

4300 PERSONAL WIRELESS SERVICES FACILITIES OVERLAY DISTRICT

4310 Purpose

The purpose of this bylaw is to establish requirements for the locating of Personal Wireless Services Facilities including without limitation, towers, antennas, ground equipment, and related accessory structures. This Bylaw does not regulate the permitting and siting of Small Wireless Facilities in the public Right of Way. The intent of this bylaw is to:

1. Accommodate the growing need and demand for Personal Wireless Services.
2. Establish review procedures to ensure that applications for Personal Wireless Services Facilities are compliant 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 Personal Wireless Services Facilities on surrounding land uses by establishing standards for location and compatibility.
4. Encourage the placement of Personal Wireless Services Facilities on existing nonresidential structures thereby minimizing new visual, aesthetic, and public safety impacts, or effects upon the natural environment and wildlife.
5. Respond to the policies embodied in the Telecommunications Act of 1996 and subsequent FCC regulation of Personal Wireless Facility placement in such a manner as not to unreasonably discriminate between providers of functionally equivalent Personal Wireless Services Facilities or to prohibit or have the effect of prohibiting Personal Wireless Services Facilities.
6. Protect the character of the Town, in accordance with the Master Plan, while meeting the needs of its citizens to access Personal Wireless Services.

4320 OVERLAY DISTRICT

Wireless services (including antennas, transceivers, towers, equipment buildings and accessory structures, if any) may be erected in a Wireless Services Overlay District subject to site plan approval pursuant to Section 6300 of the Zoning Bylaw, as may be amended, and upon the issuance of a special permit by the Zoning Board of Appeals pursuant to Section 6200 of the Zoning Bylaw. The Wireless Services District shall be constructed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

4330 LOCATION.

The Wireless Services Overlay District shall consist of the following parcels of land:

4331. Sudbury Landfill property, Assessor's Map No. K12, Parcel 002.
4332. Former Melone property, Assessor's Map No. C12, parcel 100.
4333. Sudbury Water District Borrow Pit, North Road, Assessor's Map No. C12, Parcel 004.
4334. Raymond Road well field area, including Feeley Park and surrounding Town and Water District land, Assessor's Map Nos. L08, Parcels 001, 002, 008, 009, 010, 012 and M08, Parcel 021.
4335. Highway Department property, Old Lancaster Road, Assessor's Map No. H08, Parcel 049.
4336. All property and buildings owned by the Town of Sudbury, exclusive of school buildings, school properties and cemeteries.

Also included in the overlay district are all properties within Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts.

4340 APPLICATION FORM AND PERMITS REQUIRED

Installation, modification or operation of a Personal Wireless Services Facility on property other than a public way shall require Permits from the appropriate Sudbury Permit Granting Authority, as referenced below.

Property Zoning/Type	Zone	Relief/Permit needed	Permit Granting Authority
Existing Structure (Building)	N/A	Building Permit (and Electrical Permit if applicable) only	Building Inspector
Existing Structure (Pole)	N/A	Small Cell bylaws	see Small Cell Bylaws
Existing Structure (Tower)	N/A	Building Permit (and Electrical Permit if applicable) only	Building Inspector for Building Permit, Planning Board for Special Permit
New Structure, Overlay district	Parcels within Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research districts as well as individual parcels listed in Section 4330 of the Sudbury bylaws.	Special Permit	Planning Board
New structure, not overlay district	Residential A, C and WI	Special Permit	Planning Board
New Structure, Town owned land	All	Special Permit & Lease	Planning Board & Select Board

Completion of a Sudbury Personal Wireless Service Facility Application form available from the Planning and Community Development Department is required for each Personal Wireless Services Facility being requested. Application processing fees for Personal Wireless Services Facilities shall be paid at the time of application in accordance with the Town of Sudbury Fee Schedule.

