

PROPOSED ZONING AMENDMENTS  
SPRING 2020 ATM  
Draft v.1  
March 10, 2020

DRAFT AMENDMENTS FOR PUBLIC HEARING

1. AMENDMENTS re. DIMENSIONAL REQUIREMENTS:

**ARTICLE \_\_\_\_.** To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 97, Zoning, Article VI – DIMENSIONAL REGULATIONS, § 97-6.B, Table of Dimensional Requirements, as follows (with new language indicated by **bold underline**):

1. By adding a new Note (6) to the Minimum Dimensions column:

**(6) The width of a lot shall be equal to at least ninety (90) percent of the required frontage at the front yard setback. Further a circle with a diameter equal to eighty (80) percent of the applicable required frontage must be able to be located within the lot lines of any lot; structures may be constructed outside of this circle, provided that all other requirements of this by-law are met. No lot shall be less than forty feet wide between the front yard setback and this circle.**

2. By adding a new Note (7) as follows:

**(7) See Section 97-7 relative to driveway location and requirements.**

TABLE OF DIMENSIONAL REQUIREMENTS							
	Minimum Dimensions <sup>(6)</sup>				Maximum Dimensions		
	Lot Area	Frontage	SetBacks		Footprint	Lot Coverage	Height*
Zoning District	(sft)	(ft)	Property line (ft)	Street (ft)	(sft)	(%)	(ft)
<b>R-AG</b>							
<b>Single Family Residence</b>	40,000 <sup>(1)</sup>	125	10 <sup>(2)</sup>	20 <sup>(2)</sup>	—	—	35
<b>Two Family Residence — Served by a public water supply</b>	60,000 <sup>(1)</sup>	125	10 <sup>(2)</sup>	20 <sup>(2)</sup>	—	—	35
<b>Two Family Residence — all other</b>	80,000 <sup>(1)</sup>	125	10 <sup>(2)</sup>	20 <sup>(2)</sup>	—	—	35
<b>PR</b>	40,000 <sup>(1)</sup>	125	10 <sup>(2)</sup>	20 <sup>(2)</sup>	—	—	35
<b>R-LB</b>	80,000 <sup>(1)</sup>	125	10 <sup>(2)</sup>	20 <sup>(2)</sup>	—	—	35
<b>BVB</b>	10,000 <sup>(1)</sup>	100	10	20	2,500 <sup>(5)</sup>	50	35
<b>CH</b>	40,000 <sup>(4)</sup>	200	25	50	—	50	35
<b>CHA</b>	40,000 <sup>(4)</sup>	200	25	50	—	50	35
<b>LIB</b>	40,000 <sup>(1)</sup>	200	25 <sup>(3)</sup>	50 <sup>(3)</sup>	—	50	35
<b>UGB</b>	20,000 <sup>(1)</sup>	100	10	20	—	25	35
<b>BLI</b>	40,000 <sup>(1)</sup>	200	25 <sup>(3)</sup>	50 <sup>(3)</sup>	—	50	35
<b>PRM</b>	40,000 <sup>(1)</sup>	200	25 <sup>(3)</sup>	50 <sup>(3)</sup>	—	50	35

**Notes:**

- (1) Required contiguous upland. Regardless of the actual lot size, at least 80% of the minimum lot area for the district shall be contiguous in uplands and shall not be in wetlands or in the Parker River-Essex Bay Area of Critical Environmental Concern. Such wetlands are defined in M.G.L. Chapter 131, Section 40 as amended, and include without limitation bogs, swamps, marshes, wet meadows, and areas of flowing or standing intermittent, and are characterized by their distinctive soils, including but not limited to peat or muck, by the existence of plant communities which require the presence of water at or near ground surface for the major portion of the year. Such plant communities are those described in M.G.L., Chapter 131, Section 40 as amended.  
[Amended 6-26-2001 STM, Art. 8; 6-24-2003 STM, Art. 15]  
[Added 6-24-2003 STM, Art. 17]  
[Added 6-24-2003 STM, Art. 16]
- (2) No part of any building on lots in said district may stand less than 10 feet from a property line or less than 20 feet from a street unless a nearer building line is already established by existing buildings.
- (3) No building on any lot shall be closer than 50 feet to a highway or watercourse or less than 25 feet from any side or rear boundary or more than 35 feet in height as measured from the mean sea level of the established grade at the building to the mean height of the roof.
- (4) Each lot shall have an area not less than 40,000 square feet and shall have a frontage on an accepted way of not less than 200 feet (an additional 2,000 square feet of gross area shall be required for each unit in any motel).
- (5) Maximum footprint area of a permitted non-residential building shall neither exceed 2500 square feet nor cover more than 50% of the lot.

