of dimensions shown in figures, then the property or LOT lines shall be the boundary lines in existence and as recorded at the time of the adoption of or amendment to the Zoning Map.
- 2.3.4 Contour lines used as boundary lines are the elevation above the datum mean sea level as indicated by the U. S. Geological Survey map dated 1952.
- 2.3.5 Soil association lines used as boundary lines are the soil association boundary lines as shown on the Soil Association Map, prepared by the U. S. Soil Conservation Service, dated 1964, on file with the Planning Board.
- 2.3.6 In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of said map.
- 2.3.7 Boundary lines outlining wetlands districts and delineating streams are the lines shown on the IEP (Interdisciplinary Environmental Planning) Wetlands Map,

Figure 13, with a scale of 1" = 800', Water Resource Study, Town of Stow, dated October 28, 1977.

- 2.3.8 Boundary lines outlining the flood plain of the Assabet River shall be the limits of the Standard Project Flood Modified delineated on the plan entitled "Flood Plains & Profiles", sheets 2, 3, and 4 of the Assabet River Technical Report, Department of the Army, Corps of Engineers, dated June, 1966 and on file with the Town Clerk. Boundary lines outlining the flood plain of Heath Hen Meadow Brook shall be the limits of the 100-year design storm flood plain delineated on the plan entitled "Flood Plain - Plan and Profile Heath Hen Meadow Brook, Stow, Massachusetts", by BSC Engineering, Inc., dated February 21, 1975, revised May 2, 1975, and on file with the Town Clerk. The flood Plain/Wetlands District shall also include all lands designated as Zone A, AO, AH or Zone A1-30 and A99 on the Town of Stow Flood Insurance Rate Map (FIRM), panel 250216-0005 dated August 1, 1979 as amended.
- 2.3.9 Where the limit of the Standard Project Flood Modified, referenced above, is used as a district boundary, the district boundary shall be determined by the elevations delineated on said plan.
- 2.3.10 The boundaries of the Water Resource Protection District are as delineated on a map entitled "Water Resource Protection District Map - Town of Stow, Massachusetts" dated May 1, 1987, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.
- 2.3.11 The boundaries of the Wireless Service Facility District are as delineated on a map entitled "Wireless Service Facility District - Town of Stow, Massachusetts" dated January 23, 2001, at a scale of 1 inch = 1,000 feet, on file in the office of the Town Clerk.

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS  
Sections 3.1, 3.2, and 3.3**

- 3.1 Recreation-Conservation District Uses  
This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, swamp land, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare.
- 3.1.1 Uses permitted, provided that no BUILDINGS are located within one hundred (100) feet of a district boundary line:
- 3.1.1.1 Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose;
  - 3.1.1.2 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur;
  - 3.1.1.3 Orchards, nurseries, forests and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries;
  - 3.1.1.4 Non-commercial recreation, including municipal, county or state parks and boat landings, but not an amusement park; and
  - 3.1.1.5 Display and sale or offering for sale, of farm produce from uses permitted in paragraphs b. and c. above, and products normally sold therewith, provided that:
    - 1. At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is from farm produce;
    - 2. No stand for such sale is located within twenty-five (25) feet of the street sideline; and
    - 3. Provision is made for off-street parking in accord with the Parking Section of this Bylaw.
  - 3.1.1.6 ACCESSORY BUILDINGS and USES.



3.1.2. Uses permitted subject to special permit, granted by the Planning Board, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in the parking section of this Bylaw:

- 3.1.2.1 Restaurants, provided that their use is in connection with a permitted use, and provided that no such BUILDING be located within one hundred (100) feet of a district boundary line;
- 3.1.2.2 Country clubs or other MEMBERSHIP CLUBS;
- 3.1.2.3 Commercial picnic areas and swimming areas;
- 3.1.2.4 Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp BUILDING or site for each 3500 square feet of grass area;
- 3.1.2.5 Recreation, including golf courses, ski areas and tows, MARINAS and commercial boat landings, but not an amusement park; and

### 3.2 Residential District Uses

The Residential District is intended as a district for typical rural, single-family residential and non-commercial uses.

#### 3.2.1 Uses permitted:

- 3.2.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;
- 3.2.1.2 Single-family detached BUILDINGS;
- 3.2.1.3 BOARDING HOUSES or ROOMING HOUSES for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner;
- 3.2.1.4 Playgrounds where approved as part of a subdivision plan;
- 3.2.1.5 Keeping of pets and animals for use of the residents of the premises;
- 3.2.1.6 Storage of farm vehicles, and, subject to the provisions of Section 7.7.5.1, school buses;
- 3.2.1.7 Professional office or home occupation, provided that:
  - 1. The profession or home occupation is conducted by a resident of the premises;
  - 2. The use is clearly incidental to and secondary to the use as a residence;
  - 3. There is no exterior evidence of a non-residential use of the premises except as otherwise permitted in this section;
  - 4. No additional noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which is discernible from other properties;

5. There is no public display of goods or wares, and there is no additional exterior storage of material or equipment;
  6. One SIGN, not exceeding three (3) square feet, is permitted subject to the provisions of this Bylaw regulating SIGNS;
  7. There is no on-street parking permitted for any employee or visitor in connection with such use; and
  8. The use does not present a safety or health hazard to the public;
- 3.2.1.8 ACCESSORY USES and BUILDINGS, including such normal ACCESSORY USES as PRIVATE GARAGES, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses;
- 3.2.1.9 BED AND BREAKFAST HOME, provided that off-street parking, one parking space per guest room, is available;
- 3.2.1.10 CHILD CARE FACILITY, provided that the facility complies with the standards set forth in the Table of Dimensional Requirements and the following standards:
1. Minimum OPEN SPACE, including outdoor play areas 35%;
  2. Maximum NET FLOOR AREA of 4,000 square feet.
- 3.2.1.11 FAMILY DAY CARE HOMES if such FAMILY DAY CARE HOME is accessory to the residential use.
- 3.2.2 Uses permitted subject to special permit, granted by the Board of Appeals:
- 3.2.2.1 Private schools and colleges, with or without dormitory facilities, including nursery and kindergarten schools, dance and music studios, provided adequate parking areas are provided;
  - 3.2.2.2 Playgrounds, unless approved as part of a subdivision plan;
  - 3.2.2.3 Conversion of a one-family DWELLING, existing at the time of the original adoption of this section of the Bylaw, into a two-family DWELLING, provided that the exterior appearance is not altered and that there is sufficient floor and ground area above the minimum requirements as provided in Section 4.3 and 4.4;
  - 3.2.2.4 Non-commercial recreation, including municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), MARINAS, landings, and other non-commercial recreation use;
  - 3.2.2.5 Veterinary hospitals, stables and kennels, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line;
  - 3.2.2.6 BED AND BREAKFAST ESTABLISHMENT, provided that off-street parking, one parking space per guest room, is available; and

