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**Town of Lenox**

**Planning Board**

**Meeting Agenda**

**October 18, 2022**

**6:00 p.m.**

**MEETING AGENDA**

*Hybrid Meeting*

Physical meeting: Town Hall

1. **Form A:** 279 Under Mountain Rd
2. **Wireless:** Discuss mapping work conducted by the Town's consultant, Isotrope LLC; discuss location preferences and draft bylaw language to prepare for a Special Town Meeting in November (tentative date is 11/17); discuss wireless bylaw content.
3. **Approval of Minutes**
  - October 11
  - July 26, August 9, September 13 pending completion
4. **Adjourn**

A meeting packet is available on the Town of Lenox Planning Board webpage. It will be available no later than Monday, October 17<sup>th</sup>: <https://www.townoflenox.com/planning-board>

## Microsoft Teams meeting

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### **How to Use Teams:**

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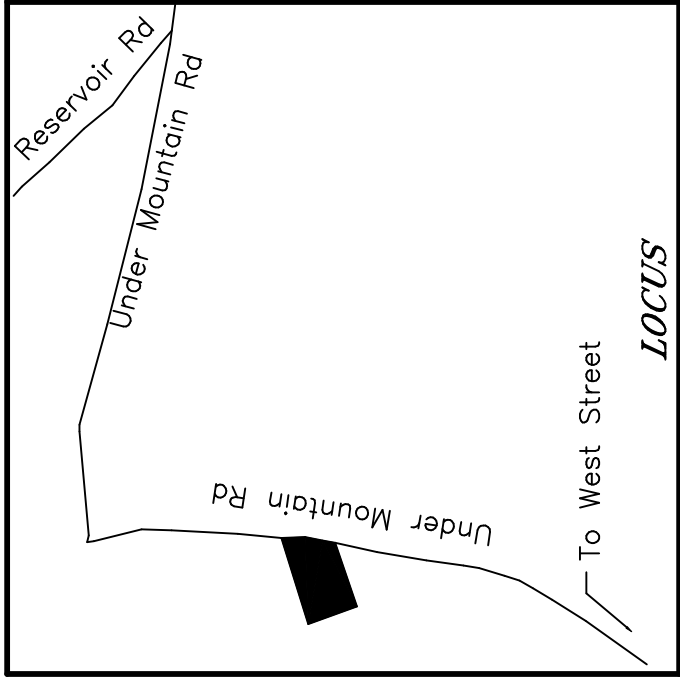
Teams meetings are best when you join them from the Teams app or Teams on the web.

Select **Click here to join the meeting** in your meeting invite to be taken to a page where you can choose to:

\*either join on the web or download the desktop app\*.

If you already have the Teams app, the meeting will open there automatically.

If you don't have a Teams account and the organizer has allowed it, you may have the option to enter your name to join the meeting as a guest. If you do have a Teams account, select **Sign in** to join with access to the meeting chat and more. Then, depending on the organizer's settings, you may join the meeting right away or go to the lobby where people in the meeting can admit you.



Reference Plan:  
1. Plan by Sackett Survey Services, Inc. entitled "Division of Land Surveyed for Trustees of the Sprague Family Nominee Trust Town of Lenox" dated April 15, 2016 and recorded in Plat N, #55.

- Notes
1. The parcel surveyed is described in a deed from Andrew L. Pincus & Katherin C. Pincus to Jonas & Elizabeth D. Dovydenas dated December 15, 2011 and recorded in the Berkshire Middle District Registry of Deeds in Book 4865, Page 159. It is shown on Lenox Assessors map 16 as lot 13.
  2. Lot B is not intended as a separate building lot. It is to be conveyed to Elizabeth D. Dovydenas Qualified Personal Residence Trust Agreement.
  3. Undermountain Road is a public way laid out per evidence found and the reference plans, and is subject to an official layout. See reference plan 1.
  4. Surveyed in the field in September and October 2018.
  5. Subject to any and all recorded or unrecorded rights-of-way, easements, restrictions, and/or encumbrances in force and applicable, if any.
  6. This survey plan shall not be construed as depicting the presence, absence, or limits of any or all regulated wetlands or floodplains. Any surface water features shown, such as streams or ponds, are not represented as indicating limits of wetland resource areas.
  7. Endorsement does not imply compliance with Wetlands Protection Act or zoning.

Approval of the Lenox Planning Board not required under the subdivision control law.

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

This plan has been prepared in conformity with the rules and regulations of the Registers of deeds of the Commonwealth of Massachusetts.

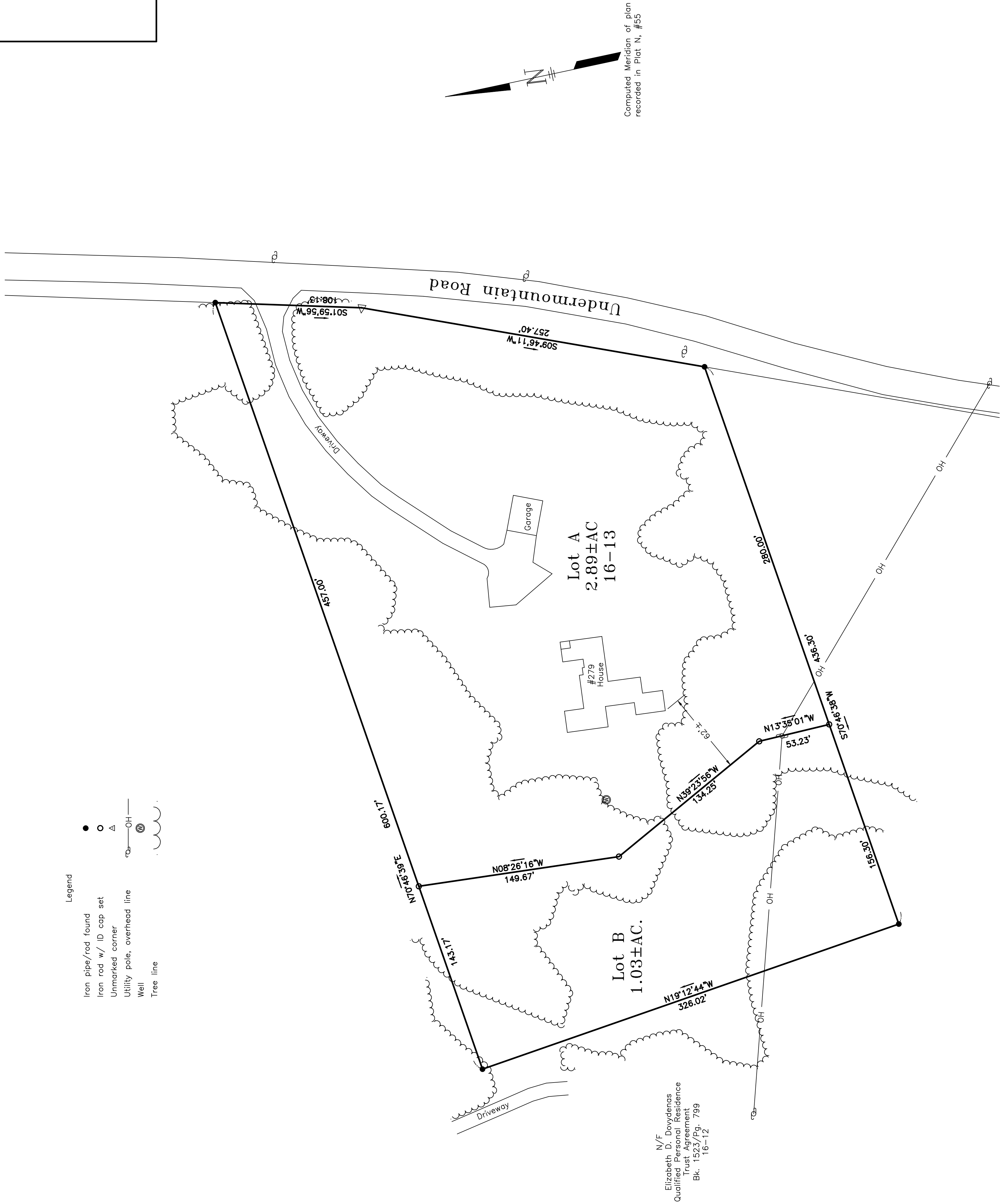
Owners of adjoining properties are shown according to the current assessors' records of the Town of Lenox

Russell D. Sackett, Jr., PLS Mass No.33944



Legend

- Iron pipe/rod found
- Iron rod w/ ID cap set
- Unmarked corner
- Utility pole, overhead line
- Well
- Tree line



No.	Date	Description	By

Division of Land Prepared for

Jonas & Elizabeth D. Dovydenas

Town of Lenox

Berkshire County, Massachusetts

SACKETT SURVEY SERVICES, INC.

179 First Street  
(413) 499-2285

Pittsfield, MA 01201  
Fax (413) 499-0038

Scale: 1" = 40'
Drawn by: MLG
Date: 10/29/18
Checked by: RDS
Job no.: 962
Drawing no.: 962-1
Sheet 1 of 1

**DRAFT – Lenox Planning Board**  
**ZONING BYLAW**  
**WIRELESS COMMUNICATIONS FACILITIES (WCF)**

**Status Summary 10/17/22 This draft includes updates based on 10/11 meeting plus discussion with David Maxon to resolve his comments in the previous version. There are changes throughout; please see previous version to compare.**

## **Wireless Communications Facilities**

### **Purpose.**

The purpose of this bylaw is to establish general guidelines for the locating of wireless communications facilities, including without limitation, wireless communication towers, antennas, ground equipment, and related accessory structures. The intent of this bylaw is to:

- (1) Accommodate the growing need and demand for wireless communications services.
- (2) Establish review procedures to ensure that applications for communications facilities are reviewed for compliance with federal, state, and local regulations and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (3) Minimize the impacts of wireless communications facilities on surrounding land uses by establishing standards for location, and compatibility.
- (4) Encourage the placement of wireless communications facilities on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife.
- (5) Respond to the policies embodied in the Telecommunications Act of 1996 and subsequent FCC regulation of wireless facility placement in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
- (6) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of wireless communications services.