**Notes:**

- (6) The width of a lot shall be equal to at least ninety (90) percent of the required frontage at the front yard setback. Further a circle with a diameter equal to eighty (80) percent of the applicable required frontage must be able to be located within the lot lines of any lot; structures may be constructed outside of this circle, provided that all other requirements of this by-law are met. No lot shall be less than forty feet wide between the front yard setback and this circle.
- (7) See Section 97-7 relative to driveway location and requirements.
- \* See height definition section 97-11.D

**2. AMENDMENTS re. DRIVEWAY WIDTH AND SETBACK REQUIREMENTS:**

**ARTICLE \_\_\_\_.** To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 97, Zoning, ARTICLE VII – PARKING, § 97-7.C. Access, as follows (with new language indicated by **bold underline**):

1. By adding a clause at the end of Section 97-7 C.(1), so that this paragraph reads as follows:
  - (1) Driveways for single and two family residences shall have a minimum width of nine (9) feet, **except that driveways for single and two family residences which exceed 250 feet in length shall have a minimum width of twenty (20) feet.**
2. By adding a new subsection (e) to Section 97-7.C.(2) as follows:

**(e) No portion of any driveway or any driveway construction and driveway appurtenances,, including its cuts, fills, culverts, etc., shall be closer than ten (10) feet to any side or rear property line.**

**3. ADDITION OF DEFINITION FOR DRIVEWAY:**

**ARTICLE \_\_\_\_.** To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 97, Zoning, ARTICLE XI – ADMINISTRATION, § 97-11.D. Written Definitions, by inserting a new definition as follows in alphabetical order (with new language indicated by **bold underline**):

**Driveway: A portion of a lot providing unobstructed access from a (street or highway) or (public or private way) to an off-street area used for driving, servicing or parking or otherwise accommodating motor vehicles.**

#### 4. REVISION OF WIRELESS COMMUNICATIONS SERVICES BY-LAW

**ARTICLE \_\_\_\_.** To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 97, Zoning, ARTICLE IV – REGULATIONS OF OVERLAY DISTRICTS, § 97-4.C. Wireless Communications Services Overlay District, to delete this section in its entirety and replace it with a new § 97-4.C. Wireless Communications Services as follows:

##### C. Wireless Communications Facilities.

###### 1. Purpose:

- a) The purpose of this Zoning Bylaw is to establish regulations for the placement, construction and modification of wireless communications facilities through which wireless communications services may be provided while preserving and protecting the public health, safety and general welfare. Specifically, these Wireless Communications Facilities regulations have been created to:
  - (1) Protect the general public from hazards associated with wireless communications facilities;
  - (2) Minimize visual impacts from wireless communications facilities;
  - (3) Protect the scenic, historic, natural and human-made resources of the Town;
  - (4) Protect property values.
  - (5) Enable the provision of personal wireless services (PWS) in a manner consistent with federal law.
  - (6) Enable the town to enjoy the benefits of an effective wireless communications infrastructure.

###### 2. Tower Use Restrictions.

- a) A Wireless Communications Tower District (WCTD) has been created to enable wireless communications services to operate on tower-mounted facilities. A wireless communications tower may be erected by special permit in the following locations,
  - (1) Business/Light Industrial District
  - (2) <<Add new locations to provide better distribution of facilities throughout town based on wireless assessment>>
  - (3) <<Consider adding Triton and/or adjacent Town parcel>>
  - (4) <<Consider locations north of Parker River on 1A>>