- 3.2.2.7 Nursing homes.
- 3.2.3 Uses permitted by special permit, granted by the Planning Board:
  - 3.2.3.1 ACCESSORY APARTMENTS in a Residential District as permitted in Section 8.1;
  - 3.2.3.2 Duplex Residential Uses in a Residential District as permitted in Section 8.2;
  - 3.2.3.3 Cross-Country Ski Uses in the Residential District as permitted in Section 8.3;
  - 3.2.3.4 Golf Course Uses in the Residential District as permitted in Section 8.4; and
- 3.3 Business District Uses
 

The Business District is intended to meet local needs for retail goods and services primarily within a BUILDING.

  - 3.3.1 Uses Permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:
    - 3.3.1.1 TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
    - 3.3.1.2 Business or professional offices;
    - 3.3.1.3 Retail stores, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING;
    - 3.3.1.4 CHILD CARE FACILITY; and
  - 3.3.2 Uses Permitted, subject to special permit granted by the Planning Board:
    - 3.3.2.1 Retail stores or service establishments, the principal activity of which shall be the offering of goods or services at retail within the BUILDING;
    - 3.3.2.2 Business or professional offices, banks, U. S. Post Office;
    - 3.3.2.3 Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment, provided there is no outside display or storage;
    - 3.3.2.4 Restaurants or other places for serving food within the BUILDING. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant BUILDING or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle;
    - 3.3.2.5 Parking areas for use of employees, customers or visitors, subject to the requirements of the Parking Section of this Bylaw;
    - 3.3.2.6 ACCESSORY BUILDINGS and USES which are customary and incidental to the uses permitted;

- 3.3.2.7 SIGNS as provided in the Sign Section of this Bylaw; and
  - 3.3.2.8 ASSISTED LIVING RESIDENCE.
- 3.3.3 Uses permitted, subject to a special permit, granted by the Board of Appeals, which shall be based on satisfaction that said use will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness:
- 3.3.3.1 HOTELS, MOTELS, TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
  - 3.3.3.2 Theatres, bowling alleys, skating rinks, clubs or other places of amusement or assembly which occur within the BUILDING; and
  - 3.3.3.3 Gasoline service stations, garages or repair shops, provided that:
    1. Repairs shall be limited to minor repairs and adjustments, with all repairs occurring within a BUILDING;
    2. There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or required in the operation of the service station, garage or repair shop; and
    3. The area used to service, repair or store vehicles shall be paved and provided with traps to catch and retain (until removal in accordance with an approved maintenance plan) any grease, oil or other fluids.
    4. There shall be an area at least twenty (20) feet deep between the STREET LINE and the paved area which shall be separated from the STREET by a curb, and which shall be seeded and landscaped, and maintained as such, except at an entrance/exit which shall be at least twenty (20) feet but no more than thirty (30) feet wide, and at least fifty (50) feet apart, and further provided that there shall be only two curb cuts for each one hundred and fifty (150) feet of street frontage.

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 3.9.1**

- 3.9.1 Other than Wireless Service Facilities, which may not be altered or extended unless specifically allowed in Section 3.11 of the Bylaw, no pre-existing, NON-CONFORMING USES or STRUCTURES may be extended or altered except upon application for a special permit and a finding by the Board of Appeals that such change is not substantially more detrimental to the neighborhood than the existing non-conforming use. The extent of the NON-CONFORMING USE of a STRUCTURE may be increased up to one hundred (100) percent of the FLOOR AREA and the extent of the NON-CONFORMING USE of the land may be increased up to twenty-five (25) percent of the ground area. These limits may be further extended upon special permit granted by the Board of Appeals.

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 3.10**

3.10 Table of Principal Uses

3.10.1 Provisions Applicable to Table of Principal Uses - No land, STRUCTURE or BUILDING shall be used except for the purposes permitted in the district as set forth in this Bylaw and further indicated on the Table of Principal Uses. Each use set forth in the principal use column shall be subject to any conditions or limitations that are set forth in this Bylaw and in the Table of Principal uses. If there is a discrepancy between the Table of Principal Uses and the text of this Bylaw, the provisions set forth in the text of this Bylaw shall take precedent.

3.10.1.1 A use listed in the Table of Principal Uses is permitted in any district denoted by the letter "Y" and is not permitted in any district denoted by the letter "N". If denoted by the letters "SPA", "SPP" or "SPS" the use is permitted only if the designated Special Permit Granting Authority grants a special permit as provided herein and makes such specific findings as may be required by the Bylaw in respect of such use. For the purposes of the Table of Principal Uses. "SPA" shall mean a special permit authorized by the Board of Appeals; "SPP" shall mean a special permit authorized by the Panning Board; and "SPS" shall mean a special permit authorized by the Board of Selectmen.

3.10.1.2 Site plan approval in accordance with Section 9.3 is required for a use where the letter "R" appears and is not required wither the letters"NR" appear.

3.10.1.3 A special permit is required for any increase in intensity of a site or use for which a special permit is required, except as to lawful pre-existing NON-CONFORMING USES.

**Table of Principal Uses**

All Principal Uses listed in this Table are subject to provisions in corresponding Section 3.1, Section 5.1 and Section 5.2.