### **Application and Permits Required.**

All applicants to install, modify or operate a wireless communications facility on property other than a public way shall require a Special Permit (BA) (ZBL 3.4) or Administrative Approval (AA) as outlined in Use Table X. Completion of a Lenox Wireless Communications Facility Application form available from the Land Use department is required for each wireless communications facility being requested. Application processing fees for wireless communications facilities shall be paid at the time of application

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in accordance with the Town of Lenox Fee Schedule.

In addition to providing the documentation required within this bylaw, the Application shall include all required exhibits and submittals as required by the Wireless Communications Facilities Standards Specifications & Design Manual, which is maintained by the Planning Board and may be updated periodically.

**Use Table** AA = Administrative Approval; BA = Special Permit; N= Not Permit

<b>Zoning District</b>	<b>R-1A</b>	<b>R-3</b>	<b><u>R-15</u></b>	<b><u>R-30</u></b>	<b><u>C</u></b>	<b><u>C-1A</u></b>	<b><u>C-3a</u></b>	<b><u>I</u></b>
<b>Wireless communication facility (subject to approval criteria)</b>	BA	BA	BA	BA	BA	BA	BA	BA
<b>Eligibility Facility Request per 47 USC §1455 (see Section ##### below)</b>	AA	AA	AA	AA	AA	AA	AA	AA

### **Applicant Assertion of Federal Rights**

If the application involves a project that the applicant asserts federal rights over, the applicant shall provide a brief outlining the relevant law and the applicant's standing, and include such substantial evidence as is necessary to demonstrate applicant's claim. Examples of such rights are: claims of effective prohibition or discrimination if denied, or assertions that a design qualifies as a small wireless facility or an eligible facilities request.

## **Assessment of Facility Impacts.**

### **Qualitative Assessment of Facility Impacts**

The Zoning Board, in its review, shall engage with the applicant to assess the following preferred qualitative factors, each of which shall be given substantial consideration in deliberations to approve the proposal, or to examine alternative sites.

The applicant shall provide evidence why and how they meet each of these objectives or, if they cannot meet one or more, why not and why their proposal is demonstrably better:

1. Ideally, a new wireless communications facility shall be located on an existing structure (including an existing tower) in a manner that does not materially increase its impact on the community.
2. The preferred locations for new freestanding towers are along denser commercial and industrial

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corridors and in suitable municipal locations or other quasi-public sites where both the settings and other structures already in place are more compatible with the industrial nature of wireless facilities. Remote locations on largely undeveloped areas may be acceptable if the result is a new tower that is generally not visible to the public.

3. While setback requirements are included in this bylaw, it is preferred that New Freestanding Towers be located even further from residential lot lines as possible to avoid detrimental visual impacts and adversely affecting property values, and to preserve the privacy of adjoining properties.
4. New Freestanding Towers may be acceptable when they do not diminish the quality of experience of Lenox such as by piercing valuable scenic and historic skylines, or sully the look of traditional land development and use.

### **Quantitative Assessment of Facility Impacts**

As a complement to the Qualitative factors and at the discretion of the Zoning Board, new wireless communications facility types shall be considered in accordance with the below preferences. Where a lower ranked alternative is proposed, the applicant must provide in its application 1) relevant information demonstrating that diligent efforts were made to adhere to the established hierarchy within the search area, and that higher ranked options are not technically feasible, practical, or justified given the location of the proposed wireless communications facility, and/or 2) the impact of the proposed facility is demonstrably better than any available higher priority solutions. Location preferences are as follows:

First priority	Concealed collocation, or Attachment to existing tower (not a substantial change), or
Second priority	Camouflaged collocation
Third priority	Collocation (not concealed or camouflaged) except substantial change <sup>1</sup> to existing base station or tower
Fourth priority	Substantial change to existing base station or tower (i.e. not an Eligible Facilities Request)  New camouflaged or concealed tower

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Fifth priority	New tower

In addition to the foregoing, before any new tower is approved, the applicant must demonstrate that it is not feasible to locate their facility on an existing tower or building. Before a new tower is proposed in a residential district, the applicant must also prove that it is not feasible to locate the facility in other districts or on municipal facilities.

### **Collocations.**

Wireless communications facilities may be mounted onto a building or support structure that is not primarily constructed for the purpose of holding wireless communications facilities or as an attachment to an existing tower, subject to the following standards:

- Setbacks. An antenna array attached to any structure that is not a tower is exempt from the setback requirements for the zoning district in which such structure is located. An antenna array attached to the side of such a structure may extend up to five feet horizontally from the side of the structure, provided that the antenna array does not encroach upon an adjoining parcel.
- Height extensions. The top of the attached antenna shall not extend more than fifteen (15) feet above the structure other than a tower to which it is attached. Notwithstanding this provision, the height of the antenna shall not extend more than eight (8) feet above the maximum allowed height for such a structure in the zone in which it is located. This requirement may be waived to accommodate the height of an architecturally appropriate concealment structure.
- Stanchion and pole extensions. Additional height may be allowed on power transmission stanchions and utility poles to accommodate the minimum safety separation necessary from electrical lines, as required by the National Electrical Safety Code and the utility provider.

### **New Towers.**

**Mailed Notice to Neighbors.** All new towers shall require that mailed notice, meeting the standards of M.G.L. C. 40A, Section 11, be sent to all property owners within 600 feet of the land subject to the application.

### **Height Limitation**

- New towers shall not exceed the minimum height necessary to provide adequate coverage for the personal wireless service facilities proposed for use on the tower.
- In working with the applicant to determine approved height, the Zoning Board will consider the following as part of the Special Permit process:
  - Balancing test:
    - The Personal Wireless Service Facility shall be designed to accommodate multiple users to the maximum extent technologically practicable in order to reduce the number of Personal Wireless Service Facilities which will be required to be located in the Town.
    - However, at its discretion, the Zoning Board may reduce the space available capacity for multiple facilities if the Board finds that it is preferable to have more shorter facilities rather than one taller facility.
    - The Zoning Board may allow greater height if such modification provides adequate safety, promotes co-location or improves design, and will not significantly impact the character and appearance of the neighborhood.

### Setbacks

New freestanding towers shall be subject to the setbacks described below:

- The minimum setback distance to the nearest residential property line shall be 250 feet.
  - The Zoning Board by supermajority vote as part of the Special Permit process may reduce this setback to no less than 1.5 times the tower height based on the following findings:
    - The waiver does not materially increase the impact of the proposed tower on its surroundings in comparison to satisfying the full setback, or
    - There is no viable location on any parcel in the subject area from which to provide the necessary service that would comply with the full setback, or
    - The waiver results in a design that is fully compatible with the purpose and intent of the Zoning Bylaws.
- In the C-1A, C-3A, and Industrial Zones, the minimum setback from parcels in non-residential zones shall equal the height of the new tower.
  - The Zoning Board may allow a shorter setback if the shorter setback provides adequate safety and aesthetics.
- Equipment compounds shall be subject to the setback requirements of their zone.



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### **Eligible Facilities Request.**

- Eligible Facilities Requests shall submit application materials and undergo a review process that shall be conducted in a manner consistent with federal limitations. The Zoning Board of Appeals is the Administrative Approval Granting Authority and shall grant Administrative Approval of an Eligible Facilities Request. The Zoning Board may verify that the application for an Eligible Facilities Request is bonafide and apply conditions that are not otherwise preempted by the FCC.
- The design of an eligible facilities request shall maintain the appearance intended by the original facility and shall comply with any conditions of prior approvals for wireless facilities on the site, including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

### **Tower Replacement.**

- Existing towers may be replaced pursuant to this Section X.X, provided that the replacement accomplishes a minimum of one of the following:
  1. Increases the number of wireless service providers the tower can support or otherwise materially improves the provision of wireless service in Lenox;
  2. Contributes to the reduction of the proliferation of new towers in Lenox;
  3. Replaces an existing tower with a tower with less impact on the town, such as by being shorter, improving its appearance (by camouflage or concealment).
- Landscaping. At the time of replacement or upgrade, the tower equipment compound shall be brought into compliance with any applicable landscaping requirements as required by the Wireless Communications Facilities Specification and Design Manual.
- Setbacks. A replacement of an existing tower shall not be required to meet new setback standards so long as the new tower and its equipment compound do not increase the existing nonconformity.

### **Employment of Outside Consultants.**

Pursuant to MGL Ch 44 Sec 53g, the Zoning Board may engage outside consultants at the expense of the applicant to assist the Zoning Board's review of an application under this Wireless Communications Facilities Bylaw.

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### **RFR Study.**

Any time after the installation of an approved wireless communications facility, the Town may require operators of such facilities to demonstrate compliance with FCC regulations regarding the safety of all relevant radio frequency emissions from the site (47 CFR 1.1310). As appropriate to the situation, such demonstrations of compliance may require either by the conduct of a field survey of emissions and/or by production of calculations consistent with FCC OET Bulletin 65, as directed by the Town. The Town may require the operator(s) to reimburse the Town for such analysis independently commissioned by the Town. In the event the results demonstrate that the wireless communications facility is not in compliance with the applicable rules, the applicant shall immediately bring the facility into compliance, including by cessation of operations if necessary prior to implementing changes.

