

To see if the Town will vote to amend Section 7 of the Warren Zoning Bylaw, Siting of Wireless Communications Facilities and Creation of Overlay District, as shown below with the proposed text shown in bold font, deleted text shown in strikethrough font, and the lack of text formatting indicating no change from existing requirements, and included for informational purposes only.

SECTION 7. SITING OF WIRELESS COMMUNICATIONS FACILITIES ~~AND CREATION OF OVERLAY DISTRICT~~

7.1 Purpose

~~The purposes of this Article are:~~

1. To promote the health, safety, and general welfare of the community;
2. To guide sound development;
3. To conserve the value of lands and buildings;
4. To encourage the most appropriate use of the land;
5. To minimize the adverse aesthetic impact of wireless communication facilities;
6. To minimize the number of wireless communication facility sites;
7. To encourage co-location by wireless communication companies on wireless communication facilities;
8. To ensure that WCF are sited, designed and screened in a manner that is sensitive to the surrounding neighborhood; ~~and~~
9. To avoid damage to adjacent properties.

7.2 Definitions

1. Wireless Communications Facilities ("WCF") - any and all materials, equipment, storage structures, towers, dishes and antennas, other than customer premises equipment, used by a commercial telecommunications carrier to provide telecommunications or data services. This definition does not include facilities used by a federally licensed amateur radio operator.
2. Tower - Any equipment mounting structure that is used by a commercial telecommunications carrier primarily to support reception or transmission equipment and that measures twelve (12') feet or more in its longest vertical dimension. Only monopole towers are allowed.
3. Communications Device - Any antennae, dish or panel mounted out of doors on an already existing building or structure used by a commercial telecommunications carrier to provide telecommunications services. The term "communications device" does not include a tower.
4. Stealth Communication Facilities - any newly constructed or installed building, building feature, or structure designed for the purpose of hiding or camouflaging WCF, Tower(s), and Communication Device(s) installed therein or thereon, including but not limited to church steeples, flag poles, historic-replica barns, silos, water towers, bell towers, etc.
5. WCF Accessory Buildings - A structure designed to house both mechanical and electronic equipment used in support of Wireless Communications Facilities.

7.3 Establishment of Wireless Communications Facility Overlay District

- ~~1. The Wireless Communications Facilities Overlay District is herein established (hereinafter "WCFOD"). The WCFOD shall be considered superimposed on the other districts existing in the same area as shown on the Zoning District Map of the Town of Warren, Massachusetts (on file in the Office of the Town Clerk) and any buildings, structure or use of land included in the WCFOD shall also be deemed to be within the particular district in which it is located as shown on said Zoning Map and subject to all the regulations and requirements thereof, in addition to those set forth in this section.~~
- ~~2. The boundaries of the WCFOD shall include the area comprising a continuous strip of land running from 500 feet North of the Massachusetts Turnpike to 500 feet South of the Massachusetts Turnpike along the entire length of the Massachusetts Turnpike as it travels through the Town of Warren and shall be as shown on a map entitled "Town of Warren, Massachusetts Wireless Communications Facilities Overlay District 1998." This map will be made a part of the Zoning Chapter and will be on file in the Office of the Town Clerk.~~

7.47.3 General Requirements

1. The provisions of ~~the WCFOD~~ this Section 7 apply to all wireless communications facilities ~~which include a Tower~~.
2. WCF which include a Tower may be erected or installed ~~only within the WCFOD in~~ all zoning districts, in compliance with the provisions of this Article and upon the grant of a Special Permit and site plan approval by the Planning Board.
3. Stealth Communications Facilities, communication devices and WCF accessory buildings may be allowed in any zoning district subject to a grant of a Special Permit by the Planning Board, provided that they are properly screened and conform to the requirements set forth in this by-law.
4. Notwithstanding anything to the contrary contained in the Zoning Bylaw, the Planning Board shall be authorized to grant a special permit for the erection or installation of WCF.
5. No WCF shall be erected or installed out of doors except in compliance with the provisions of this Article. The provisions of this Article apply to all WCF whether as a principal use or an accessory use and to any and all extensions or additions to, or replacement of, existing WCF.
- ~~6. Notwithstanding Section 5.2 of the Town Zoning By-Law, no applicant for a WCF which includes a Tower may apply for a use variance unless the Planning Board first finds that there are no already existing Towers, buildings or structures which are available upon commercially reasonable terms and which would accommodate the technological needs of the applicant to provide service in the area.~~
- ~~7.6.~~ Existing Towers may be reconstructed, expanded, and/or altered in all zoning districts subject to a Special Permit granted by the Planning Board, provided that they conform to all of the requirements set forth in this Zoning By-law.
- ~~8.7.~~ New Antennas, Communications Devices, and WCF Accessory Buildings may be located totally within existing buildings and existing structures in all zoning districts.

9.8. The Town acting through its Planning Board may require the applicant to pay reasonable fees for professional review of the applicant's proposal by a professional or radio frequency engineer, attorney or other qualified professional.