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
<b><u>General Uses</u></b>									
Agriculture	Y (4)	N	Y	Y	Y	Y	Y	Y	NR
Conservation	Y	Y (5)	Y	Y	Y	Y	Y	Y	NR
Recreation	SPA (4)	N	N	SPP	N	SPP	SPA	SPP	(3)
<b><u>Residential Uses</u></b>									
Single Family DWELLING	Y (4)	N	Y	N	N	N	N	N	NR
Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7)	N	SPP (7)	N	N	N	N	N	(3)
Duplex DWELLINGS	SPP (4)	N	N	N	N	N	N	N	(3)
Conversion to 2 Family DWELLING	SPA (4)	N	N	N	N	N	N	N	(3)
Combined Residence/ Home Occupation	Y (4)	N	Y	N	N	N	N	N	NR
Bed & Breakfast Home	Y (4)	SPA (1)	N	N	SPP (3)	N	N	N	R
Bed & Breakfast Home or Establishment	SPA (1) (4)	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Boarding House or Rooming House	Y (4)	N	Y	N	N	N	N	N	R
Playgrounds	SPA (4)	N	N	N	N	N	N	N	(3)
Conservation Areas, Farming and Horticulture, Orchards, Nurseries, Forests, Tree Farms, Sale of Farm Produce	Y (4)	N	Y	Y	Y	Y	Y	Y	R
Storage of Farm Vehicles	Y (4)	N	N	N	N	N	N	N	NR
ACCESSORY BUILDINGS & Uses	Y (4)	Y	Y	SPP	SPP	Y	SPA	SPP	(3)
Hammerhead LOTS	SPP (4)	N	N	N	N	N	N	N	(3)

Table of Principal Uses (Continued)

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	Flood/Plain Wetlands	Refuse Disposal	Site Plan Approval
ASSISTED LIVING RESIDENCE	N	SPP (9)	N	N	N	N	N	N	(3)
Common Drives	Y	N	N	N	N	N	N	N	R
<b><u>Institutional Uses</u></b>									
CHILD CARE FACILITY	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
FAMILY DAY CARE HOME	Y (6) (4)	N	Y	N	N	N	N	N	R
Private Schools & Colleges, Dance & Music Studios	SPA (4)	N	N	N	N	N	N	N	(3)
Nursing Homes	SPA (4)	N	N	N	N	N	N	N	(3)
Day Camps, Overnight Camps, and Camp Sites	N	N	N	SPP	N	SPP	N	SPP	(3)
Municipal	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Public Service Corporation	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Religious	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Educational (Non-Profit)	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Wireless Service Facilities	SPP (8)	N	N	SPP (8)	SPP (8)	SPP (8)	N	SPP (8)	(3)
<b><u>Business &amp; Commercial Uses</u></b>									
TOURIST HOMES, or LODGING HOUSES	N	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Business or Professional Offices	N	SPP (1)	SPP	SPP (2)	SPP (1)	N	N	SPP (2)	(3)
Retail Stores or Service Establishments	N	SPP (1)	SPP	N	SPP (1)	N	N	N	(3)
Banks	N	SPP	SPP	N	SPP	N	N	N	(3)
U.S. Post Offices	N	SPP	SPP	N	N	N	N	N	(3)
Salesrooms for Automobiles, Bicycles, Farm Implements, Boats, and Similar Equipment	N	SPP	N	N	SPP (1)	N	N	N	(3)



**Table of Principal Uses (Continued)**

<b>Principal Uses</b>	<b>Residential</b>	<b>Business</b>	<b>Compact Business</b>	<b>Industrial</b>	<b>Commercial</b>	<b>Recreation Conservation</b>	<b>FloodPlain Wetlands</b>	<b>Refuse Disposal</b>	<b>Site Plan Approval</b>
Restaurants	N	SPP	N	SPP	SPP	SPP	N	SPP	(3)
Country Clubs or Other MEMBERSHIP CLUBS	N	SPA	N	SPP	N	SPP	N	SPP	(3)
Golf Courses	SPP (4)	N	N	SPP	N	SPP	N	SPP	(3)
Ski Areas, MARINAS & Boat Landings	SPA(4)	N	N	SPP	N	SPP	N	SPP	(3)
Cross Country Ski Areas	SPP (4)	N	N	N	N	N	N	N	(3)
Parking Areas for Employees, Customers or Visitors	N	SPP	SPP	SPP	SPP	N	N	SPP	(3)
HOTELS MOTELS	N	SPA	N	N	N	N	N	N	(3)
Theaters, Bowling Alleys, Skating Rinks, Clubs or Assem-bly within the BUILDING	N	SPA	N	N	N	N	N	N	(3)
Funeral Home, Mortuaries or Crematories	N	N	N	N	SPP	N	N	N	(3)
Veterinary Hospitals, Stables & Kennels, Raising or Breeding of Animals for Sale, and Boarding Animals	SPA (4)	N	N	N	N	N	N	N	(3)
Printing, Publishing or Commercial Reproduction or Photo Pro-cessing Establishments, Offices, Medical or Dental Labs, and Research Laboratories	N	N	N	N	SPP (2)	N	N	N	(3)
Building Materials Salesrooms & Yards, Contractor's Yards, Wholesale Distribution Plants, Storage Warehouses.	N	N	N	N	SPP	N	N	N	(3)
Gasoline Service Stations, Garages or Repair Shops	N	SPA	N	N	N	N	N	N	(3)
Utility Structures, Passenger Depots and Terminals	N	N	N	N	SPP	N	N	N	(3)
Screened Storage	N	N	N	SPP	SPP	N	N	SPP	(3)

**Table of Principal Uses (Continued)**

<b>Principal Uses</b>	<b>Residential</b>	<b>Business</b>	<b>Compact Business</b>	<b>Industrial</b>	<b>Commercial</b>	<b>Recreation Conservation</b>	<b>FloodPlain Wetlands</b>	<b>Refuse Disposal</b>	<b>Site Plan Approval</b>
Cafeterias for Employees	N	N	N	SPP	N	N	N	SPP	(3)
<b><u>Industrial Uses</u></b>									
Manufacturing Enterprises	N	N	N	SPP	N	N	N	SPP	(3)
Research Laboratories with Incidental Assembly or Manufacture	N	N	N	SPP (2)	N	N	N	SPP (2)	(3)
Sanitary Landfill	N	N	N	N	N	N	N	SPS	(3)
Refuse Transfer Station	N	N	N	N	N	N	N	SPS	(3)
Refuse Incinerator	N	N	N	N	N	N	N	SPS	(3)

- (1) Uses permitted by right provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.
  - (2) Uses permitted by right provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.
  - (3) All uses requiring a Special Permit are subject to Site Plan Approval requirements as part of the special permit process.
  - (4) Refer to Section 7.3.3.3 of this Bylaw to determine parking requirements for uses permitted in the Residential District.
  - (5) Allowed in accordance with the provisions of M.G.L., Ch. 40A, Section 3.
  - (6) Allowed as accessory use only.
  - (7) Allowed without special permit in accordance with Section 8.1.2 of this Bylaw
  - (8) Wireless Service Facilities shall be allowed by special permit only on land located in the Wireless Service Facility District.
  - (9) The total number of ASSISTED LIVING UNITS shall not exceed 6% of the total single family DWELLING UNITS in Stow.
- Prohibited Uses - All uses not specifically named in the text of the bylaw are prohibited.