4341 DETERMINATION OF NEED

- a. Demonstration of Need: All applications for Special Permits for Personal Wireless Services Facilities (except Eligible Facilities Requests) shall be accompanied by a Demonstration of Need for the proposed Facility. Demonstrations of Need shall include at a minimum an evaluation of existing coverage and the combined effect of existing and proposed coverage, including coverage maps and an accompanying narrative explaining the maps and the need. When the stated need for the proposed Facility includes claims regarding network capacity, applicants shall include information (such as network statistics) demonstrating the capacity need quantitatively.
- b. Determination of Alternatives: All applications for Special Permits for Personal Wireless Services Facilities (except Eligible Facilities Requests) shall be accompanied by a demonstration of a lack of less impactful solutions composed of one or more alternative Facilities.

- c. Findings: To approve such applications, among other findings, the Permit Granting Authority shall find that there is a Demonstrated Need for the proposed Facility that cannot be addressed with a solution composed of one or more alternative Facilities that have a lesser impact on the community.
- d. Applicant Assertion of Federal Rights: If the application involves a project over which the applicant asserts federal rights, the applicant shall provide a brief outline of 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.

4350 FACILITY IMPACTS CRITERIA

4351 Qualitative Criteria

The selection of location and design of Personal Wireless Services Facilities shall conform to the following Qualitative Criteria:

- a. Review Criteria: The Permit Granting Authority, 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.
- b. Application Submission Criteria: The applicant shall provide substantial evidence why and how they meet or cannot meet each of these objectives and define why and how their proposal is demonstrably better:
 - i. New Personal Wireless Services Facilities shall not have an undue adverse impact on historic resources, scenic views, , or natural or man-made resources.
 - ii. Ideally, new Personal Wireless Services Facilities shall be located on an existing non-residential structure (including an existing Tower) in a manner that does not materially increase its impact on the community.
 - iii. The preferred locations for a New Tower are along commercial and industrial corridors or in suitable municipal locations or other quasi-public sites where the settings, other structures, and intensity of uses already in place are more compatible with the industrial nature of Personal Wireless Services 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.
 - iv. While setback requirements are included in this bylaw, it is preferred that a New Tower be located as far from residential lot lines as possible to avoid detrimental visual impacts, and to preserve the privacy of adjoining properties.
 - v. A New Tower may be acceptable when it does not diminish the quality of experience of Sudbury such as by piercing valuable scenic and historic skylines, or unduly compromising the look of traditional land development and use.
 - vi. A New Tower will not be approved if it is within 300 feet of the edge of a Scenic Road (Ref 232-1 c (1)) or placement within a Historic District. Antennas contained entirely within structures and not externally visible are not subject to this section. Antennas located within structures may require approval from the Historic Districts Commission.

4352 Quantitative Criteria

As a complement to the Qualitative factors and at the discretion of the Planning Board, new Personal Wireless Services Facility types shall be considered in accordance with the below hierarchy of alternatives.

Priority	Property Zoning/Type	Conditions
1	Existing Structure (Building)	Antennas not visible from Street or any residential parcels, Height not increased, MPE study passes for occupants (any areas over limit restricted)
2	Existing Structure (Pole)	see Small Cell Bylaws
3	Existing Structure (Tower)	BP for no height increase, EFR where appropriate, Variance if greater than EFR limits
4	New Structure, Overlay district	Demonstration of height needed, minimum visibility from adjacent properties/public way (Balloon Fly/PhotoSim)
5	New structure, not overlay district	Minimum Parcel size 10 Acres, minimized visibility from adjacent/public way (Balloon fly/Photo Sim)
6	New Structure, Town owned land	Lease with Select Board, Demonstration of height needed, minimum visibility from adjacent properties/public way
7	New structure, any district	Variance required for all properties/proposals that do not meet Special Permit Criteria above

- a. Where a lower ranked alternative is proposed, the applicant must provide in its application relevant information demonstrating:
 - i. 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 Personal Wireless Services Facility, and/or...
 - ii. that the impact of the proposed Facility is demonstrably better than any available higher priority solutions.
 - iii. Notes:
 - a. Before a New Tower is proposed in a residential district, the applicant must also demonstrate that it is not feasible or effective to locate the Facility in other districts or on a municipal location.
 - b. Before any New Tower or any Collocation on a residential structure is approved, the applicant must demonstrate that it is not feasible or effective to locate their Facility on an existing Tower or non-residential structure.