- b) New wireless communications towers are allowed by Special Permit from the Planning Board in the WCTD initially for the deployment of Personal Wireless Service Facilities (PWSF), pursuant to the Town of Newbury Zoning By-Laws and subject to the criteria and to site plan approval as set forth in this Zoning By-Law, subject to a determination by the Planning Board that the benefits to the Town outweigh any adverse effects of the proposed tower and facility in view of the particular characteristics of the site and its surroundings. Additional WCFs, including without limitation, PWSFs, may be added to lawfully existing WCTs through the Special Permit process and/or the Eligible Facilities Request process, as applicable. Said determination on a new WCT shall include consideration of each of the following: [Amended 5-24-2011 ATM, Art. 23]
- (1) The communications needs served by the facility;
  - (2) Traffic flow and safety, including parking and loading;
  - (3) Adequacy of utilities and other public services;
  - (4) Impacts on neighborhood character and natural environment, including, without limitation, aesthetics, visual blight and noise;
  - (5) Potential fiscal impacts, including impacts on Town services, tax base and employment;
  - (6) Potential hazards due to radio frequency energy, use (such as falling object risks), traffic and other relevant factors, to the extent not contrary to federal law.
- c) In addition, such WCT may be erected in the WCTD, subject to the following conditions:
- (1) To the extent feasible, all service providers shall collocate their antennas on a single tower, unless limiting a tower's collocation capacity produces a demonstrably better result, singly and collectively, balancing the visual and other impacts of a single tall tower with the potential impacts of multiple shorter towers or other solutions to address the needs of providing service to an area of Town. Towers shall be designed to structurally accommodate the maximum technically practicable number of foreseeable users for their approved height;
  - (2) New towers shall be considered only upon a finding by the Planning Board that existing or approved towers, or alternatives involving other i) existing structures or ii) placements of WCF antennas in the public way, cannot address the coverage needs with less overall impact;
  - (3) Any new WCT shall be of the monopole type only and no lattice or guy-wire towers shall be permitted, unless the Planning Board finds an alternative design, including without limitation, disguised or camouflage design is an appropriate solution for the context of the site and surroundings.

- (4) The highest point of any tower or of any antenna or any component thereof or attachment thereto, with the exception of lightning rods and public safety vertical rod antennas, shall not exceed whichever is greater: 65 feet above ground or such greater height necessary to provide adequate service based on a finding that the applicant has made a substantial showing of the need for the height and the lack of less impactful alternatives,.
- (5) Finished grades shall not be distorted above the preexisting natural grades to achieve additional height.
- (6) A wireless communications tower shall not be erected nearer to any property line than a distance equal to the vertical height of the wireless communications tower with appurtenances, measured at the mean finished grade of the tower base. Upon finding that a better result is obtained by reducing the setback by up to 50% of the height of the tower facility, the Planning Board may relax this requirement.
- (7) The area around a tower, including its communication equipment and shelters shall be completely fenced for security to a height of six feet, and gated; and a sign shall be posted on or adjacent to all entry gates indicating the facility owner and a twenty-four-hour emergency telephone number. The Planning Board may waive this requirement if it finds the site design provides for the necessary security in another way.

### 3. General Use Restrictions

- a) Wireless communications facilities (WCFs) are permitted in all districts subject to the following requirements, provided that new tower-based wireless communications facilities are further limited to the WCTD.
- b) To the extent feasible, all utility interconnections to a WCF shall be via underground lines, except where existing overhead lines may be utilized.
- c) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- d) The wireless communications facility shall minimize, to the extent feasible, adverse visual effects on the environment. The Planning Board may impose reasonable conditions to ensure this result, including concealments such as: camouflage, screening, architectural design and painting and lighting requirements or limitations.
- e) Traffic associated with the wireless communications facility shall not adversely affect abutting ways.
- f) The applicant shall obtain written, legally valid and binding authorization for the use of each facility site from the owner thereof; and, where applicable, from the utility companies whose facilities are used; and from the Board of Selectmen with respect to public ways and Town-owned facilities.
- g) Applicants shall demonstrate the proposed use, expanded to its projected maximum capacity, will be compliant with federal requirements regarding the limitation of human exposure to radio frequency energy.