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 3.11**

**3.11 Wireless Service Facility**

**3.11.1 Objectives**

This Section permits the construction and use of Wireless Service Facilities within Stow, regulates their impacts and accommodates their location and use in a manner intended to:

- A. Protect the scenic, historic, natural and man-made resources of the town;
- B. Preserve the general safety, welfare and quality of life in the community;
- C. Protect property values;
- D. Protect the environment;
- E. Guide sound development and encourage the most appropriate use of the land;
- F. Encourage the use of certain existing Towers and structures;
- G. Limit the total number and height of such facilities to what is essential to meet the need;
- H. Promote shared use of facilities where appropriate to reduce the need for new facilities, and
- I. Comply with the Communication Act of 1936 as amended by the Federal Telecommunications Act of 1996.

**3.11.2 Applicability**

- A. No Wireless Service Facility shall be ERECTED or installed except in compliance with the provisions of this Section.
- B. The requirements of this section shall apply to all Wireless Service Facilities, except where Federal or State Law or Regulations exempt certain users or uses from all or portions of the provisions of this section.
- C. No Wireless Service Facility shall be considered exempt from this section by sharing a MOUNT or FACILITY SITE with such exempt uses.

**3.11.3 Definitions**

In addition to the terms defined in Section 1.3, Definitions, of this Bylaw, the following words, which are technical terms applying to Wireless Service Facilities, shall have the

meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 1.3, Definitions.

- A. **ACT:** The Federal Telecommunications Act of 1996.
- B. **ABOVE GROUND LEVEL (AGL):** A measurement of height from the natural grade of a site, prior to disturbance, to the highest point of a structure with appurtenances.
- C. **ANTENNA:** A device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).
- D. **APPLICANT:** The applicant or co-applicant for any special permit or site plan approval for a Wireless Service Facility shall be a provider of **WIRELESS SERVICES**, as defined herein, or other entity that has authority from the FCC to provide **WIRELESS SERVICES** for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.
- E. **AVAILABLE SPACE:** The space on a Tower or other structure to which **ANTENNAS** of a Carrier are able to fit structurally and to be technologically feasible.
- F. **CAMOUFLAGED:** A Wireless Service Facility or components that are disguised, painted, colored or hidden by a purpose-built decoy that is made part of an existing or proposed structure or made to resemble an architectural feature of the building or structure on which it is placed.
- G. **CARRIER:** An entity that provides Wireless Services, as defined herein, to individuals, businesses or institutions. Synonymous with Wireless Service Provider.
- H. **CHANNEL:** One of the assigned sub bands of radio frequencies as defined in the ACT, licensed to the **CARRIER** for wireless service use.
- I. **CO-LOCATION:** The use of a single **MOUNT** by more than one **CARRIER** and/or several **MOUNTS** on a building or structure by more than one **CARRIER**. Each service co-located at a site is a separate Wireless Service Facility. **CARRIERS** operating more than one service at a site will be considered to have more than one facility co-located at the site.
- J. **CONCEALED:** A Wireless Service Facility or components are **CONCEALED** when they are within parts of a building or other structure that was built for another purpose and that is not visible from outside the structure.
- K. **ENVIRONMENTAL ASSESSMENT:** An EA is the document required by the National Environmental Policy Act (NEPA) when a Wireless Service Facility is placed in certain designated areas.
- L. **EQUIPMENT SHELTER:** An enclosed structure, cabinet, shed or box at the base of the Mount within which are housed batteries, generators and electrical equipment.
- M. **FACILITY SITE:** A lot or parcel, or any part thereof, that is owned or leased by one or more **CARRIERS** and upon which one or more Wireless Service Facility(s) and required landscaping are located.

- N. **MODIFICATION OF AN EXISTING FACILITY:** Any material change or proposed change to a facility including but not limited to power input or output, number of ANTENNAS, change in ANTENNA type or model, repositioning of ANTENNA(s), or change in number of channels per ANTENNA above the maximum number approved under an existing permit or special permit.
- O. **MONITORING:** The measurement, by the use of instruments away from the ANTENNA, including measurements at the lot/leasehold boundary, of the electromagnetic radiation from a site as a whole, or from individual Wireless Service Facilities, Towers, ANTENNAS, or associated power supplies and generators.
- P. **MONOPOLE:** A single, self-supporting vertical pole with no guy wires, and hollow such that the ANTENNA cables are CONCEALED within the structure.
- Q. **MOUNT:** The structure or surface upon which ANTENNAS are Mounted, including the following four types of Mounts:
1. **Roof-mount.** A mount attached to a building roof to which ANTENNAS are mounted.
  2. **Side-mount.** A mount attached to the side or other non-roof portion of a building to which ANTENNAS are mounted.
  3. **Ground-mount.** A mount anchored into the ground to which ANTENNAS are mounted. Ground mounts include purpose built structures such as poles, bases, posts, MONOPOLES, and towers.
  4. **Structure-mount.** A mount, attached to a structure other than a building, to which ANTENNAS are mounted.
- In the absence of a separate structural component to hold an ANTENNA, the ANTENNA shall be considered to be its own ground, roof, side or structure mount.
- R. **RADIOFREQUENCY ENERGY (RFE):** The electromagnetic emissions from 9 kHz to 3,000 GHz.
- S. **SECURITY BARRIER:** A locked fence, a wall or berm that completely seals an area from unauthorized entry or trespass.
- T. **TOWER:** A ground or building MOUNT that is significantly taller than it is wide, built for the purpose of supporting wireless service transmitting, and/or receiving, ANTENNAS and/or related equipment. Components of the Wireless Service Facility used only to attach, contain, or support other elements of that facility are excluded from this definition provided such components are not integrated with, or attached directly to, the tower structure.
- U. **WIRELESS SERVICES:** Commercial mobile radio services, unlicensed Wireless Services, and common Carrier wireless exchange access services, as defined in the ACT. These services include, but are not limited to, cellular services, personal communication services (PCS), specialized mobile radio services, and paging services.
- V. **WIRELESS SERVICE FACILITY:** A complete system operated by one entity on one communications service that is installed at one site, which system contains ANTENNAS, transmission and/or reception equipment, and related equipment for the

purpose of supporting wireless communications. A site may contain one or more Wireless Service Facilities.