4353 Collocations

Personal Wireless Services Facilities may be mounted onto a building or support structure that is not primarily constructed for the purpose of holding Personal Wireless Services Facilities or as an attachment to an existing Tower, subject to the following standards:

- a. Antenna Setbacks: An Antenna attached to any structure that is not a Tower shall be setback at least 100 feet from the property line of an abutting residential property. An Antenna 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 does not encroach upon an adjoining parcel.
- b. Height Extensions: The top of an 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. These height limitations may be waived to accommodate the height of an architecturally appropriate concealment structure.

- c. 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. For the purposes of classifying an application for the replacement of an existing utility pole, a replacement pole with up to five (5) feet greater height above ground (including attachments) is considered a replacement pole and is subject to collocation requirements of this Bylaw. Replacement utility poles that will be more than five (5) feet above ground (including attachments) taller than the pole being replaced will be considered new poles.
- d. Collocations on subsidized multi-family structures of twenty units or more are prohibited.

4354 New Tower Mailed Notice

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

4355 New Tower Height and Setback Requirements

- a. Height Limitation
 - i. New Towers shall not exceed the minimum height necessary to provide adequate coverage for the Personal Wireless Services Facilities proposed for use on the Tower or 125 feet, whichever is shorter.
 - ii. In working with the applicant to determine approved height, the Special Permit Granting Authority will consider the following Balancing test as part of the Special Permit process:
 - a. The Personal Wireless Services Facilities shall be designed to accommodate multiple users to the maximum extent technologically practicable in order to reduce the number of Personal Wireless Services Facilities that will be required to be located in the Town.
 - b. However, at its discretion, the Planning Board may reduce the capacity for multiple Facilities (typically by a decrease in height or width) if the Board finds that it is preferable to consider the need for a second Tower rather than approve one taller Facility.
 - iii. The SPGA may allow height greater than the allowable height (See Section 4355) if such height does not materially increase the impacts of the proposed Facility.
 - iv. Any Special Permit granted for a new Facility may be conditioned to allow the collocation of other Personal Wireless Services providers on commercially reasonable terms.

- b. Setbacks

Setbacks are measured horizontally from the base of the tower to the nearest property line. New Towers shall be subject to the setbacks described in the table below:

Property Zoning/Type (proposed location)	Setback to (adjacent use)	Minimum Setback required
Existing Structure (Building)	N/A	no less than existing, to residentially zoned property
Existing Structure (Pole)	N/A	no less than existing, to residentially zoned property
Existing Structure (Tower)	N/A	no less than existing, to residentially zoned property
New Structure, Overlay district	Overlay District	equal to overall tower height
New Structure, Overlay district	Residential zoned Property over 10 acres	equal to 1.5 x overall tower height
New Structure, Overlay district	Residential zoned Property under 10 acres	equal to 2.0 x overall tower height
New Structure, not overlay district	non-residential zoned property	equal to overall tower height
New Structure, not overlay district	Residential zoned Property over 10 acres	equal to 1.5 x overall tower height
New Structure, not overlay district	Residential zoned Property under 10 acres	equal to 2.0 x overall tower height
New Structure, Town owned land	non-residential zoned property	equal to overall tower height
New Structure, Town owned land	Residential zoned Property over 10 acres	equal to 1.5 x overall tower height
New Structure, Town owned land	Residential zoned Property under 10 acres	equal to 2.0 x overall tower height
New Structure, any district, variance required	non-residential zoned property	equal to 2.0 x overall tower height
New Structure, any district, variance required	Residential zoned Property	equal to 2.5 x overall tower height

- i. The minimum setback distance to the nearest school building property line shall be 250 feet.
- ii. As part of the Permit Granting process, the Permit Granting Authority by supermajority vote may reduce these setbacks to no less than 1.5 times the Tower height based on the following findings:
 - a. This does not materially increase the impact of the proposed Tower on its surroundings in comparison to satisfying the full setback, or
 - b. 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
 - iii. This results in a design that is fully compatible with the purpose and intent of the Bylaws.
 - c. In the Overlay District, the minimum setback from parcels in commercial and industrial zones shall equal the height of the New Tower. As part of the Special Permit process, the Planning Board by supermajority vote may allow a shorter setback if the shorter setback provides adequate safety and aesthetics.