### **Abandonment (Discontinued Use).**

- (1) Towers, wireless communications facilities, antennas, and the equipment compound shall be removed, at the owner's expense, within 180 days of cessation of use.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, wireless communications facility, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetation consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal. At the Town's discretion, the foundation may be abandoned in place if reduced to below finished grade.
- (4) All applicants shall, upon grant of Administrative Approval or a Special Permit, furnish a performance bond or irrevocable letter of credit naming Town of Lenox as beneficiary in the sum of \$50,000.00 ("Performance Bond") which shall provide language, inter alia, stating it is for the purpose of assuring the removal of the permitted wireless communications facility in the case of abandonment as contemplated herein.

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### **Exempt Facilities.**

The following items are exempt from the standards for wireless communication facilities notwithstanding any other provisions:

- (1) Satellite earth stations used for the transmission or reception of wireless communications signals with satellites that are one (1) meter (39.37 inches) or less in diameter in all residential zones and two (2) meters or less in all other zones.
- (2) A temporary wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from the provisions of this Section beyond the duration of the state of emergency.
- (3) A government-owned wireless communications facility erected for the purposes of providing communications for public health and safety.
- (4) A temporary wireless communications facility for the purposes of providing coverage of a special event, and subject to federal and state requirements. Said communications facility may be exempt from the provisions of this Section up to one week before and after the duration of the special event.
- (5) Amateur radio towers solely used for licensed amateur services up to 70 feet in height, or at such additional height as approved by informal application to the Zoning Board of Appeals.

### **Definitions.**

The following definitions are used exclusively in the Wireless Communications Bylaw (and are repeated in Town of Lenox Standard Specifications and Design Manual for Wireless Facilities (the “Design Manual”)), as amended:

***Antenna*** – a device consisting of exposed elements or of an enclosure containing one or more elements that transmits and/or receives electromagnetic radio frequency signals. Two or more antennas operated by one carrier/owner at one site constitute an antenna array. In context, a single enclosure that contains multiple antenna elements connected to multiple electrical ports that provide for any of the following is considered an antenna herein: multiple frequency bands, multiple input/multiple output arrays, transmit/receive isolation, polarization and space diversity.

***Applicable codes*** - building, plumbing, electrical and fire codes adopted by the Commonwealth or the

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Town; requirements of the National Electric Code or the National Electric Safety Code; and the applicable laws, regulations and requirements of the Federal Communications Commission, the Occupational Safety and Health Administration, as well as any other local, state, or federal agency regulating wireless communications, as any may be amended from time to time.

**Base station.** Have the meanings given to them in 47 CFR 1.6100

**Camouflaged (facility/antennas)** – the use of materials added to an installation, including when applicable added to existing architecture, to render a facility or antennas less noticeable.

**Collocation** - to install a wireless communications facility on an existing structure, including but not limited to an existing tower, building, or other structure (such as water or fire tower, pole, etc.).

**Concealed (facility, antennas)** - a wireless communications facility or portion thereof that is designed in a manner that it is not visible to the public, typically through the use of radio frequency transparent materials integrated with existing architecture; any Tower that is designed to conceal the antennas is considered a concealment.

**FCC** - the Federal Communications Commission of the United States.

**Person** - an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

**Small wireless facility** - “Small Wireless Facilities,” as used herein and consistent with section 1.1312(e)(2), encompasses facilities that meet the following conditions. The facilities:

1. are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
2. are mounted on structures no more than 10 percent taller than other adjacent structures, or
3. do not 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;
4. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume; 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 no more than 28 cubic feet in volume;
5. The facilities do not require antenna structure registration under part 17 of this chapter;
6. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
7. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

**Substantial modification** -- have the meanings given to them in 47 CFR 1.6100

**Tower** - Any structure constructed on the ground for the sole or primary purpose of supporting antennas and their associated equipment.

**Wireless communications facility** –an installation of equipment and utilities for the provision of personal wireless services to link remote user equipment to a communications network,

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***Wireless services*** – personal wireless services as defined in the National Wireless Telecommunications Policy, 47 U.S.C. 332(c): “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.” Note: This covers telecommunications services offered to the public or a subset thereof using a network of base stations to link remote subscribers to the telecommunications network.

***Wireless infrastructure provider*** – any person that builds or installs systems or structures that support the operation of wireless communications facilities, such as a tower developer or a provider of distributed antenna system facilities.

***Wireless services provider*** - a person who delivers wireless services to subscribers.

	Language about what is allowed by Zone																																													
Lee	Allows towers in any zone with SP from PB.																																													
	Wherever feasible, wireless communication devices shall be located on existing towers or other nonresidential structures, minimizing proliferation of new towers.																																													
Williamstown	<table><tr><td>Telecommunications (See § 70-7.2F)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Teleports</td><td>No</td><td>No</td><td>No</td><td>No</td><td>No</td><td>No</td><td>No</td><td>No</td></tr><tr><td>Facilities</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td></tr><tr><td>Towers</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td><td>SP</td></tr><tr><td>Eligible facilities request</td><td>Yes</td><td>Yes</td><td>Yes</td><td>Yes</td><td>Yes</td><td>Yes</td><td>Yes</td><td>Yes</td></tr></table>	Telecommunications (See § 70-7.2F)									Teleports	No	No	No	No	No	No	No	No	Facilities	SP	SP	SP	SP	SP	SP	SP	SP	Towers	SP	SP	SP	SP	SP	SP	SP	SP	Eligible facilities request	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Telecommunications (See § 70-7.2F)																																														
Teleports	No	No	No	No	No	No	No	No																																						
Facilities	SP	SP	SP	SP	SP	SP	SP	SP																																						
Towers	SP	SP	SP	SP	SP	SP	SP	SP																																						
Eligible facilities request	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes																																						
	Williamstown Planner Andrew Goff, Oct. 3, 2022: "...we have SP in all zones because if we did not and a carrier was proposing a tower or installation that would fill a substantial coverage gap they could likely appeal federally and have our zoning invalidated. Much easier to have that decision making done at the ZBA."																																													
Pittsfield	Allowed in all zones by either Special Permit or Site Plan Review. Long prioritization list that sets residential as bottom																																													
Northampton	Use lists all split up into different documents. Shared sites only in more dense residential zones, it seems; towers in rural residential, highway business district, business, industrial, medical																																													
Great Barrington	Overlay district																																													
Amherst	<div><div>3.340.2 Wireless communications facility or other similar communications use.</div><div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div><div>SP</div></div><div>Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.</div></div>																																													
	Any applicant proposing not to co-locate their facility or proposing to locate their facility in a residential district shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or sited in other, non-residential districts																																													
Lincoln	Overlay district																																													
Weston	Two Overlay districts - long list of properties																																													

	Special Permit a. The Planning Board may, by special permit, authorize the placement, construction, erection or modification of: a Personal Wireless Service Facility in PWSOD I and PWSOD II, subject to the following limitations: i. A free-standing ground-mounted tower is eligible for a Special Permit in PWSOD I only; and ii An antenna mount attached to a building or structure other than a free-standing Personal Wireless Service tower, (except for an antenna mount attached to a utility pole located within the layout of a public right of way, which shall be governed by Section V.J.9 below) is eligible for a Special Permit up to 20 feet in height above the height of the building or other structure on which it is mounted in PWSOD I and or II; and iii. An antenna mount attached to a utility pole in the public way that does not extend more than ten feet above the utility pole is eligible for a Special Permit; or b. A Personal Wireless Service Facility The Planning Board may also, by special permit, authorize in any zoning district the placement, construction, erection, or modification of a Personal Wireless Service Facility that is totally enclosed in a barn, or an office, 34 commercial, industrial, religious or municipal building; so long as the barn or other building is not a Dwelling.																																																										
	A Personal wireless service facility which is proposed to be totally enclosed in a building or other structure pursuant to V.J.4.b. above, shall be concealed from view and shall not significantly alter the exterior of the existing structure within which the Personal Wireless Services structure is to be enclosed. The Planning Board may permit an extension to such building, if the Planning Board finds: A) the building is in a non-residential zoning district; B) the Personal Wireless Service Facility will be totally enclosed in the extension; C) the extension is consistent with the existing architecture of the building and character of the building’s surroundings; and D) the extension does not exceed 20 feet above the highest point of the roof of the building on which it is mounted. xii. For example, a new cupola, spire, or faux chimney could be employed to enclose wireless equipment in accordance with this provision, if the Planning Board finds that the above criteria are satisfied.																																																										
Hatfield	<table><tr><td>4.23 Wireless Communication Facilities</td><td>SPA</td><td>SPA</td><td>SPA</td><td>SPA</td><td></td><td>SPA</td><td>SPA</td><td>SPA</td><td>SPA</td><td></td></tr></table>											4.23 Wireless Communication Facilities	SPA	SPA	SPA	SPA		SPA	SPA	SPA	SPA																																						
4.23 Wireless Communication Facilities	SPA	SPA	SPA	SPA		SPA	SPA	SPA	SPA																																																		
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	Siting preferences. The following is a guideline of preferred locations for proposed wireless communication facilities, from most to least favorable districts/properties. The applicant must demonstrate that it is not feasible to locate in a more preferred districts/properties.																																																										
	Existing or approved wireless communication structure or existing nonresidential structure.																																																										
	General and Planned Industry Districts.																																																										
	General Commercial District.																																																										
	Rural Residential District.																																																										

**Scarsdale**

The Planning Board is authorized to issue or modify a Special Use Permit or Building Inspector Placement Permit provided that the applicant meets all of the requirements specified under § 310-81, and at least one of the following criteria:

The applicant seeks to install a wireless telecommunications facility by attaching an antenna array to any existing structure that is 100 or more feet in height and not part of the Village's water distribution system.

In a Residence A District, the applicant seeks to install a wireless telecommunications facility not less than 350 feet from the nearest dwelling unit, school, day-care center or place of worship as measured from the base of the support structure.