#### **3.11.4 Location of Facilities, Priorities**

- 3.11.4.1 Wireless Service Facilities shall only be permitted by Special Permit from the Planning Board, acting as the Special Permit Granting Authority, in accordance with MGL Ch. 40A, s.9 on land located in the Wireless Service Facility District.
- 3.11.4.2 APPLICANTS shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and make a showing that demonstrates that the alternatives are singly or in aggregate insufficient to provide the necessary coverage and/or singly or in aggregate more visible or otherwise have more of a detrimental impact on the community than use of the proposed location. A WIRELESS SERVICE FACILITY, ANTENNAS and MOUNTS shall be permitted according to the following priorities: (a. being the highest priority)
- a. on property occupied by the state Dept. of Fire Services, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force;
  - b. within an existing structure, CONCEALED;
  - c. CAMOUFLAGED on an existing structure, such as but not limited to an existing electric transmission Tower or an existing radio Antenna, a water Tower or building provided that the installation of the new facility does not increase the height of the existing structure, and of a compatible design;
  - d. on an existing structure and not to increase the height of the structure by more than 10 feet. In no case shall the height exceed 100 feet AGL except on land occupied by the state Dept. of Fire Services, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force;
  - e. co-located with existing Wireless Service Facilities located within the WIRELESS SERVICE FACILITY District where deemed appropriate by the Special Permit Granting Authority;
  - f. co-located on a new MOUNT within the Wireless Service Facility District as deemed appropriate by the Special Permit Granting Authority, and
  - g. if adequately demonstrated to the Planning Board in the special permit process that each of the above types of locations is not feasible, erection of a new facility that complies with the requirements of this section and where visual impact can be eliminated or minimized and mitigated to the maximum extent feasible, including height reductions, camouflaging and other means.

#### **3.11.5 Wireless Service Facility District**

This district shall be an overlay district and shall include all parcels of land located in the Industrial and Refuse Disposal Districts and on certain parcels of land in the Commercial and Residential Districts, and on land occupied by the state Dept. of Fire Services, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force as depicted on a map dated January 23, 2001 and entitled "Wireless Service Facility District".

#### **3.11.6 Special Permit**

Any new WIRELESS SERVICE FACILITY and any proposed modification of a WIRELESS SERVICE FACILITY shall be allowed only by special permit from the Planning Board as the Special Permit Granting Authority in accordance with MGL Ch. 40A, s.9, subject to the following requirements, conditions and limitations.

### **3.11.7 Dimensional, Screening and Other Site Development Requirements**

#### **3.11.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height**

- a. Except on land occupied by the state fire-fighting academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.
- b. On land occupied by the state fire-fighting academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.
- c. The height of all-wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES FACILITY, the height and density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual and economic impacts to residential properties off-site, and proposals to screen the visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.
- d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL and shall not result in adverse visual or economic impact.
- e. No waiver from these height limitations shall be granted except by a vote of Town Meeting.

#### **3.11.7.2 Setbacks – No TOWER, MONOPOLE, or WIRELESS SERVICE FACILITY shall be located within:**

- a. 1000 feet, measured on a horizontal plane, to all existing residential Buildings and schools or the footprint of a future residential building for which a Building Permit has been issued, except those residential buildings located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use;
- b. 1000 feet, measured on a horizontal plane, to all existing municipal buildings, except those located on the LOT upon which the WIRELESS SERVICE

FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use; and

- c. 200 feet from existing non-residential buildings except those located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed.
- d. Any WIRELESS SERVICE FACILITY shall comply with front, side, and rear YARD dimensional requirements of Section 4.4, Table of Dimensional Requirements, except that such dimensional requirements may be altered by the Planning Board if it finds that a substantially better design will result. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed WIRELESS SERVICE FACILITY.

3.11.7.3 Shelters and Accessory Buildings - EQUIPMENT SHELTERS for Wireless Service Facilities shall be designed to be consistent with one of the following design standards:

- a. EQUIPMENT SHELTERS shall be located in underground vaults; or
- b. EQUIPMENT SHELTERS shall be designed to be consistent with traditional New England architectural styles and materials. Alternative materials may be used provided that the Special Permit Granting Authority finds the materials to be consistent with character of the neighborhood; or
- c. EQUIPMENT SHELTERS shall be screened behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Special Permit Granting Authority shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

3.11.7.4 Security, Signs

- a. All ground Mounted Wireless Service Facilities shall be surrounded by a SECURITY BARRIER to ensure they are completely secure from trespass or vandalism.
- b. A one square foot sign shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a 24-hour emergency telephone number(s).
- c. Advertising on any ANTENNA, TOWER, fencing, accessory building or communication EQUIPMENT SHELTER is prohibited.

3.11.7.5 Lighting - No exterior night lighting of TOWERS or the WIRELESS SERVICE FACILITY is permitted except for manually operated low intensity security lights installed at or near ground level for use when operating personnel are on site.

3.11.7.6 Historic Buildings and Structures

- a. Any WIRELESS SERVICE FACILITY located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building, or
- b. Any alteration made to an historic structure to accommodate a WIRELESS SERVICE FACILITY shall be fully reversible.

3.11.7.7 Environmental Standards

- a. Existing vegetation shall be preserved to the maximum extent practicable.



- b. Electric utilities and all network interconnections from the WIRELESS SERVICE FACILITY via land lines shall be via underground lines.
- c. No hazardous waste shall be discharged on the site of any WIRELESS SERVICE FACILITY. If any hazardous materials are to be stored or used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- d. Storage of any materials other than those customarily used at the site shall be prohibited.

3.11.7.8 Noise - Ground-Mounted, Roof-Mounted or side-Mounted equipment for WIRELESS SERVICE FACILITY shall not generate acoustic noise in excess of those levels allowed by the Massachusetts Department of Environmental Protection noise regulation, 310 CMR 7.10 or its successor.

3.11.7.9 RADIOFREQUENCY ENERGY (RFE) Standards - All equipment proposed for a WIRELESS SERVICE FACILITY shall be evaluated for safety compliance per the *FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation* or their successor.

**3.11.8 New WIRELESS SERVICE FACILITY** - Any new freestanding MOUNT in the Wireless Service Facility District shall be of a MONOPOLE construction with internal ANTENNAS designed to be visually unobtrusive or with surface MOUNT ANTENNAS as determined to be appropriate for the circumstances by the Planning Board or other less obtrusive design as it becomes available.