4360 DESIGN CRITERIA FOR ALL PERSONAL WIRELESS SERVICES FACILITIES

- a. Personal Wireless Services Facilities shall be constructed and maintained in compliance with all applicable federal, state and local laws, regulations, ordinances, and safety, and environmental codes and regulations, including but not limited to Public Safety Grade Site Hardening

Requirements (APCO ANSI 2.106.1-2019), to radio frequency energy safety, hazardous materials, noise, building, electrical, and Americans with Disabilities Act.

- b. Personal Wireless Services Facilities located on or inside of a building within an Historic District or on or associated with an historic structure eligible to be listed on the state or federal register not located in a Historic District shall be concealed or camouflaged in a manner that preserves the character and appearance of the structure and/or Historic District and does not alter or obscure character defining features or distinctive characteristics. A Certificate of Appropriateness from the Historic Districts Commission shall be required for all Personal Wireless Services Facilities in any of the Historic Districts. No monopole or standalone Personal Wireless Service Facilities will be permitted to locate in any Historic District.
- c. Personal Wireless Services Facility shall not significantly impact viewsheds and views from nearby locations and shall be architecturally compatible with respect to such views.
- d. Monopole Tower designs are required
- e. Concealment or camouflage shall be used when appropriate for mitigating visual impacts. The following are examples or options, not to be viewed as recommendations per se:
 - i. A faux carillon tower artfully placed on an institutional parcel.
 - ii. A unipole inconspicuously placed near the rear of a lot.
 - iii. A mimicked manmade or natural object consistent with a feature of the surrounding landscape.
 - iv. Field light stanchions for athletic or recreational facilities or developed park areas.
 - v. Clock tower for commercially developed area.
 - vi. Fire watch tower or monopine “tree” (native evergreen) compatible with rural or undeveloped area dominant points of view.
- f. Landscaping, and existing vegetation shall be employed to minimize visual impacts.
- g. Means of access shall be designed to minimize impacts on the existing landscape and land use.
- h. Antennas, cables, associated equipment, and mounting apparatus should be enclosed, concealed, screened, or obscured so that they are not readily apparent to a casual offsite observer, except that a Facility may be approved with exposed Antennas and associated equipment if concealment or camouflage would not mitigate any visual impacts and no less visually impactful alternative locations or designs are available.
- i. Signage: Commercial messages shall not be displayed on any Personal Wireless Services Facilities. Required noncommercial signage shall be restricted to FCC Antenna Structure registration Number (when required), information about the Facility owner/operator, and any additional security and/or safety signs as applicable.
- j. Lighting: Lighting shall be prohibited on all Personal Wireless Services Facilities unless required by the Federal Aviation Administration (FAA). Applicants shall demonstrate efforts to avoid FAA lighting requirements, such as reduced Tower height or alternative locations. If lighting is required, night lighting shall be red and employ luminaires with the lowest practicable beam spread toward the earth.
- k. Noise: Sound levels contributed by Facility operations including generators shall not exceed 40 dBA at the property lines, as measured in accordance with the MADEP noise regulations, excluding emergency operations, of the parcel containing the Personal Wireless Services Facility. Emergency generators are permitted and are exempt from noise requirements during emergencies. Routine generator tests shall be conducted only between 8 AM and 5 PM on business days except holidays.
- l. Equipment Compound and Cabinets: When practicable, equipment cabinets should be installed inside existing structures. If installed outdoors, equipment should not be visible to the public and neighbors or be screened behind an architecturally appropriate enclosure, behind a screen on a rooftop, or on the ground with landscape screening as required. Equipment compounds shall not

be used for storage. Equipment compounds shall be subject to the setback requirements of their underlying zone.