- h) Noise generated by any wireless communications facility, including auxiliary generators, shall not exceed 50 dBA at ground level at any non residential property line and 35 dBA at any residential property line. The Planning Board may waive this restriction on a finding that the applicant demonstrated by professional technical analysis the noise generated by the facility is essentially inaudible to the public, based on the submittal requirements in Section 4. Generators may be excepted from this criterion, provided the Planning Board may require generator noise mitigation to minimize generator noise nuisance.
  - i) A wireless communication facility may be installed on an existing structure, provided the installation is compatible with the context of its surroundings. Such facilities will employ best practices to design a facility that does not appear visually objectionable, denigrate the historic or scenic fabric of the community, produce visual blight, obscure scenic or safety viewlines, conflict with the character of its surroundings. The Planning Board may require such facilities to be hidden behind architectural features consistent with the location, camouflaged by coloring and/or shape, and/or screened by vegetation or other construction. Camouflage/concealment solutions are preferred not only because they improve visual impacts, but also because they establish performance requirements for future collocators and for modifications under “eligible facilities requests” criteria imposed under federal law.
  - j) Heights of existing structures may be increased by up to 12 feet for attachment of antennas and related hardware, subject to the visual and other criteria in this bylaw. Such heights may exceed the limit for the zoning district.
4. Submittal requirements.
- a) As part of any application for a special permit, applicants shall submit, at a minimum, the information required for site plan approval as set forth herein.
  - b) Applicants shall also describe the capacity of any tower, including the number and types of antennas and the number of projected collocators that it can accommodate, and the basis for the calculation of tower capacity.
  - c) The applicant shall describe and show any accessory structures, equipment, utilities and other related development required to build and operate the facility.
  - d) In addition, applicants shall submit:
    - (1) The name and address of the applicant and all agents of the applicant and of all legal and beneficial owners of the site or sites proposed for a wireless communication facility, copies of all instruments, options, contracts or encumbrances affecting ownership of the site or sites;
    - (2) A copy of the applicant's FCC license (and/or the licenses of any other wireless service providers committed to using the facility, accompanied by evidence of such commitment);

- (3) An instrument executed by all persons or entities owning property proving that the applicant is authorized by them to make the application and agreeing to comply with provisions of this Zoning Bylaw.
- (4) A statement signed by the applicant, on oath and under penalties of perjury, that all information included in the submittal is materially accurate, true, complete and verifiable. Inaccurate, misleading or false information shall be grounds for disapproval of the application or revocation of approval.
- (5) Plans and other information identifying the site or sites proposed, including:
  - (6) A map at an appropriate scale (to be determined by the Planning Board), showing lot lines of the subject property and of all properties within 500 feet of the perimeter of the facility and showing the footprint of all buildings on all such properties.
  - (7) Location on a copy of the Town Maps of the zoning district, including any overlay district, applicable to such properties.
  - (8) The heights of all existing buildings and structures on such properties and the height of any proposed new structure on the subject property.
  - (9) Height of existing tree cover on such properties, specifying heights and principal species.
- (10) Plans and elevation drawings showing the design of the proposed facility, site development requirements, contours, grade changes, utilities, structures and fences, environmental characteristics (such as wetlands and flood zones).
- (11) The applicant shall be required to conduct a balloon/crane test at the location of a proposed tower or antenna to show its height and visibility.
  - (a) Such test shall be conducted two weeks prior to the public hearing and shall be advertised at the applicant's expense in a newspaper of general circulation in Newbury at least one week prior to the test.
  - (b) Written notice of the test shall also be given to the owners of property within 300 feet of the proposed property.
  - (c) A photosimulation report from a balloon/crane test, including report methodology, existing and simulated view photos, and map of photo locations.

- (d) To improve efficiency, the Planning Board may delegate the oversight of a balloon test to staff, including determining whether a balloon test should occur prior to application or be left to the Planning Board's discretion in the hearing. Balloon tests may not be necessary for attachments to existing structures, in which case the applicant may request a waiver and the Planning Board may consider whether the plans are sufficient visual documentation or additional evidence in the form of photosimulations with or without the aid of a balloon test are necessary.
  - (e) A complete description, including, but not limited to, data, drawings, catalogs, brochures, manufacturers' specifications, photographs and all other pertinent information relevant to the proposal describing antennas, equipment mounts and all other equipment and structures proposed for the site or related to the proposal; plus all of the information required by By-law.
  - (f) Data as to noise, certified by an acoustical engineer, demonstrating compliance with the noise requirement in Section (3) above. Alternatively, the applicant may request a waiver of strict compliance with the noise requirement by providing a report from an acoustical engineer using loudness day/night (Ldn) measurements of existing ambient noise and projections of the noise contribution of the proposed WCF to demonstrate the WCF noise will not be a nuisance to the community. The Planning Board may waive these submission requirements upon a finding that the general noise information submitted with the application is sufficient, which, for example, might apply to a proposed WCF with no noise-generating components or with indoor installation of equipment.
  - (g) If the applicant intends to assert that non-approval of the requested special permit would constitute an effective prohibition of personal wireless services under the Telecommunications Act of 1996, the applicant shall include substantial evidence demonstrating i) that there is a significant gap in service (coverage and/or capacity, for example), ii) there are no better alternatives available, and iii) how a non-approval would materially inhibit the applicant's ability to provide personal wireless services.
5. Review and action by the Planning Board. The Planning Board shall review and act upon an application for a special permit and site plan review and approval for a wireless communications facility in accordance with applicable provisions of MGL c. 40A, §§ 9 and 11; and in accordance with this Zoning By-Law; and:

- a) Shall make such investigation as it deems appropriate to determine whether the application meets the requirements of § 97-4C(2) through § 97-4C(4);
  - b) May engage a radio frequency engineer, an acoustic engineer and such other professional consultants as it deems necessary to assist and advise it in its investigation and determination, whose services will be paid for by the applicant;
  - c) Shall require of each applicant and each holder of a special permit and site plan approval hereunder reasonable deposit for and reimbursement of all fees for the employment of appropriate consultants, which deposit shall be requested and held only for a specific inquiry by the Town;
  - d) Shall notify in writing the owners of properties within 300 feet of the proposed property of the facility of an application for a special permit.
6. Monitoring and inspections.
- a) If a wireless communications facility is determined to be in violation of any of the provisions of the special permit and/or site plan approval or any other applicable law or regulation, the Planning Board shall cause to be served on the operator of the facility and the owner of the land on or from which the violation is caused notice of such violation.
  - b) The building commissioner and/or the Planning Board may, upon reasonable concern regarding compliance with specific performance requirements, require the permittee(s) to respond with proof of compliance and may engage the services of independent expert consultants to assess compliance or review the permittee's response. Permittees must respond in a timely way (within 24 hours for an indicated life-threatening emergency, otherwise 14 days for routine requests for response.) Failure to respond in good faith or to pay reasonable fees for independent consultants may result in revocation of the special permit by the Planning Board or the occupancy/use permit by the building commissioner, as applicable.
7. Compliance and violations.
- a) Every wireless communications facility for which a special permit is granted hereunder shall continue at all times to comply with the provisions thereof and of this Zoning By-Law; and the holder of such special permit shall comply with requirements of the Planning Board in fulfillment of the provisions for monitoring herein.
  - b) Every wireless communications facility and every application for a special permit for such facility shall comply with all other applicable provisions of this Zoning By-Law, including, without limitation, requirements with respect to:
    - (1) The permit application;
    - (2) Special permits;
    - (3) Signs and exterior lighting;
    - (4) Site plan approval.
8. Modifications and Eligible Facilities Requests.

- a) Any modifications to an already approved wireless communications facility not defined as an Eligible Facilities Request in 47 USC, section 1455, shall be made through the special permit/site plan review and approval process described above. Such modifications involving new permittees at existing permitted sites shall require an application for a new special permit. Such modifications of existing permitted facilities may be reviewed as an application for a special permit modification, if applicable. The foregoing apply also to Eligible Facilities Requests, to the extent as outlined in (b) below and to the extent allowed by law.
- b) Request for Modification of Eligible Facilities.
  - (1) Submission Requirements. Applications for an Eligible Facilities Request shall be filed with the Building Department. Applications shall contain information in sufficient detail, including without limitation site plans and drawings of existing and proposed conditions, to demonstrate the proposed modifications satisfy the following requirements:
    - (a) The currently operating WCF is constructed and maintained in compliance with its existing permit(s), including but not limited to its dimensions and appearance as permitted;
    - (b) Such information as is necessary to demonstrate that the modifications are within the limits established for Eligible Facilities Requests under federal law and such information as is necessary to demonstrate compliance with applicable safety regulations including without limitation, building codes, noise and radio frequency energy exposure;
    - (c) To render a determination on whether an application is an Eligible Facilities request, the Building Department may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of an eligible Facilities Request. The Building Department may not require an applicant asserting in writing that the application is an Eligible Facilities Request to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.
- c) Review process