### **3.11.9 Justification of Need**

3.11.9.1 Coverage Area - The APPLICANT shall provide a map of the geographic area in which the proposed facility will provide Wireless Service. Said map shall be provided as a colored hard copy and in a digital format that is compatible with the Town of Stow Geographic Information System program(s). The APPLICANT shall provide documentation of the criteria and methodology employed to establish coverage area.

3.11.9.2 Adequacy of Other FACILITY SITES and Controlled by the APPLICANT - The APPLICANT shall provide written documentation of any FACILITY SITES in the town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these FACILITY SITES do not already provide, or do not have the potential to provide WIRELESS SERVICES by site adjustment.

3.11.9.3 Capacity of Existing FACILITY SITES and Potential FACILITY SITES - The APPLICANT shall provide written documentation that it has examined all FACILITY SITES located in the town and in abutting towns or cities in which the APPLICANT has no legal or equitable interest to determine whether those existing facilities can be used to provide Wireless Service. In addition, the APPLICANT shall provide written documentation that it has examined existing commercial Buildings and Structures for opportunities to construct roof and side MOUNTS, or otherwise demonstrate that such a facility is not technologically feasible as a potential FACILITY SITE. The

APPLICANT shall demonstrate that potential FACILITY SITES will not provide similar coverage to the APPLICANT'S confirmed Co-locators.

- 3.11.9.4 Wireless Service Through the Least Disruptive Means –The APPLICANT shall provide written documentation that the proposed facility uses the least disruptive technology (through the creative use technology and materials) in which it can provide WIRELESS SERVICES in conjunction with all FACILITY SITES listed above.

### **3.11.10 Application**

- 3.11.10.1 APPLICANT - The APPLICANT or co-APPLICANT for any special permit or site plan approval for a WIRELESS SERVICE FACILITY shall be a CARRIER that has authority from the FCC to provide WIRELESS SERVICES for the facility being proposed. The APPLICANT shall submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.
- 3.11.10.2 Pre-Application Conference - Prior to the submission of an application for a Special Permit under this bylaw provision, the APPLICANT is strongly encouraged to meet with the Special Permit Granting Authority at a public meeting to discuss the proposed WIRELESS SERVICE FACILITY in general terms and to clarify the filing requirements.
- 3.11.10.3 Pre-Application Filing Requirements - The purpose of the conference is to inform the Special Permit Granting Authority as to the preliminary nature of the proposed WIRELESS SERVICE FACILITY. As such, no formal filings are required for the pre-application conference. However, the APPLICANT is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Special Permit Granting Authority of the location of the proposed facility, as well as its scale and overall design.
- 3.11.10.4 Demonstrated Co-Locators – If proposing CO-LOCATION, the APPLICANT shall submit written proof of commitment.

### **3.11.11 WIRELESS SERVICE FACILITY Regulations**

The Special Permit Granting Authority shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section. At a minimum, such regulations shall require the APPLICANT to provide the following materials with the application:

- a. A town-wide map showing all existing Wireless Service Facilities in Stow and those within two miles of its corporate limits, including those recently approved but not constructed.
- b. The proposed locations of all future Wireless Service Facilities known to be under consideration in the Town on a Town-wide map for this CARRIER.
- c. An appraisal, prepared by a state-certified real estate appraiser, of the economic impact on property values within view of the proposed facility, based upon the impact of substantially similar wireless facilities in substantially similar communities. For the purposes of this paragraph, substantially similar communities shall include communities from the Commonwealth of Massachusetts, with similar market demand, population density and rural character.
- d. The results of a drive test conducted by the APPLICANT and based on the pre-application conference.

- e. Sight lines, photographs and other visual materials as described below:
- 1) Sight line representation. A sight line representation shall be drawn from any public road within 1500 feet and the closest facade of each residential building (viewpoint) within 1500 feet to the highest point (visible point) of the WIRELESS SERVICE FACILITY. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and Buildings. In the event there is only one (or more) residential building within 1500 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.
  - 2) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit.
  - 3) Proposed (after condition). Each of the existing condition photographs shall be based on crane or balloon tests and shall have the proposed WIRELESS SERVICE FACILITY superimposed on it to show what will be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit if the proposed WIRELESS SERVICE FACILITY is built. Original photos of crane or balloon test shall be supplied to verify authenticity of the digital simulations.
  - 4) The APPLICANT shall submit a map of the town that has been annotated with the data collected during the crane or balloon test. The roadways, determined by the Planning Board to be relevant to the requested special permit, shall be highlighted in one color, the points where the crane or balloon was visible at all shall be highlighted in another color, and the points where there is an unscreened view of the crane or balloon shall be highlighted in a third color. The APPLICANT shall designate on the map the location from which the photographs were taken.
  - 5) The APPLICANT shall submit a map showing the broadcast footprints coverage areas created by varying antenna heights at 50, 75, and 100 feet AGL and at 150 feet AGL where the latter height is permitted. The map shall indicate the different signal strengths and the parameters used to arrive at the data. An explanation of the reasons for selecting the signal strength(s) used to characterize coverage shall be provided. As a minimum the following shall be provided with each map: frequency in MHz, transmitter power output per channel, transmit and receive antenna gains, line loss and amplifier gains (if any), effective radiated power per channel in watts, all quality-of-service assumptions used (including factors for attenuation through foliage and/or structures), signal strength required to meet the stated quality-of-service assumptions, and identification of the computer software used to generate the footprints. The applicant shall also include, on a separate map of the same scale, signal-strength footprints indicating any existing coverage within the Town of Stow from any applicant-owned or -operated sites in Stow and any existing coverage from adjacent towns that meet the stated quality-of-service assumptions.

- f) Within 21 days of filing an application for a Special Permit, the APPLICANT shall arrange for a crane or balloon test, satisfactory to the Planning Board, at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in two newspapers of general circulation in the Town at least 14 days, but not more than 28 days prior to the test. Notification of the test shall be mailed to all postal patrons in Stow. Notification shall also be sent via certified mail with return receipt requested to all parties in interest. The test shall illustrate the proposed height and each subsequent ten-foot interval downward to the vegetation line, or ground, whichever is earlier.
- g) Noise Filing Requirements: The APPLICANT shall provide a statement demonstrating the impact of the proposed facility on the acoustic noise environment in the vicinity of the facility. The following conditions shall apply:
- 1) Existing ambient conditions: characterize existing acoustic noise conditions in the area.
  - 2) Existing plus proposed conditions: characterize acoustic noise produced by the proposed WIRELESS SERVICE FACILITY in relation to the existing ambient conditions as it would affect nearby parcels.
  - 3) If the acoustic noise levels produced by the proposed WIRELESS SERVICE FACILITY are expected to approach or exceed the Massachusetts Department of Environmental Protection requirements, the Planning Board may require a more detailed analysis and/or field measurements prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate.