The applicant seeks to install a wireless telecommunications facility on a lot that is at least 20 acres or on a structure that is exclusively used as a parking garage.

The applicant holds a franchise issued by the Village for the provision of communications or telecommunications services and seeks to install a wireless telecommunications facility in any street which meets all of the requirements specified under § 310-81.1, in addition to the requirements specified under § 310-81. A franchise as defined in Chapter 275, § 275-4, is not a communications or telecommunications service franchise for purposes of this article.



	<b>Setbacks</b>
<b>Lee</b>	The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least 1.25 times the height of the structure.
	The minimum distance from any guy wire, anchor or brace to any property line or road right-of-way shall be equal to the length of the guy wire.
	The wireless communication structure shall be a minimum distance of three times the height from school buildings, including playgrounds and athletic fields, and abutting residences to prevent the structure from appearing to "tower" over, adversely affecting property values.
	In approval findings:
	That the size and height of the structure is the minimum necessary.
<b>Williamstown</b>	New towers shall be set back at least one time the height of the tower, plus 50 feet, from all boundaries of the site on which the tower is located.
<b>Pittsfield</b>	1x or 1.2x tower height depending
<b>Northampton</b>	In residential districts, a tower must be setback from all property lines at least twice the distance equal to its height. In other districts, a tower must be setback from all property lines at least the distance equal to its height. The permit granting authority, however, shall allow a shorter setback if the shorter setback provides adequate safety and aesthetics and the manufacturer or qualified licensed designer certifies that the tower is designed to collapse on itself or otherwise collapse safely and within the property controlled by the applicant in the event of failure. The authority may allow lesser setbacks necessary to allow the use of an existing structure.
<b>Great Barrington</b>	New towers shall be set at least one time the height of the tower, plus 50 feet from any boundaries of the WTOD site within which the tower is located and from any dwelling unit within the WTOD. A personal wireless tower or structure shall comply with the setback requirements set forth for the applicable district.
	No personal wireless tower or structure or personal wireless service facility shall be located any closer than 500 feet to any dwelling unit located outside the WTOD in existence at the time of installation of the personal wireless tower or structure or personal wireless service facility
<b>Amherst</b>	Towers, antenna, antenna support structures and other vertical elements of wireless communication facilities located in a residential district or upon a property abutting a residential use shall be set back from the nearest residential lot line a distance at least equal to their height. In making a request for a lesser setback, the manufacturer or qualified licensed designer shall certify that the tower is designed to collapse upon itself in the event of failure. The Permit Granting Authority may also allow lesser setbacks necessary to allow for the use of an existing structure.

<b>Lincoln</b>	The minimum setback for an antenna support structure is 125' from the WCF overlay district boundary, except for common boundaries between contiguous WCF overlay districts. The minimum setback for all other components of a WCF is 75' from the overlay district boundary, except for common boundaries between contiguous WCF overlay districts. Minimum setbacks from lot boundaries are as regulated elsewhere in this bylaw for the underlying zoning district. Notwithstanding the provisions of Section 4 of this Zoning Bylaw, extensions or alterations to pre-existing non-conforming WCF structures may be permitted by special permit granted by the Planning Board, provided that the Planning Board finds that such extensions or alterations are not substantially more detrimental to the neighborhood than the existing structure.
<b>Weston</b>	A ground-mounted Personal Wireless Service tower shall be located such that if it were to fall or collapse, it would fall or collapse entirely within the boundaries of the parcel on which it is to be located;
<b>Greenfield</b>	The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least the height of the wireless communication structure in nonresidential zones and 1 5/10 (1.5) times the height of the structure in residential zones, including the height of any mounted wireless communication devices. This distance will be designated as the "fall zone" of the wireless communication structure.
	The setback requirements for any wireless communication buildings shall comply with that of the zoning district.
<b>Scarsdale NY</b>	In a Residence A District, the applicant seeks to install a wireless telecommunications facility not less than 350 feet from the nearest dwelling unit, school, day-care center or place of worship as measured from the base of the support structure.
	In a Residence A District, the applicant seeks to install a wireless telecommunications facility not less than 350 feet from the nearest dwelling unit, school, day-care center or place of worship as measured from the base of the support structure.
	Attached wireless telecommunications facility. An antenna array for an attached wireless telecommunications facility is exempt from the setback requirements for the zoning district in which it is located. An antenna array attached to the side of an attachment structure may extend up to five feet horizontally from the side of the structure, provided that the antenna array does not encroach upon an adjoining parcel.
	Wireless telecommunications facility with support structure. Setbacks may be required by the approving authority to contain on-site substantially all debris resulting from support structure failure or ice-fall and/or to preserve privacy of adjoining private and public property.
	Equipment facility. An equipment facility shall comply with all existing setback requirements for a principal building for the zoning district in which it is located.

	Nothing in this section is intended to permit installation of facilities in the streets for which a Special Use Permit could not be issued under § 310.81.1.
<b>Pelham Village NY</b>	Setback standards.
	An antenna array for an attached wireless telecommunications facility is exempt from the setback requirements for the zoning district in which the attachment structure is located. An antenna array attached to the side of an attachment structure may extend up to five feet horizontally from the side of the attachment structure, provided that the antenna array does not encroach upon an adjoining parcel.
	Unless infeasible, a freestanding wireless telecommunications facility must:
	Comply with the setback requirements applicable to a principal building in the zoning district in which the facility is located; and
	Be set back from the property line a sufficient distance:
	That any debris resulting from support structure failure or ice-fall will be contained on the site; and
	To preserve the privacy of adjoining private and public property.

	<b>HEIGHT</b>
<b>Lee</b>	Height. The height shall be the minimum height necessary to accommodate anticipated and future use.
<b>Williamstown</b>	New towers shall not exceed the minimum height necessary to provide adequate coverage for the personal wireless service facilities proposed for use on the tower. The applicant may submit a request for additional height to accommodate future sharing and shall provide design information to justify such additional height.
<b>Pittsfield</b>	Concealed 135', nonconcealed 115'
<b>Northampton</b>	Towers designed for one telecommunication provider shall be limited to 130 feet. Towers designed for collocated facilities shall be allowed an additional 20 feet for each additional provider up to a maximum of 220 feet. These height limits shall not apply to towers for or partially for government or emergency telecommunications, to the extent such height is needed to serve government or emergency telecommunication use.
<b>Great Barrington</b>	New towers shall not exceed 150 feet, not including whip antennas or lightning rods, subject to a maximum future expansion of 10% by approval of the SPGA to eliminate the
<b>Amherst</b>	In all districts, the height of wireless communications towers shall not exceed 125 feet above the ground. In non-residential districts, the Permit Granting Authority may allow a lesser setback or greater height if such modification provides adequate safety, promotes co-location or improves design, and will not significantly impact the character and appearance of the neighborhood.
<b>Lincoln MA</b>	arithmetic average of the elevations of the highest points of all trees over twenty (20) feet tall within a hundred and fifty (150) foot radius from the base of the antenna(s). Elevations are with respect to mean sea level datum. The highest point of the antenna support structure or any antenna or any component thereof or attachment thereto shall not exceed the (10) feet above the lesser of either the preexisting tree canopy elevation, or the proposed post-construction tree canopy elevation. The Planning Board may permit an increase in the highest point of an antenna support structure or any antenna or any component thereof or attachment thereto up to twenty (20) feet above the lesser of either the preexisting tree canopy elevation, or the proposed post-construction tree canopy elevation if the Planning Board determines that no material increase in visual impacts will result from the increased height. If there is no significant tree canopy, the maximum height of an antenna support structure or any antenna or any component thereof or attachment thereto shall not exceed sixty (60) feet above finished grade of ground elevation. Such finished grades shall not be distorted ab
	) Wireless Communications Facilities may be placed upon or inside existing buildings or structures. In such cases, the height of the antenna support structure or any component thereof or attachment thereto shall not exceed twelve (12) feet above the height of the existing structure or building.

	(o) The landowner shall enter into a recordable easement, restriction or similar instrument enforceable by the Town of Lincoln, by which it is agreed that: 1) no cutting of trees or other vegetation shall occur within 200 feet of the facility without prior written approval of the Planning Board, and
	Note, there are waivers for height
<b>Weston</b>	In PWSOD I, the total height of a free-standing Personal Wireless Service tower, including attached accessories, shall not exceed 100 feet in height as measured from the existing natural grade at the base of the tower. In PWSOD I and PWSOD II, the height of a Personal Wireless Service antenna mount, 35 mounted on a building or structure, other than a free-standing Personal Wireless Service tower, shall not exceed 20 feet in height above the highest point of the building roof on which it is mounted, or 20 feet in height above the top of the structure on which it is mounted if other than a building. In no event, however, shall the height of a Personal Wireless Service antenna mount in PWSOD I and PWSOD II exceed 100 feet as measured from the ground level at the base of the building or other structure on which it is mounted. The Planning Board may limit a proposed free-standing tower or antenna mount to a building or other structure that is not a
	The Personal Wireless Service Facility shall be designed to accommodate colocation of multiple users to the maximum extent technologically practicable in order to reduce the number of Personal Wireless Service Facilities which will be required to be located in the Town.
	At its discretion, the Planning Board may deny co-location if the Board finds that co-location would have a detrimental impact, including a detrimental visual impact, on the neighborhood and the detrimental impact outweighs the benefits of colocation.
<b>Greenfield</b>	The height of a wireless communication structure shall be the minimum necessary to accommodate anticipated future use.
<b>Scarsdale</b>	Attached wireless telecommunications facility. The antenna array and attachment device for an attached wireless telecommunications facility attached to the top of the attachment structure shall not extend more than 120 feet when measured from the base of the attachment structure. An antenna array attached to the side of the attachment structure shall not extend above the highest point of the attachment structure.
	Wireless telecommunications facility with support structure. The maximum height of a wireless telecommunications facility with a support structure shall be 120 feet when measured from unimproved ground level to the highest point of the antenna array.
<b>Pelham Village NY</b>	Height. The total height of any support structure, attachment structure, equipment facility and antenna must be the least necessary to fill the significant gap in current wireless telecommunications service in the Village of Pelham.

