

SECTION 7.0 SPECIAL REGULATIONS

7.1 MUNICIPAL CONVERSIONS

- 7.1.1 Purpose.** The intent of this Section 7.0 is to administer the conversion of municipally-owned property in a manner that will be in harmony with the intent of these By-Laws and that will ensure the integrity of abutting neighborhoods.
- 7.1.2 Applicability.** No sale, lease or occupancy agreement to use municipally owned property (except for land located within the Economic Development Area Overlay District) shall be concluded prior to the Board of Selectmen issuing a Municipal Conversion Permit.
1. The issuance of a Municipal Conversion Permit shall not relieve the applicant from complying with other requirements of these By-Laws, including Site Plan Review.
- 7.1.3 Procedures.** Five (5) copies of an application for a Municipal Conversion Permit shall be submitted to the Board of Selectmen. Applications shall be accompanied by plans, exhibits and other information considered necessary by the Board of Selectmen. All applications shall include, but not be limited to the following:
1. A detailed description and site plan of the proposed use.
 2. The number of employees or residents which shall be retained or housed on the site.
 3. Projections of traffic flows and proposed access/egress provisions.
 4. Other concerns which the Board of Selectmen may consider necessary and appropriate.
- 7.1.4 Public Hearing.** Upon the receipt of an application, the Board of Selectmen shall post a notice for a public hearing pursuant to Section 10.4. Copies of the application shall be transmitted to the Building Commissioner, Planning Board, Conservation Commission and the Board of Health while one copy is retained by the Board of Selectmen. The Board of Selectmen shall conduct a public hearing within twenty-one (21) days from the receipt of an application.
- 7.1.5 Permit Required.** No sale, lease or occupancy agreement shall be concluded prior to the Board of Selectmen issuing a permit or until twenty-one (21) days have elapsed from the date of the public hearing.
- 7.1.6 Conditions.** The Board of Selectmen may set conditions or impose further restrictions as they consider necessary on any permit to meet the intent and requirements of these By-Laws.
1. The Board of Selectmen may prohibit any particular use, even though the use may be permitted by the underlying zoning.

7.2 WIRELESS COMMUNICATIONS FACILITIES

7.2.1 Purpose. The purpose of this Section 7.2 is to:

1. Minimize adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; and
2. Minimize the overall number and height of such facilities to only what is essential; and
3. Promote shared use of existing facilities to reduce the need for new facilities.

7.2.2 General Requirements.

1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter, or antennae, shall be erected or installed except in compliance with the provisions of this Section 7.2. Unless otherwise noted herein, a Special Permit is required from the Board of Appeals. Section 10.5 of these By-Laws shall not apply to an application for any such Special Permit. Any proposed extension in the height or construction of a new or replacement facility shall be subject to a finding by the Board of Appeals that such extension or construction shall not be substantially more detrimental than the existing structure or use to the neighborhood. The Building Commissioner shall review petitions for the addition of cells, antennae or panels to existing monopoles or towers and shall allow such without a new hearing provided the additions comply with the intent of this Section 7.2.
2. Only freestanding monopoles, with associated antennae and/or panels are allowed as specified in Section 7.2.4, below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
3. Wireless communications monopoles and associated facilities shall only be located in Non-Residential Districts and shall be suitably screened from abutters and residential neighborhoods.
4. Panels, antennae and associated equipment may be approved as accessory uses in Residential Districts. The intent of this provision is to allow such facilities to be located in or on structures appropriately screened and/or camouflaged pursuant to this Section 7.2.
5. Antennae and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt from this Section 7.2.
6. Structures shall be removed within one (1) year of cessation of use. If applicable, annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Commissioner by the Special Permit holder.

7.2.3 Application Process. All applications for wireless communications facilities, antenna or satellite dishes shall be made and filed on the applicable application form in compliance with the Board of Appeals Application Instructions. For an application to be considered complete, ten (10) copies of the following information must be submitted:

1. A locus plan at a scale of 1"=1000' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five-hundred (500) feet of the facility.
2. A color photograph or rendition of the proposed monopole with its antenna and/or panels. For satellite dishes or residential antenna, a color photograph or rendition illustrating the dish at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antenna from the nearest street or streets.
3. The following information prepared by one or more professional engineers:
 - a. A description of the monopole and the technical, economic and other reasons for the proposed location, height and design.
 - b. Confirmation that the monopole complies with all applicable Federal and State standards.
 - c. A description of the capacity of the monopole including the number and type of panels, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.
4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
5. The applicable review and advertising fees as noted in the application guidelines.

7.2.4 Design Standards. The following standards shall be used when preparing plans for the siting and construction of all wireless communications facilities.

1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole.
2. No monopole or attached accessory antenna on a monopole shall exceed one hundred-twenty (120) feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings.
3. The height of antennae or dishes located on residential buildings or in the yards of

residential structures shall not exceed the tree line on the lot. However, the height of antennae for federally licensed amateur radio operators may be increased to accommodate radio communications.