- h) RADIOFREQUENCY ENERGY (RFE) Filing Requirements: The APPLICANT shall provide a statement listing the existing and maximum future projected levels of RFE from the proposed WIRELESS SERVICE FACILITY, for the following situations:
- 1) Existing, or ambient: characterize existing RFE sources in the area;
  - 2) Existing plus proposed wireless service facilities: Characterize RFE from the proposed WIRELESS SERVICE FACILITY plus the existing RFE environment and estimated cumulative RFE impacts, and
  - 3) Certification, signed by a Radio Frequency (RF) engineer, experienced in the field of evaluating RF standards, stating that RFE characterizations are accurate and meet FCC Guidelines as specified in the RFE Standards sub-section of this Bylaw.

### **3.11.12 Approval Criteria**

- 3.11.12.1 A special permit shall be granted under this section only if the Special Permit Granting Authority finds that the project is in harmony with the general purpose and intent of the Bylaw and the Special Permit Granting Authority's Rules & Regulations. In addition, the Special Permit Granting Authority shall make all of the applicable findings before granting the special permit, as follows:

- a. that the APPLICANT is not already providing coverage or is unable to maintain coverage, to the extent that the town is required to accommodate such coverage under federal law, without the special permit;
- b. that the APPLICANT is not able to use existing FACILITY SITES within the overlay district to provide coverage to the extent that the town is required to accommodate such coverage under federal law; and that the proposed WIRELESS SERVICE FACILITY minimizes or prohibits, as appropriate, any adverse impact on historic resources, scenic views, residential property values, natural or man-made resources, and the public welfare;
- c. that the APPLICANT has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
- d. that the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic energy and that MONITORING shall be paid for by the APPLICANT;
- e. that the proposed MOUNT is designed to accommodate the maximum number of users technologically practical but not less than three (3) unless a lesser number is deemed appropriate by the Special Permit Granting Authority;
- f. that the APPLICANT has agreed to rent or lease AVAILABLE SPACE on any TOWER it controls within Stow or its contiguous towns, under the terms of a fair-market lease, without discrimination to other Wireless Service CARRIERS;
- g. that the facility is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations, and
- h. that the proposed WIRELESS SERVICE FACILITY complies with all applicable requirements of this Bylaw.

3.11.12.2 If a special permit is granted, the Special Permit Granting Authority may impose such additional conditions and safeguards as public safety, welfare and convenience may require.

3.11.12.3 Any decision by the Special Permit Granting Authority to deny a special permit under this section shall be in conformance with the ACT, in that it shall be in writing and supported by substantial evidence contained in a written record.

### **3.11.13 (Intentionally left blank)**

### **3.11.14 Term of Permit**

Any Special Permit issued for any WIRELESS SERVICE FACILITY shall be valid for not more than three (3) years, unless such time is extended by the Planning Board, by a period not to exceed one year, to accommodate the coordinated review of special permits for WIRELESS SERVICE FACILITIES. At the end of that time period, the WIRELESS SERVICE FACILITY shall be removed by the CARRIER or a new Special Permit shall be required.

### **3.11.15 Removal Requirements**

3.11.15.1 At such time that a licensed CARRIER plans to abandon or discontinue operation of a WIRELESS SERVICE FACILITY, such CARRIER shall notify the Town by certified mail of the proposed date of abandonment or discontinuation of operations.

Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed CARRIER fails to give such notice, the WIRELESS SERVICE FACILITY shall be considered abandoned upon such discontinuation of operations.

3.11.15.2 Upon abandonment or discontinuation of use, the CARRIER shall physically remove the WIRELESS SERVICE FACILITY within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- a) Removal of ANTENNAS, MOUNT, EQUIPMENT SHELTERS and SECURITY BARRIERS from the subject property.
- b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c) Restoring the location of the WIRELESS SERVICE FACILITY to its natural condition, except that any landscaping and grading shall remain in the after-condition.

3.11.15.3 If a CARRIER fails to remove a WIRELESS SERVICE FACILITY in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility.

3.11.15.4 The Special Permit Granting Authority may require the APPLICANT to post a bond at the time of construction to cover costs for the removal of the WIRELESS SERVICE FACILITY in the event the Town must remove the facility.

**3.11.16 Modifications** - Modification of a WIRELESS SERVICE FACILITY may be considered equivalent to an application for a new WIRELESS SERVICE FACILITY and will require a Special Permit when the following events apply:

3.11.16.1 The APPLICANT and/or co-APPLICANT wants to alter the terms of the Special Permit by changing the WIRELESS SERVICE FACILITY in one or more of the following ways:

- a. Change in the number of facilities permitted on the site;
- b. Change in the facilities that materially changes the facilities approved by the Massachusetts Department of Public Health, and
- c. Change in the operating parameters of a facility, including, but not limited to, ANTENNAS and cables that increases their quantity or size, that changes in a material way their orientation or other visible characteristics, or that exceeds specifications on the special permit.

3.11.16.2 The APPLICANT and/or co-APPLICANT propose to add any equipment or additional height not specified in the original approval.

**3.11.17 Monitoring and Maintenance**

3.11.17.1 Upon review of the RFE data submitted by the applicant pursuant to Sections 3.11.7.9 and 3.11.11.h, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of RFE safety compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board

shall also determine whether the application as proposed would be compliant with the Federal Communications Commission's regulations concerning environmental effects of radio frequency emissions. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.

3.11.17.2 Upon review of the acoustic noise data submitted by the applicant pursuant to Sections 3.11.7.8 and 3.11.11.g, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of acoustic noise compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.

3.11.17.3 The APPLICANT and co-APPLICANT shall maintain the WIRELESS SERVICE FACILITY is safe and in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the MOUNT and SECURITY BARRIER, and maintenance of the buffer areas and landscaping.

### **3.11.18 WIRELESS SERVICE FACILITY Operating Permit**

Any WIRELESS SERVICE FACILITY installed in compliance with this Bylaw shall require an annual Operating Permit from the BUILDING INSPECTOR. No WIRELESS SERVICE FACILITY shall be constructed, operated, altered, repaired or maintained except in exact conformance with such Permit.