	Attached wireless telecommunications facility. The antenna array(s) and attachment device for an attached wireless telecommunications facility may not be higher than the maximum permissible height of a building in the zoning district in which the facility is proposed to be located, without regard to the provisions of § 98-102. An antenna array attached to the side of the attachment structure may
	Freestanding wireless telecommunications facility. The maximum height of a freestanding wireless telecommunications facility may not be greater than the maximum height permitted for a building in the zoning district in which the facility is proposed to be located, when measured from unimproved ground level to the highest point of the antenna array.

	<b>OTHER NOTES</b>
<b>Lee</b>	Wireless communication structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.
	No new wireless communication structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing wireless communication structure can accommodate the applicant's proposed wireless communication device. Evidence submitted to demonstrate that an existing structure cannot accommodate the applicant's proposed device may consist of any of the following:
	No existing wireless communication structures or nonresidential structures are located within the geographic area required to meet the Town of Lee and applicant's engineering requirements.
	Existing wireless communication structures or nonresidential structures are not sufficient height to meet the applicant's requirements.
	Existing wireless communication structures or nonresidential structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed wireless communication device.
	The proposed wireless communication device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed wireless communication device.
	The fee, costs, or contractual provisions required by the owner in order to share an existing wireless communication structure or to adapt an existing structure for use are unreasonable.
	The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.
<b>Williamstown</b>	The applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the tower, to rent or lease available space for collocation on the tower at fair-market prices and terms, without discrimination to other personal wireless service providers.
<b>Pittsfield</b>	Preferred concealment type shall be determined by the Community Development Board or Zoning Board of Appeals as applicable and shall be dependent upon the location and 5 geography of each proposed facility, but may include, but is not limited to, a "faux" tree, church steeple, building parapet, bell, clock tower or other existing type of structure which ordinarily has a different purpose or use.
	In residential districts, the following structures shall not be used as Base Stations or to support PWSF or commercial antenna(s): single-family dwelling, two-family dwelling, multi-family dwelling of fewer than three stories in height, group living facility, or day care
<b>Northampton</b>	For any new towers, the details of the tower (monopole, guyed, freestanding, or other), guy wires and anchors, tower lighting, and all structures located within 300 feet of any tower.

	Siting. Before any new tower is approved, the applicant must prove that it is not feasible to locate their antenna(s) and facilities on an existing tower or building. Before a new tower is proposed in a residential district, the applicant must also prove that it is not feasible to locate the antenna and facilities in other districts or on municipal facilities. Such demonstration studies shall include a summary of propagation studies and a plan for any network of facilities.
	Collocation. Any new tower must be designed, to the maximum extent which is practical and technologically feasible, for collocation of telecommunications antennas, including designing to accommodate at least three telecommunication providers, offering space to all other telecommunication providers at market rates, and providing for towers that can be expanded upward. Tower owners must maintain a record of the site location and coordinates, elevation, available space at each height, existing frequencies in use, and the name and number that an interested user can contact and make such a file available to the Office of Planning and Sustainability upon request within 30 days.
<b>Amherst</b>	All building-mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building. All electronic and other related equipment and appurtenances necessary for the operation of any wireless communication facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, the siting, design and materials of said structure shall be harmonious with, and blend with, the natural features, buildings and structures in the surroundings.
	All new wireless communication towers or support structures shall be designed, to the maximum extent practicable and technologically feasible, for co-location of antennas and other necessary facilities for at least three other wireless communication providers, shall offer space to all other providers at market rates, and shall provide for towers that can be expanded upward. Any Special Permit granted for a new facility under this section may be conditioned upon the written agreement of the facility operator to allow the collocation of other wireless communication providers on commercially reasonable terms.
<b>Lincoln</b>	12.6.4.1 A pre-application conference between the proposed applicant(s) and the Planning Board shall be scheduled a minimum 30 days prior to submission of the application for a Wireless Communications Facility special permit with formal advertisement and notice to abutters provided at least 14 days in advance of the pre-application conference. The purpose of such conference is to foster preliminary discussions regarding planning, design and siting of the proposed facility among the proposed applicant(s) for special permit, the Planning Board, and the residents of the Town of Lincoln.
<b>Weston</b>	To approve a ground mounted, freestanding Personal Wireless Services tower, the Planning Board must find that it is of an architectural design that is compatible with the site and its surroundings. Examples of such designs include, but are not limited to, “unipole,” “slick stick,” or “flagpole style” monopoles.
	Special Permits authorized under this section shall be limited to an initial term of two years and shall be renewed every two years thereafter provided the special permit holder has filed with the Board annual certification demonstrating continuing compliance with the special permit and with applicable federal and state regulatory requirements.



	<p>Variances If an applicant seeks a variance under the Telecommunications Act of 1996 for a Personal Wireless Services Facility, the application shall comply with Section V.J. of this By-Law, and the applicants shall also apply to the Planning Board for Site Plan Approval. . In considering an application for a variance, the Zoning Board of Appeals shall consider the factors and criteria described above in Sections V.J.4c and V.J.4d and apply the requirements of Section V.J. of this By-Law. If a variance is sought from the Zoning Board of Appeals, the applicants shall also apply to the Planning Board for Site Plan Approval.</p>
<b>Scarsdale NY</b>	<p>Necessity of service. The proposed wireless telecommunications facility must be the least intrusive means of closing a significant gap in wireless services. This requirement does not apply to modifications that are preapproved. An applicant for modification of a facility which previously demonstrated the facility closed a significant gap or is entitled by law to modify a facility need not demonstrate that the modification closes a significant gap.</p>
	5-yr renewal requirement/process
	<p>All uses ancillary to the wireless telecommunications facility, including a business office, maintenance depot and vehicle and equipment storage (other than equipment needed for the maintenance of the facility), shall be prohibited on the site.</p>
	<p>The applicant shall document additional capacity for future shared use of the support structure and shall certify that such additional capacity shall be available to future applicants providing personal wireless services, subject to good-faith negotiations.</p>
	<p>For any wireless telecommunications facility in the street, any new support structure must be a utility pole. A utility pole is a pole that is designed and is available for use by utilities, telecommunications service providers, and cable systems, and does not include a structure whose sole or primary purpose is to support antennas and their associated facilities.</p>
	<p>While the Village has no control over the use of county and state lands, in recognition of the fact that there are approximately 900 acres of county and state lands within the Village, telecommunications providers will be encouraged, if consistent with the provisions of this article, to consider sites on these lands in addition to those under Village jurisdiction.</p>
<b>Pelham NY</b>	looks to be based on, or basis of, Scarsdale
	<p>Necessity of service. The proposed wireless telecommunications facility must fill a significant gap in current wireless telecommunications services in the Village of Pelham. A significant gap may be demonstrated only by actual in-kind survey data in the area of the proposed installation. For example, if the significant gap is within a building or buildings, then the survey data must be measured inside the building or buildings in the survey area. Aggregated data purchased from a third party is not sufficient to establish a gap in service.</p>

	Least intrusive means. The proposed wireless telecommunications facility must be the least intrusive means of filling the significant gap in current wireless telecommunications services in the Village of Pelham. In determining whether a proposed wireless telecommunications facility is the least intrusive means of closing a significant gap in service, the Board of Trustees will consider the feasibility of locating the proposed facility in the following locations, in the specified order of priority:
	On an existing support structure located on Village property in a commercially zoned area without increasing the height of the support structure;
	On an attachment structure in a commercially zoned area without increasing the height of the attachment structure; and
	On a property in a commercially zoned area.
	<b>ATTACHED WIRELESS TELECOMMUNICATIONS FACILITY</b>
	An antenna array that is attached to an existing structure which structure does not have as its primary purpose the provision of wireless telecommunications services, together with any accompanying device which attaches the antenna array to the existing structure, connection cables and any equipment facility which may be located either inside or outside of the attachment structure.
	<b>FREESTANDING WIRELESS TELECOMMUNICATIONS FACILITY</b>
	An unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of one or more antenna arrays, connection cables, equipment facility, and a support structure to achieve the necessary elevation. This includes a wireless tower or base station within the meaning of 47 U.S.C. § 1455(a).
	Collocation and use of existing structures. Collocation is required unless the applicant demonstrates that reasonable efforts to collocate have been unsuccessful. The use of a utility pole or an attachment structure to locate a wireless telecommunications facility is required unless the applicant demonstrates that no attachment structure is suitable for the location of the wireless telecommunications facility.
	New support structure. A new support structure is permissible only if use of an existing structure is not feasible and a new support structure is the least intrusive means to fill the significant gap in current wireless telecommunications service in the Village of Pelham. Every new support structure must be a utility pole, unless the applicant demonstrates that the use of a utility pole would be infeasible, in which case the new support structure must be a monopole, rather than a self-supporting lattice or guy-wire support tower, unless the applicant demonstrates that the use of a monopole would be infeasible.