7.57.4 Review Standards

In addition to the Special Permit Review Criteria under Mass Gen. Laws c. 40A, sec. 9, **and Section 5.1 of this Bylaw,** the Planning Board shall also review the Special Permit application in conformance with the following objectives:

1. When considering an application for a WCF which includes a Tower, the Board shall take into consideration the proximity of the facility to residential dwellings.
2. WCF which include a Tower shall be considered only after a finding that existing or previously approved Towers, buildings, or structures cannot accommodate the proposed users. New Towers shall be considered by the Planning Board only upon a finding by the Planning Board that: (a) the applicant has used reasonable efforts to co-locate its proposed Wireless Communications Facilities on existing or approved facilities, buildings or structures; and (b) that the applicant either was unable to negotiate commercially reasonable lease terms with the owner of any existing or approved facility, building or structure that could accommodate the proposed facilities from both structural engineering (i.e., the height, structural integrity, weight bearing and wind-resistant capacity of the existing or approved facility) and radio frequency engineering perspectives (i.e., height, coverage area etc.); or there neither exists nor is there currently proposed any facility building or structure that could accommodate the proposed facilities from structural and radio frequency engineering perspectives.
3. When considering an application for a Communications Device proposed to be placed on an already existing building or structure, the Planning Board shall take into consideration the visual impact of the unit from the abutting neighborhood and streets and the proximity of the unit to residential dwellings.
4. A Stealth Communication facility shall be allowed only if it is compatible architecturally and visually with the neighborhood in which it is to be placed and if it is sufficiently similar in size to buildings and structures in the neighborhood.
5. The Planning Board shall act on a request for the placement of a WCF within **a reasonable period of time time periods specified by MGL chapter 40A §9** and any denial shall be in writing and supported by substantial evidence contained in the record.

7.67.5 Development Requirements

1. Any proposed tower must be of the minimum height necessary to accommodate the use and in any event shall not be more than one hundred fifty (150') feet in height unless the applicant demonstrates to the Board's satisfaction that greater height is required to provide service in the area.
2. The applicant shall arrange to fly a three (3') foot diameter balloon or place a crane at the proposed site at the maximum height of the proposed Tower. The date and location of the demonstration shall be advertised at least fourteen (14) days, but not more than twenty-one (21) days, before the flights in a newspaper of general circulation in the Town.

3. Visual impacts of Towers and Communications Devices must be minimized by use of appropriate paint.
4. Night lighting of Towers shall be prohibited unless required by the Federal Aviation Administration.
5. The siting of Towers shall be such that the view of the Tower from other areas of the Town shall be as minimal as possible and shall be screened from abutters and residential neighbors as feasible.
6. Shared use of Towers by commercial telecommunications carriers is required unless such shared use is shown to be not feasible.
7. All Towers shall be designed to accommodate the maximum number of users technologically practical.
8. Every Tower must be set back from the property line of the lot on which it is located in an amount at least equal to the height of the Tower.
9. The height of Communications Devices located on a building shall not exceed fifteen (15') feet in height above the roof line of the building.
10. Communication Devices shall be situated on or attached to a building or structure in such a manner that they are screened whenever possible, shall be painted or otherwise colored to minimize their visibility, and shall be integrated into such structures or buildings in a manner that blends with the structure or building. Freestanding antennas or dishes shall be located on the landscape, screened, and painted in a manner so as to minimize visibility from abutting streets and residents.
11. Fencing shall be provided to control access to all WCF which include Towers.
12. All Towers must comply with all applicable Federal Communications Commission Rules and Regulations; annual certification of compliance must be provided.
13. All Towers must comply with all Federal Aviation Administration Rules and Regulations.
14. Every Tower shall be setback from existing buildings and public ways in an amount at least equal to one and one-half (1-1/2) times the height of the tower.
15. Accessory buildings and or storage sheds shall not exceed two (2) stories in height; no more than three hundred (300) square feet in floor area shall be available for each user; any buildings or storage sheds added to a site must be attached to and abut the original building or storage shed and must be compatible in appearance.
16. The maximum amount of vegetation shall be preserved.
17. Every tower shall be setback from existing schools, hospitals, and residential structures in an amount at least equal to two times the height of the tower.

7-7.6 Conditions

The following conditions shall apply to all grants of Special Permits pursuant to this Article:

1. For all WCF, annual certification of compliance with Federal Communications Commission, Federal Aviation Administration and federal, state, and local laws, rules and regulations must be provided.

2. If a Tower is on Town property, a Certificate of Insurance for liability coverage must be provided naming the Town a¹s an additional insured.
3. If the Tower is on Town property, an agreement whereby the user indemnifies and holds the Town harmless against any claims for injury or damage resulting from or arising out of the use ~~of or~~ occupancy of the Town owned property by the user.
4. For Towers, the execution of an agreement with the Town whereby the user shall, at its own expense, and within thirty (30) days upon termination of the lease or thirty (30) days ~~to of~~ nonuse of the Tower, restore the premises to the condition it was in at the onset of the lease and shall remove any and all WCF thereon.
5. A bond must be provided in an amount equal to the cost of removal of any and all WCF from the premises and for the repair of such premises and restoration to the condition that the premises were in at the onset of the lease. The amount is to be payable to the Town in the event that the user breaches the agreement in paragraph 4 herein.
6. For all Towers, the user will allow the Town of Warren and other carriers to lease space on the Tower so long as such use does not interfere with the user's use of the Tower, or with any Town controlled Communications Devices.
7. For a Tower, execution of an Agreement whereby the user will allow other carriers to lease space on the tower so long as such use does not interfere with the user's use of the tower. There will be a presumption that a tower can accommodate more than one user.

Amend the Table of Contents by removing the words “and creation of overlay district” in the Section 7 title, by removing Section 7.3, Establishment of Wireless Communications Facility Overlay District, and by renumbering the following sections, as follows:

SECTION 7. SITING OF WIRELESS COMMUNICATIONS FACILITIES ~~AND CREATION OF OVERLAY DISTRICT~~

- 7.1 Purpose
- 7.2 Definitions
- ~~7.3 Establishment of Wireless Communications Facility Overlay District~~
- 7.4~~3~~ General Requirements
- 7.5~~4~~ Review Standards
- 7.6~~5~~ Development Requirements
- 7.7~~6~~ Conditions

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