- (1) The Building Department shall conduct an initial review of the application determine 1) whether the application is a bona fide Eligible Facilities request, and 2) whether the application is complete. The Building Commissioner shall notify the applicant within thirty (30) days of receipt of the application if the application is deemed incomplete and/or whether the application is not an Eligible Facilities Request or requires the determination of the Planning Board as to its eligibility. Such notice shall delineate all missing documents or information.
- (2) If the Building Department determines that the facts of the application require the judgment of the Planning Board to determine whether an application is an Eligible Facilities Request (such as for interpreting whether a proposal qualitatively defeats the intent of a previously approved camouflage design), the Building Department shall timely refer the application to the Planning Board with a written explanation of the reasons for the referral.
- (3) If the application is determined to be an Eligible Facilities Request, and otherwise complies with applicable safety regulations, the Building Department may not deny and shall approve the application, with such conditions as may be necessary to maintain safety code compliance.
- (4) If the application is determined not to be an Eligible Facilities Request, the Building Department shall provide the applicant with a detailed explanation in writing and shall refer the applicant to the Planning Board and/or the Zoning Board of Appeals for the necessary zoning relief, as applicable.
- (5) If an applicant that is aggrieved by the Building Department failing to make a determination in favor of a claimed Eligible Facilities Request and timely files an appeal with the Zoning Board of Appeals, the Zoning Board of Appeals shall conduct its appeal review in consultation with the Planning Board.
- (6) Approval. Within sixty (60) days of the filing of a bona fide Eligible Facilities Request, plus any time that may be excluded pursuant to a tolling for incompleteness or by agreement between the applicant and the Building Commissioner, the Building Commissioner shall complete the statutory review under building, electrical and other relevant safety codes. If the bona fide Eligible Facilities Request application is deemed compliant under statutory review, the Building Commissioner must approve the application. (See 47 CFR 1.6100(c) Review of applications for a more detailed description of the federal requirements for review, incorporated herein by reference.)

## 9. Removal

- a) If a WCT is not substantially in commercial operation for a period of one year, it shall be removed, and the site shall be returned to its preexisting condition by the owner of the facility and/or by the owner of the site within 180 days of notice by the Town. As part of an application for any wireless communications tower facility, a plan shall be submitted detailing how the site will be returned to its preexisting conditions, including planting of replacement trees, grading and removal of all structures and waste and any other work that may be required by the Zoning Board of Appeals.
10. Exemption.
- a) The following type of wireless communications facilities and towers are exempt from this Zoning Bylaw:
    - (1) Amateur radio towers and antennas used in accordance with the terms of any amateur radio service license issued by the FCC, provided that the tower is not used or licensed for any commercial purpose.
    - (2) Wireless communications facilities constructed by the Town of Newbury for municipal public safety and operational communications purposes.
11. Definitions:
- a) Base station. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower.
    - (1) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
    - (2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
    - (3) The term includes any structure other than a tower that, at the time the relevant application is filed, supports or houses equipment described in paragraphs (i) through (ii) above that has been reviewed and approved under the applicable zoning or other regulatory process, even if the structure was not built for the sole or primary purpose of providing such support.
    - (4) The term does not include any structure that, at the time the application is filed, does not support or house equipment described in paragraphs (i) through (ii) above.  
(Based on 47 CFR 1.6100)
  - b) Eligible facilities request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Collocation of new transmission equipment on an eligible support structure;
  - (2) Removal of transmission equipment; or
  - (3) Replacement of transmission equipment.  
(Based on 47 CFR 1.6100)
- c) Eligible support structure. Any tower or base station, provided that it is lawfully existing at the time the application is filed with the Town.  
(Based on 47 CFR 1.6100)
- d) Substantial change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
- (1) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
    - (a) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
  - (2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
  - (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
  - (4) It entails any excavation or deployment outside the current site;
  - (5) It would defeat the concealment elements of the eligible support structure; or

- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (i) through (iv) above.  
(Based on 47 CFR 1.6100)
- e) Tower or Wireless Communications Tower (WCT). Any structure built for the sole or primary purpose of supporting any FCC-licensed or -authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.  
(Based on 47 CFR 1.6100)
- f) Wireless Communications Facility (WCF). An installation of equipment belonging to one party that includes antennas, transmitters and/or receivers, other ancillary equipment, structural supports, enclosures, and utilities, that uses the radio frequency spectrum to communicate on one or more frequency bands.
- g) Personal Wireless Service (PWS). Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services (47 USC 332(C)).
- h) Personal Wireless Service Facility (PWSF). A WCF for the provision of personal wireless services;