	<b>Links to codes</b>
<b>Lee</b>	<a href="https://ecode360.com/36023539#36023679">https://ecode360.com/36023539#36023679</a>
<b>Williamstown</b>	<a href="https://ecode360.com/10633452?highlight=wireless&amp;searchId=24948968564070912#10633452">https://ecode360.com/10633452?highlight=wireless&amp;searchId=24948968564070912#10633452</a>
<b>Pittsfield</b>	<a href="https://cms2.revize.com/revize/pittsfieldma/city_hall/community_development/planning_and_development/docs/Section%204.322%20Wireless%20Communications%20Facilities.pdf">https://cms2.revize.com/revize/pittsfieldma/city_hall/community_development/planning_and_development/docs/Section%204.322%20Wireless%20Communications%20Facilities.pdf</a>
<b>Northampton</b>	<a href="https://ecode360.com/11957806">https://ecode360.com/11957806</a>
<b>Great Barrington</b>	<a href="https://www.townofgb.org/sites/g/files/vyhlif636/f/uploads/zoning_bylaw_june_2021_0.pdf">https://www.townofgb.org/sites/g/files/vyhlif636/f/uploads/zoning_bylaw_june_2021_0.pdf</a>
<b>Amherst</b>	<a href="https://www.amherstma.gov/DocumentCenter/View/30802/Complete-Bylaw-May-2014_2-23-2015">https://www.amherstma.gov/DocumentCenter/View/30802/Complete-Bylaw-May-2014_2-23-2015</a>
<b>Lincoln MA</b>	<a href="https://www.lincolntown.org/DocumentCenter/View/72768/Zoning-Bylaw-FINAL-2022">https://www.lincolntown.org/DocumentCenter/View/72768/Zoning-Bylaw-FINAL-2022</a>
<b>Weston</b>	<a href="https://www.weston.org/DocumentCenter/View/280/The-Zoning-By-laws-of-the-Town-of-Weston-PDF">https://www.weston.org/DocumentCenter/View/280/The-Zoning-By-laws-of-the-Town-of-Weston-PDF</a>
<b>Greenfield</b>	<a href="https://www.townofhatfield.org/sites/g/files/vyhlif3246/f/uploads/zoning_bylaws_may_11_2021_approved.pdf">https://www.townofhatfield.org/sites/g/files/vyhlif3246/f/uploads/zoning_bylaws_may_11_2021_approved.pdf</a>
<b>Pelham</b>	<a href="https://ecode360.com/8781070">https://ecode360.com/8781070</a>
<b>Scarsdale</b>	<a href="https://ecode360.com/28460252?highlight=wireless&amp;searchId=25642650826438584#28460252">https://ecode360.com/28460252?highlight=wireless&amp;searchId=25642650826438584#28460252</a>

## Lenox Land

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**From:** Gwen Miller  
**Sent:** Monday, October 17, 2022 10:55 AM  
**To:** Jennifer Crews  
**Cc:** tdelasco@townoflenox.com; kvaughan@townoflenox.com; elane@townoflenox.com; nmaxymillian@townoflenox.com; Marybeth Mitts; warchey@townoflenox.com; Christopher Ketchen; Kerry Sullivan; droche@townoflenox.com; slyman@townoflenox.com; pkueber@townoflenox.com; jharwood@townoflenox.com; Lenox Land  
**Subject:** Re: Request for Planning Board Meeting on 10/18

Good morning Jennifer,

Confirming receipt of your e-mail.

Thank you,  
Gwen

**Gwen M. Miller, AICP, She/Her/Hers**

### **Town of Lenox**

Land Use Director/Town Planner

gmiller@townoflenox.com

(413) 637-5500 x 1203

[www.townoflenox.com](http://www.townoflenox.com)

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**From:** Jennifer Crews <jennifer@jencrews.com>  
**Sent:** Friday, October 14, 2022 6:04 PM  
**To:** Gwen Miller <gmiller@townoflenox.com>  
**Cc:** tdelasco@townoflenox.com <tdelasco@townoflenox.com>; kvaughan@townoflenox.com <kvaughan@townoflenox.com>; elane@townoflenox.com <elane@townoflenox.com>; nmaxymillian@townoflenox.com <nmaxymillian@townoflenox.com>; Marybeth Mitts <mmitts@townoflenox.com>; warchey@townoflenox.com <warchey@townoflenox.com>; Christopher Ketchen <cketchen@townoflenox.com>; Kerry Sullivan <ksullivan@townoflenox.com>; droche@townoflenox.com <droche@townoflenox.com>; slyman@townoflenox.com <slyman@townoflenox.com>; pkueber@townoflenox.com <pkueber@townoflenox.com>; jharwood@townoflenox.com <jharwood@townoflenox.com>  
**Subject:** Request for Planning Board Meeting on 10/18

Dear Ms. Miller et al.

[City Clerk Kerry Sullivan, will you please add this email/letter to the Town of Lenox Public record for Oct 11, 2022 City Council - **"Agenda Item 2. Wireless: Discuss mapping work conducted by the Town's consultant, Isotrope LLC; discuss location preferences and draft bylaw language to prepare for a Special Town Meeting in November (tentative date is 11/17); discuss wireless content."** Will you please also ensure that this email/letter gets printed and placed into the paper file for this project? We are requesting that this email/letter and all communications and other substantial written evidence that the residents of Lenox and their identified Telecom experts place in the Public Record be added to the agenda packet that will be distributed to the Town of Lenox Planning Board and Selectmen/women in the subsequent steps taken on this project? Thank you for doing so.]

I live and work at 19 Cliffwood Street as a full time resident who moved from New Jersey in 2019 to enjoy the peace and

natural beauty of the Berkshires. I have two children, ages 10 and 13. From 1997 to 2002, I worked for a telecom equipment manufacturer (Lucent Technologies).

I am sure we can all agree that as the Planning Board revises the Lenox Wireless Ordinance to improve wireless coverage in town it is important that the appropriate due diligence is given. I have concerns that some considerations have been overlooked in the understandable effort to bring this issue to conclusion once and for all.

Specifically, without impartial and objective counsel there is a strong possibility that the ordinance will be inadvertently redesigned to the benefit of corporations rather than to the citizens of Lenox.

A group of residents of Lenox have identified two such experts (at no cost to the town) -- a legal expert and a technical expert -- to provide additional information that that can be considered alongside the information that seems to be tailored to the agenda of the wireless industry.

**We request that for the Oct 18, 2022 Planning Board meeting, the Planning Board grants Lenox residents a total of 30 minutes of presentation time that they can offer to these experts, followed by ten minutes of Q&A.**

We understand the desire to complete this process, but moving forward without this step is to the benefit of the corporations, not the people of Lenox.

Please confirm that you agree with this reasonable request. More information about these experts can be found below.

- Legal expert: [https://youtu.be/D2z-ab5Ks\\_8](https://youtu.be/D2z-ab5Ks_8)
- Technical expert: <https://youtu.be/u1VwLZ9H8G0>
- Model Wireless ordinance: <https://wireamerica.org/id/model-wireless-ordinance/>

Thank you!

Regards,

*Jennifer*

Jennifer Crews

<https://www.linkedin.com/in/jennifercrews/>

M: +1 201 248 2264

## Lenox Land

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**From:** Gwen Miller  
**Sent:** Thursday, October 13, 2022 11:47 AM  
**To:** Courtney Gilardi; Christopher Ketchen; Marybeth Mitts; Lenox Land  
**Subject:** Re: Help for writing wireless zoning bylaws for Lenox

Good morning Courtney,

We will retain this as correspondence to the Planning Board and will respond to your specific information requests as able.

Best,  
Gwen

**Gwen M. Miller, AICP, *She/Her/Hers***

### **Town of Lenox**

**Land Use Director/Town Planner**

gmiller@townoflenox.com

(413) 637-5500 x 1203

[www.townoflenox.com](http://www.townoflenox.com)

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**From:** Courtney Gilardi <courtneygilardi@yahoo.com>  
**Sent:** Wednesday, October 12, 2022 12:32 AM  
**To:** Christopher Ketchen <cketchen@townoflenox.com>; Marybeth Mitts <mmitts@townoflenox.com>; Gwen Miller <gmiller@townoflenox.com>  
**Subject:** Fw: Help for writing wireless zoning bylaws for Lenox

Dear Lenox Town Planner, Select & Planning Board members,

Please distribute this to the Lenox Select Board and Planning Board members and place a written copy of this in the file on wireless zoning bylaws to be entered into the record.

I greatly appreciate your recognition of the not just concerns, but the documented facts about wireless infrastructure.

These facts run the gamut from documented decrease in property values, effects on the historic district, a failure to preserve Euclidian zoning, blighted viewshed, fall and fire hazards to biological health effects and an increase in man made pulsed modulated radio frequency radiation levels.

The peer reviewed studies and the New Hampshire Commission report should already be part of the legal record from last year. I will send them again as Mr. Maxson continues to share that journals showing cell tower harm is "cherry picked" when it is not.

Mr. Maxson of Isotrope was hired to do a gap analysis. Why is he is providing both medical and legal advice to the town about wireless zoning bylaws?

Can he please provide to the town for the record and to the residents, the "ongoing reviews of the science by federal agencies" that he states show the federal regulatory, not health, but regulatory standards are protective of public health? We've asked the agencies for these reviews of the science and they have not been able to be produced. Seeing he stated this work is always being done, we are requesting a copy of these agencies "ongoing review of the science."

Chris Cioffi, principal of Evolution cell tower site services said during the meeting that David "will protect you" and ensure you are "legally complaint by law." No doubt Mr. Maxson brings a wealth of experience with him, but is he an attorney and qualified to be providing the town of Lenox legal advice?

Chris said again, "David will do a good job to make sure you don't get sued."

Chris went on to call for the inclusion for waivers to streamline the process, which allow for a bypassing of meetings, discussion and public notification requirements to "make it desirable for wireless carriers." Chris explained that in the past if a town denied a permit, he would have to sue them to get it, so why not avoid all that by making it attractive for carriers to come to town?

Does putting the wishes of the wireless companies over the needs of the neighbors not concern you?

If Chris has sites he is looking at, can he please disclose them so the community can have a conversation about the properties he'd like to site towers on prior to the wireless zoning bylaw being passed? Can you please find out where he is looking at and where he feels a tower would best be sited?