3.11.18.1 Application - All applications shall be made to the BUILDING INSPECTOR in such form as he may require, and such applications shall include at least: 1) the location, by STREET number, of the proposed WIRELESS SERVICE FACILITY; 2) the name and address of the WIRELESS SERVICE FACILITY operator in charge and the owner of the LOT where the facility is to be located; 3) a scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the WIRELESS SERVICE FACILITY on the site, and illumination, if any; 4) such other pertinent information as the BUILDING INSPECTOR may require to ensure compliance with the Bylaw and any other applicable law; 5) a copy of the Special Permit, as amended, granted by the Special Permit Granting Authority under this Bylaw; and 6) the application must be signed by the property owner. The BUILDING INSPECTOR shall have the authority to reject any Permit application that is not complete when submitted.

3.11.18.2 Time Limitations - The BUILDING INSPECTOR shall approve or disapprove any application for a Permit within 30 days of receipt of the application. If the BUILDING INSPECTOR should fail to approve or disapprove an application for a Permit within such 30-day period, the application shall be deemed to be approved.

3.11.18.3 Fees - The Board of Selectmen of the Town of Stow shall establish and from time to time review the Permit fee for Wireless Service Facilities which shall be published as part of the Permit application form.

3.11.18.4 Certifications - The owner or operator in charge of the WIRELESS SERVICE FACILITY shall certify annually to the BUILDING INSPECTOR that he is in compliance with the standards of the Federal Communications Commission, Federal

Aviation Administration, the Massachusetts Aeronautics Commission, the Massachusetts Department of Public Health regulations, and the American National Standards Institute and evidence of required maintenance shall be filed with the BUILDING INSPECTOR by the special permit holder.

**3.11.19 Non-Wireless Facility Structures**

Municipal wireless uses, amateur radio uses, and home viewer and listener uses shall not exceed a maximum height sufficient to reasonably accommodate those uses, as required by Title 47 CFR Part 1 Subpart S Section 1.40000, Title 47 CFR 97.15 (as further defined by FCC PRB-1 101 FCC 2nd 952 (1985) and M.G.L. Chapter 40A, Section 3.



**Final Version of By-law as Amended:**

**TOWN OF STOW  
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**Section 4.4**

**4.4 Table of Dimensional Requirements**

These requirements shall be satisfied entirely within each district.

Zoning District	Minimum LOT Area in sq. ft.	Minimum LOT Frontage in ft.	Minimum FRONT YARD In ft.	Minimum SIDE YARD in ft.	Minimum REAR YARD in ft.	Minimum OPEN SPACE in percent	Maximum FLOOR AREA RATIO
R/C	40,000	150 (2)	100	50	100	80%	.10
Res	65,340	200 (2)	30	25	40	10%	NR
Bus	40,000	150 (2)	50	None (1)	50 (1)	20%	.30
Comm	40,000	150 (2)	50	25 (1)	50 (1)	30%	.30
Ind	40,000	150 (2)	100	25 (1)	50 (1)	40%	.30
C/B	65,340	200	50	None (1)	40 (1)	30%	.30
R/D	300,000	150	300 (3)	150 (3)	150 (3)	80%	.10

NR = Not Regulated

Footnote to Table of Dimensional Requirements

- (1) If the LOT abuts a residential or recreation-conservation district, whether directly or separated by a public or railroad right-of-way, the side and rear YARDS abutting the residential or recreation-conservation district shall be increased as follows and shall include a 50' landscaped buffer that consists of an opaque screen as defined in Section 7.7.5.1 of the Zoning Bylaw.

Minimum Side or Rear YARD

Compact Business District	50 feet
Business District	50 feet
Commercial District	50 feet
Industrial District	100 feet

- (2) The minimum frontage on Route 117 (Great Road) shall be 200 feet.
- (3) In the Refuse Disposal District, one hundred feet (100') of the FRONT, REAR and SIDE YARDS must be densely planted with natural screening, or otherwise screened. YARD requirements may be waived as a condition of the special permit for that portion

of a parcel of land abutting an operational REFUSE disposal facility. Such YARD requirements are to be measured from the LOT boundaries and the outer-most limits of the excavation or any BUILDING for the REFUSE disposal facility.

- (4) Wireless Service Facilities shall be exempt from the provisions of Section 4 but shall be subject to minimum front, side and rear YARD setbacks stated in Section 4.4 and setbacks and other limitations established in Section 3.11 of the Zoning Bylaw.

**Final Version of By-law as Amended:**

**TOWN OF STOW  
ZONING BY-LAWS**

**Section 4.5**

**4.5 Special Provisions and Exceptions to Dimensional Regulations**

**4.5.1 Dimensional Regulations for ASSISTED LIVING RESIDENCE**

In the Business District, an ASSISTED LIVING RESIDENCE shall be built according to the following dimensional standards.

minimum LOT area	-	217,800 sq. ft.
minimum LOT frontage	-	200 ft.
minimum LOT width	-	As otherwise set forth in this Bylaw
<b>minimum FRONT, SIDE and REAR YARDS</b>	-	50 ft.
minimum setback of pavement areas other than ACCESS DRIVEWAYS and walk ways from the front LOT line	-	50 ft.
minimum separation of BUILDINGS within the LOT	-	20 ft.
maximum height of STRUCTURES	-	35 ft.
minimum OPEN SPACE	-	30 %
maximum FLOOR AREA RATIO (business district only)	-	0.30

4.5.1.1 Dimensional Regulation of ASSISTED LIVING RESIDENCES in the Business District shall be subject to FLOOR AREA RATIO.

4.5.1.2 All privileges and exemptions provided to single-family residential uses or BUILDINGS under this Bylaw as set forth in Section 3.8.1.11 or otherwise, shall also apply to ASSISTED LIVING RESIDENCES.

4.5.1.3 Where the requirements of ASSISTED LIVING RESIDENCES differ from or conflict with other requirements of the Bylaw, the requirements established herein shall prevail. The above requirements shall be met and where appropriate, the Planning Board may impose additional requirements as a condition of the Special Permit.

4.5.2 The provisions of Sections 4.1, 4.2, and 4.3 of the Zoning Bylaw shall not apply to Wireless Service Facilities. The height provisions of Section 4.2 shall not apply to Wireless Service Facilities which shall be governed by the provisions of Section 3.11.7.1.