4. Antennae or dishes located on nonresidential buildings shall not exceed ten (10) feet in height above the roofline of the structure.
5. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.
6. Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antennae shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
7. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
8. All monopoles shall be located a minimum of five hundred (500) feet from the nearest residential structure.
9. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire.
10. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with the Sign By-Law (Section 15B of the Foxborough General By-Laws).
11. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
12. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

7.2.5 Special Permit Review. Applications for Special Permits may be approved or approved with conditions if the petitioner can fulfill the requirements of this Section 7.2 to the satisfaction of the Board of Appeals. Applications for Special Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the

satisfaction of the Board.

1. When considering an application for a wireless communication facility, the Board of Appeals shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed uses(s).
2. When considering an application for an antenna or dish proposed to be placed on a structure, the Board of Appeals shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and streets(s).

7.3 ADULT ENTERTAINMENT AND USES

7.3.1 Findings. Secondary effects of adult entertainment and uses and have been found by the Planning Board to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on property values of residential and commercial properties and adverse impacts on the quality of life in the Town. This was determined after a review of studies provided to the Planning Board and after soliciting public commentary.

7.3.2 Purpose and Intent. It is the purpose and intent of this Section 7.3 to address and mitigate the secondary effects of Adult Uses as defined and referenced herein. The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative, sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment or uses protected by the Constitutions of the United States of America and the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to see, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

7.3.3 Definitions. See Section 11 - "Adult Entertainment and Uses."

7.3.4 Special Permit Required. No Adult Use shall be allowed except by a Special Permit granted by the Planning Board. The Board may grant a Special Permit for an Adult Use, with such conditions as it deems appropriate for the protection of public health, safety, and welfare only if the use is found by the Board to comply with the standards set forth below, and the requirements noted in Section 9.1.5 and Section 10.4 of these By-Laws.

7.3.5 Location. An adult use may not be located:

1. Within seven hundred fifty (750) feet of a boundary line of a residential zoning district; or
2. Within seven hundred fifty (750) feet of a lot line of any lot containing a church, public school, private kindergarten or school, licensed day-care facility, park, playground, library, cultural facility (including stadiums), museum, elderly housing,

assisted living facility, nursing home, or adult day-care facility; or

3. Within seven hundred fifty (750) feet of a lot line of any lot containing an establishment licensed under the provisions of General Laws Chapter 138, Section 12; or
4. Within five hundred (500) feet of any other Adult Entertainment Establishment or Use; or
5. Within seven hundred fifty (750) feet of the Washington Street layout lines.

7.3.6 Standards.

1. The mercantile/retail restriction found in Section 9.1.3 shall not apply to Adult Uses.
2. Signs for an Adult Entertainment Establishment or Adult Use must meet the dimensional requirements of Section 15B of the Foxborough General By-Laws. No sign, advertisement, display or other promotional material that contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public or private way, sidewalk, highway or railway.
3. If the Adult Use allows for the showing of films or videos within the premises, the booths in which the films or videos are to be viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
4. No Special Permit for an Adult Use shall be issued to any person convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28.
5. Any Special Permit issued under this Section 7.3 shall require that the owner of such adult use shall supply on a continuing basis to the Building Inspector any change in the name of the record owner or address or any change in the name of the current manager; and that failure to comply with this provision shall result in the immediate revocation of such Special Permit,. If anyone so identified is or is found to be convicted of violating Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28, such Special Permit shall immediately be null and void.
6. No Special Permit issued under this Section 7.3 shall become valid or in full force and effect unless and until the owner of the property containing such Adult Use shall provide to the Zoning Enforcement Officer proof of the recording of said Special Permit with the Norfolk County Registry of Deeds.
7. Any Adult Use in existence prior to the adoption of this Section 7.3 shall apply for a Special Permit within ninety (90) days following the adoption of this Section and shall be required to comply in all respects with these requirements.

7.3.7 Special Permit Application. A completed application must be submitted pursuant to

the Planning Board's Special Permit Rules and Regulations (on file and available at the Town Clerk and Planning Office). The completed application must also include:

1. Name and address of the legal owner of the proposed establishment or use;
2. Name and address of all persons having a lawful, equity or security interest in the Adult Establishment or Use;
3. A sworn statement stating that neither the applicant nor any person having a lawful, equity or security interest in the Adult Establishment or Use has been convicted of violating the provisions of Massachusetts General Laws, Chapter 119, Section 63, or Massachusetts General Laws, Chapter 272, Section 28;
4. Name and address of the manager of the Adult Establishment or Use;
5. Proposed provisions for security within and without the Adult Establishment or Use;
6. The number of employees; and
7. The present and proposed physical layout of the interior of the Adult Establishment or Use.

7.3.8 Procedures.

1. A public hearing will be held pursuant to the requirements of Massachusetts General Laws, Chapter 40A, Section 11.
2. A decision will be rendered by the Planning Board within the time frames and guidelines noted in Massachusetts General Laws, Chapter 40A, Sections 9 and 11, respectively.