Again, I am asking you to **protect your homeowners and the people who came to Lenox to get away from the commercial/ industrial infrastructure and electrosmog and who came here for the nature, the residential qualities, the healthy living and lifestyle, the beauty and the historic aspects of the town they settled here for.**

Once again, I am asking that Lenox hires either Attorney Berg or Attorney Campanelli, Attorney McCollough or any number of attorneys who can review, advise and strengthen your **draft wireless zoning bylaw**. They can provide you with the most current bylaws created and properly explain the DC Circuit Court of Appeals August 13, 2021 ruling against the FCC. It does not just cover protections and updated FCC regulations for children.

Again, your hands are not tied and Lenox can write something that allows for **both connection and protection.**

I do hear what Chris is saying about not spending a year going back and forth in meetings to get a tower. There is a 90 day shot clock to approve co-location applications and a 150 day shot clock to approve new tower application, so why would he think it would take a year? **Wouldn't you rather want to do it right instead of doing it quickly and ending up with issues or expensive litigation or cell tower removal like Centerville, Cape Cod, Pittsfield, Ripon, Tarrytown, Durango, and so many others have?**

If a tower is going to serve the town for 20 + years, wouldn't 150 days to get a new tower right be a valuable investment of time, and wouldn't the input of the closest community members matter? Isn't that what the function of local government is- to provide residents a mechanism for due process, feedback and input on what is built next to them? We have the right to protect our homes and the quiet enjoyment of them.

**A strong wireless zoning bylaw allows for towers and allows for protections.** It also allows a mechanism for homeowners to push back if a tower is proposed for an area that could be considered inappropriate.

Please explain what in the wireless zoning bylaw as written now allows for a home owner to push back with legal standing if a cell tower is proposed next to their home or property?

It was said tonight that "what Lenox is doing is not much different from other towns" and a spreadsheet was being compiled. May I please get a copy of that spreadsheet?

I don't see the new bylaw as having setbacks for schools and residential areas, requiring carriers to have a certificate of insurance, or carriers being required to monitor the emissions of cell towers. Those are certainly items being built into the newer wireless zoning bylaws. Will each of these be included?

I appreciate the request to have a map made with some alternative cell sites like Lenox Mountain and the fire tower, as well as maps made with both 500' setbacks and an overlay district. When do you think those maps will be ready to share with us?

Below is information on wireless bylaws for your review.

Thank you for taking the time to answer my questions.

Please reach out anytime to discuss.

With gratitude,

Courtney

Many communities have passed strong ordinances restricting cell towers and small cell antennas near homes and schools.

#### Setbacks

- [Shelburne, Massachusetts](#): 3,000 feet for schools and 1,500 feet for homes.
- [Copake, New York](#): 1,500 feet from homes, schools, churches and public buildings.
- [Sallisaw, Oklahoma](#): 1,500 from homes.
- [Calabasas, California](#): No "Tier 2" telecommunications facilities within 1,000 feet of homes and schools.
- [Stockbridge, Massachusetts](#): 1,000 feet for schools, playgrounds and athletic fields. 600 feet for residential.
- [Walnut City, California](#): 1,500 feet setbacks for schools, parks and residential zones.
- [Bar Harbor, Maine](#): 1500 feet setback for schools.
- [Bedford, New Hampshire](#): 750 feet from nearest residentially-zoned property.



- [Encinitas, California](#): Restricted site locations include residential zones, within Ecological zones, or very high fire hazard severity zones, 500 feet from residential dwelling unit, daycare facilities or schools.
- [Scarsdale, New York](#) – 500 feet setback from homes, schools, parks, and houses of worship.
- [Randolph, Massachusetts](#): 500 feet setbacks for homes.
- [Petaluma, California](#): 500 feet setback for homes.
- [Suisun City, California](#): 500 feet setback for homes.
- [Ithaca New York](#): 250 feet or more setback from any residence, school, or day-care facility.

**Several school districts prohibit cell towers and have decommissioned towers or not renewed contracts such as:**

- Los Angeles California
- Palo Alto California
- West Linn-Wilsonville, Oregon

**Several municipalities have protections for trees.**

- [Washington DC](#): A standalone pole shall not be located within an existing street tree's protected zone and poles shall not be placed within 15 feet of any open tree planting space.
- No street tree shall be removed, or have its protected root zone impacted and "no tree shall be pruned related to the installation or functioning of small cell infrastructure."
- [Denver Colorado](#): A minimum of 15-25 feet of separation to the tree trunk such that no proposed disturbance shall occur within 5 feet of the critical root zone (drip-line) of any tree.
- [Thornton Colorado](#): Poles shall not be located..."less than 15 feet or within the drip line of an existing tree, whichever is greater in order to protect the health of the tree."

**Reviews That Recommend Cell Towers Be Distanced Away From Homes and Schools**

- A review paper entitled "[Limiting liability with positioning to minimize negative health effects of cellular phone towers](#)" reviewed the "large and growing body of evidence that human exposure to RFR from cellular phone base stations causes negative health effects." The authors recommend restricting antennas near home and within 500 meters of schools and hospitals to protect companies from future liability ([Pearce 2020](#)).
- An [analysis](#) of 100 studies published in Environmental Reviews found ~80% showed biological effects near towers. "As a general guideline, cell base stations should not be located less than 1500 ft from the population, and at a height of about 150 ft." ([Levitt 2010](#))

- A [review](#) published in the International Journal of Occupational and Environmental Health found people living less than 500 m from base station antennas had an increased adverse neuro-behavioral symptoms and cancer in eight of the ten epidemiological studies ([Khurana 2011](#)).
- A [paper](#) by human rights experts documented the accumulating science indicating safety is not assured and considered the issue within a human rights framework to protect vulnerable populations from environmental pollution. "We conclude that, because scientific knowledge is incomplete, a precautionary approach is better suited to State obligations under international human rights law." ([Roda and Perry 2014](#))
- A review entitled "[Evidence for a health risk by RF on humans living around mobile phone base stations: From radiofrequency sickness to cancer](#)" reviewed the existing scientific literature and found radiofrequency sickness, cancer and changes in biochemical parameters. ([Balmori 2022](#))

On Mon, 27 Sept 2021 at 21:24, Courtney Gilardi <[courtneygilardi@yahoo.com](mailto:courtneygilardi@yahoo.com)> wrote:

Dear Ms. Miller,

Can you be so kind as to please distribute this to the Lenox Planning Board members and place a written copy of this in the file on the wireless zoning bylaws to be entered into the written record? I sent it out before entering all the addresses.

Please know there are so many resources to assist, and multiple attorneys who do this work in a way in a balanced and protective way. Please let me know how I can help, be it through subject matter experts presenting to the Planning Board or names of legal council who can provide you with accurate wireless communications materials.

With gratitude,

Courtney Gilardi

----- Forwarded Message -----

**From:** Courtney Gilardi <[courtneygilardi@yahoo.com](mailto:courtneygilardi@yahoo.com)>

**To:** Christopher Ketchen <[cketchen@townoflenox.com](mailto:cketchen@townoflenox.com)>; Marybeth Mitts <[mmitts@townoflenox.com](mailto:mmitts@townoflenox.com)>

**Sent:** Monday, September 27, 2021, 09:15:37 PM EDT

**Subject:** Help for writing wireless zoning bylaws for Lenox

Dear Town Planner Chris Ketchen, Selectboard Chair MaryBeth Mitts, Planning Board Members; Gwen Miller, Kathleen McNulty Vaughn, Lauryn Franzoni Pederson, Pamela Kueber, Tom Delasco & James Harwood,

Thank you for doing a "big pause" in drafting the wireless zoning bylaws.

Has Mr. Ketchen or Ms. Mitts passed along my letters to you? Please let me know what information you have received and I can re-send if needed.

After reading the Berkshire Eagle Article, [Lenox planners: We need help on cell tower issues](#), I wanted to offer assistance and resources that will help you have a more comprehensive understanding of the issues. If you are asking for help, please know that help is available.

For the last several months, I have been asking Chris and MaryBeth to please consider having a one hour consultation with a different attorney. I have recommended Attorney Andrew Campanelli, but there are several others who can also provide you with additional wireless communications materials and council.

It broke my heart to read that;

At the Planning Board, our hands are literally tied," Kueber added. Doubling down on the point, McNulty-Vaughan asserted that "we have given up our right to keep our citizens healthy and to have concern about their welfare.

Please know your hands are not tied. And shame on anyone who put those ideas into your head and made you feel this way. There are many towns with excellent wireless zoning bylaws that can be excellent examples for Lenox.

Last weekend's event was a demonstration and an educational opportunity for the residents of the Curtis and the residents of Lenox to learn more about the wireless issues. The Lenox group hosted Cecelia Doucette, Education Director of Massachusetts for Safe Technology, to answer questions, speak to residents, hand out educational materials and clarify what can be done about safer cell tower siting.

Many municipalities have implemented setbacks, and right next door in Stockbridge and Great Barrington, they have done this successfully.

I have offered to help put you in touch with the attorney who wrote that bylaw.

Please review Burlington's small cell zoning bylaw. As you will see, small cells are not permitted in residential areas, in front of homes, and have to be ADA compliant.

[https://www.burlington.org/DocumentCenter/View/2844/3-BU-STM-5202019-SWF-Design-Rules-and-Regs\\_Approved-PB\\_4\\_4\\_19-BOS\\_4\\_8\\_19?bidId=](https://www.burlington.org/DocumentCenter/View/2844/3-BU-STM-5202019-SWF-Design-Rules-and-Regs_Approved-PB_4_4_19-BOS_4_8_19?bidId=)

Executive Director of the Environmental Health Trust, Theodora Scarato, is available to present at one of the planning board meetings. Not only can Ms. Scarato educate the planning board about setbacks and wireless protections that municipalities across the country have successfully put into place, she can also clarify about the historic win against the FCC, as she was one of the two lead petitioners.

I would also like ask that a different attorney advise at the next planning board meeting for all the reasons. I have the names of several excellent ones who can write bylaws or consult on telecom matters and provide you with accurate information.

Thank you for taking the conflict of interest seriously and reaching out to the Attorney General for advice.

I have made a request to Chris and Marybeth that Lenox hires new council for it's wireless zoning bylaws, so that way Lepore can represent the LHA antenna contract without issue. When I shared this conflict of interest with those in the industry, they were outraged that the same attorney for the cell antennas would also be the one rewriting the bylaws to prioritize placement on the Curtis.

Below is information from the Massachusetts for Safe Technology website; <https://www.ma4safetech.org/> There is excellent information on municipal bylaws and resources on navigating cell policies for Lenox. Education Director Cecelia Doucette is an excellent resource and I encourage you to reach out to her with questions. She has a list of attorneys versed in re-rewriting wireless bylaws and can provide you with those names.

Thank you for your help in keeping Lenox safe from wireless harm, protecting our home values, honoring the residential zoning, ensuring our neighborhoods retain their safe, secure and residential characteristics and keeping us viewshed free from infrastructure blight.

Thank you for writing a congressional letter. If our group can be of assistance with understanding the wireless safety bill in the senate and on other levels of government, please let us know. We'd love to help you strongly advocate for what others have done and are doing to keep their residents safe.

Please feel free to reach out to me anytime. There are so many resources. I don't want to overwhelm you but do want to connect you to those who can help.

With gratitude,

Courtney Gilardi

## Risk Management Solutions

- Experienced telecom lawyer **Andrew Campanelli** indicates the industry provides our towns with fraudulent information to lead them to believe they have no recourse. He has taken more than 7,000 individual and municipal cases and won 75-80%. See this one-hour interview to learn what is legal and what questions to ask to protect our towns:

[https://www.youtube.com/watch?v=UtT6qVH584s&feature=emb\\_logo](https://www.youtube.com/watch?v=UtT6qVH584s&feature=emb_logo)

- Our health and that of our children and planet cannot wait for public policy to catch up to the science though as the harm is happening in real-time so it behooves us all to come up to speed on this issue and do what we can from where we are.
- The policy paper, "[Re-Inventing Wires: The Future of Landlines and Networks](#)," details why the U.S. and our communities should instead invest in hard-wired telecommunications infrastructure to support economic growth, bridge the digital divide and diminish risks to security, privacy, public health and the environment.
- See the paper, "**Building science and radiofrequency radiation: What makes smart and healthy buildings**" written by retired Microsoft Canada President Frank Clegg with leading EMF scientists and medical doctors:

<https://www.sciencedirect.com/science/article/pii/S0360132319305347>

- Our municipalities can help [educate](#) the utility companies and **ask for non-radiation emitting utility devices/meters**. Many of the line workers, engineers and management teams are not aware of the hazards to which they are exposed daily.
- The **International Institute for Bau-biologie® & Ecology** provides [Standard of Building Biology Testing Methods \(SBM 2008-C\)](#). In it you will see specific biologically based recommendations for Radiofrequency Radiation as well as the ELF's from power lines, etc., and other hazardous exposures.
- **Opt for hard-wired technology access, via fiber-optics or high speed cable and copper to the premises, using Ethernet cables inside with wi-fi turned off** in all public buildings.
- Industry-led solutions don't have to be the only solutions. Westminster, Maryland and others built their own hard-wired fiber-optic internet access system through a **public-private partnership**: <https://www.youtube.com/watch?v=z1b8-AaBzok&feature=youtu.be&t=42m57s>.

- The industry is trying to decommission our copper landlines and force migration to wireless infrastructure. Advocate to **keep copper land-line telephone service** available for at a minimum, emergency services. When power goes out, wireless goes down and cell phones cannot be charged. If there is no copper land-line access, residents cannot call for help. In addition, [landline emergency calls](#) pinpoint location of emergency, but cell calls do not; they go through a redirection and delay emergency response time. Copper landlines often hold up in natural disasters too whereas wireless antennas go down in fires and storms and emergency communication is wiped out.
- **Understand where each wireless communication facility is** located in and around your town, and when each lease expires so you can **negotiate better terms**. See [antennasearch.com](#) for a list of antennas and cell towers in your area. Insist that antennas be moved to at least a quarter-mile from neighborhoods, schools, parks and medical facilities. [Scientists](#) recommend a half-mile for the most vulnerable: children, fetuses, the elderly and those with existing health compromises. Work with the vendors to reduce power levels, and adopt eco-mode so a signal is only emitted when a device is looking for a handshake, rather than emitting 24/7/365. Encourage industry to develop biologically compatible wireless technology.
- Ensure **local by-laws protect residents, schools, businesses and recreational areas** with maximum setbacks from wireless communication facilities. Studies show [increased prevalence of adverse neurobehavioral symptoms or cancer](#) in populations living at distances < 500 meters (1,640') from base stations. Towns like [Randolph, MA](#) have already begun putting by-laws in place to retain local decision-making control for wireless communication systems as industry pushes to take that right away from our municipalities through federal bills like [S. 3157 STREAMLINE Small Cell Deployment Act](#), [S.19 MOBILE Now Act](#) and [S.88 DIGIT Act](#). Burlington, MA set policy that requires telecom applicants to recertify the equipment each year, and the town assesses a fee to cover the staff time to oversee the recertification process. [Verizon withdrew their small cell applications](#) to avoid setting precedent for a fee.
- **Educate and protect the public** which you serve. Host [documentary films](#) and community discussions. There is an award-winning film, [Generation Zapped](#), which any community can bring in to start this important conversation. It features leading scientists, doctors and patients. Training is available for schools, families, and municipalities by the non-profit [Wireless Education](#) which offers quick on-line courses on the science, risks and medical best practices for using today's technology more safely.

[Provide radiation detection meters](#) for the community to borrow from the public library so they can measure and remediate microwave radiation emissions in their homes, offices, schools and leisure spaces.

- Engage state-level health, utility, school and legislative leaders to **develop public policy to protect public health** and educate citizens. New Hampshire has already passed a law and aggressively investigated the health and environmental impact of EMFs and 5G. In their [final report](#) they called out the conflicts of interest with industry and the FCC, and made 15 recommendations to inform and protect the public. Oregon passed an emergency law to investigate and protect school children.

- Ask your legislators to introduce and escalate passage of EMF bills. See what [Other States](#) are doing. Propose similar legislation in your state.
- Ask your federal legislators to **overturn the Telecom Act's Section 704** and address the health and environmental impact of wireless radiation. [Montana](#) introduced a bill with suggested language for small cell protections.
- 5GCrisis.com has a [tool kit](#) with a **model small cell ordinance to consider and a state bill** culled from successful risk management efforts across the country. Use these to protect your town and state.
- 
- **TOOL KIT | 5G Crisis**
- Flyers, signs and talking points to push back against 5G.

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Courtney Gilardi  
413 418 6925

<http://www.facebook.com/pittsfieldcell>

“Never doubt that a small group of thoughtful, committed, citizens can change the world. Indeed, it is the only thing that ever has.”  
— Margaret Mead

Links in the message (2)



**Lenox planners: We need help on cell to...**

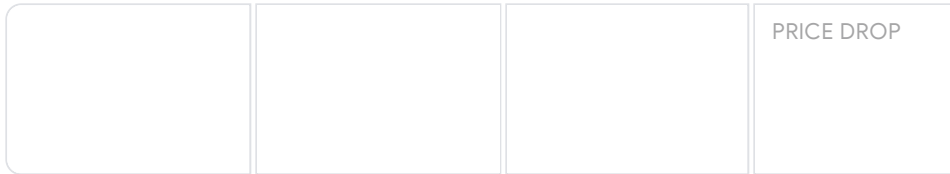


**Massachusetts for Safe Technology**

Jessica Cote | Land Use Assistant

Town of Lenox | 6 Walker Street | Lenox, Massachusetts | 01240  
P: 413.637.5500 x 1211 | F: 413.637.5518





## Put Stars and Stripes back on the Mission House flagpole

### LETTERS TO THE EDITOR

To the editor: About 40 years ago, Admiral Mack, with the input and assistance of local veterans and the good wishes of the Trustees of Reservations, erected a flagpole on the side of the Mission House for the purpose of properly displaying the flag of the United States of America.

Now those at the Trustees of Reservations have seen fit to replace the Stars and Stripes with a flag that represents only a small percentage of Americans. I would urge the Trustees to restore the flag that represents our united people, the flag for which so many Americans have given their lives, the flag Admiral Mack and the veterans wished to see unfurled above the Mission House.

If this is the way they truly feel, then they should forgo their tax-exempt status and be treated like any other profitable business.

*Harold French, Stockbridge*

To the editor: I attended the Tuesday Lenox Planning Board meeting on the new cell tower zoning bylaw and found that it will allow large, ugly and radiation-generating cell towers in residential areas possibly within 150 feet of any home in Lenox.

The bylaw is also being written to make it extremely difficult (if not impossible) for residents to sue the town if one objects to a cell tower near their front yard or line of sight.

The existing cell zoning in Lenox protects residential areas by limiting cell towers to commercial or industrial zoned areas.

Without this protection cell companies can build towers anywhere they please, and if that's near your home, you are out of luck. Until the new bylaw protects residential areas to an equal degree as the existing bylaw, it should not be accepted at the Nov. 17 special town meeting.

If you want residential protection in Lenox from cell towers, I recommend you attend this meeting and vote.

*Phil Gilardi, Lenox*