- m. Parking: Personal Wireless Services Facilities may include space for parking to allow personnel access to the Facilities.

4370 Eligible Facilities Requests

- a. The Planning Board is the Administrative Approval Granting Authority and shall grant Administrative Approval of an Eligible Facilities Request. Applicants with Eligible Facilities Requests shall submit application materials and undergo a review process that shall be conducted in a manner consistent with federal limitations. The Planning Board shall verify that the application for an Eligible Facilities Request is bona fide and may apply conditions that are not otherwise preempted by the FCC.
- b. 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 Personal Wireless Services Facilities on the site, including but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.
- c. Administrative Approval: Applicants shall submit application materials to the Sudbury Town Clerk. Detailed instructions and application content requirements are available from the Sudbury Planning and Community Development Department.
- d. Eligible Facilities Requests shall be accompanied by evidence demonstrating eligibility under federal law, addressing all points in the federal definition including such information, exhibits and calculations necessary to support the claim and demonstrating compliance with applicable state and local safety codes. Applications for Eligible Facilities Requests are not required to provide documentation intended to illustrate the need for such Personal Wireless Services Facilities or to justify the business decision to modify such Facilities. Eligible Facilities Requests shall not be required to meet the application requirements of Section 4390, subsections (b), (g - all) (h) (i), (j) and (k) .
- e. Radio Frequency Emissions Analysis: Applicant shall provide an analysis of radio frequency energy emissions for the proposed and potentially collocating Personal Wireless Services Facilities based on the methods outlined in FCC Office of Engineering and Technology Bulletin 65, demonstrating compliance with applicable safety standards.

4380 Tower Replacement

- a. Existing Towers may be replaced pursuant to this Section 4380, provided that the replacement accomplishes a minimum of one of the following:
 - i. Increases the number of Personal Wireless Services providers the Tower can support or otherwise materially improves the provision of Personal Wireless Services in Sudbury;
 - ii. Contributes to the reduction of the proliferation of New Towers in Sudbury
 - iii. Replaces an existing Tower with a Tower with less impact on the town, such as reduced height or improved appearance (by camouflage or concealment).
- b. Landscaping: At the time of replacement or upgrade, the Tower equipment compound shall be brought into compliance with any applicable landscaping requirements.
- c. 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.

4390 Application

All Applications shall include:

- a. Plans: One (1) set of plans at 24" x 36" and five (5) sets of plans at 11" x 17", electronic copies of all submission materials, and an electronic original (not scanned) of plans that constitute a customary package of "Zoning Drawings," including, without limitation, locus information, area parcel plans showing abutting lots and a 300 and 600 foot radius, details including property line

and other relevant setbacks, proposed easements, utilities, driveways, site improvements, etc.; and detailed site plans to illustrate site development, wetland/river buffers, landscaping, tree cover, etc.; elevation drawings and details about the ground equipment and the Tower-mounted equipment; any other information the applicant or the Town determines is appropriate for showing the proposed development.

- b. Photo simulations: Applicants shall provide photo simulations with their application to demonstrate visual impacts. Photos should have the field of view of a 50-55 mm focal length lens with respect to a standard full-frame 35 mm camera. Photo simulations should be provided showing (a) the impact on viewsheds and neighboring uses as described above and (b) how the design, including concealment, landscaping, topography, existing cover, etc. contribute to minimizing visual impacts. Photos shall be taken from representative locations where the Tower is or is expected to be visible or partially visible in any season. Before the photos are taken, applicants shall consult with the Planning and Community Development Department to identify sensitive locations that should be added to the photographer's list of locations to photograph. To produce photo simulations for New Towers, applicants shall conduct field testing (such as a balloon/crane test) at their convenience prior to filing the application and notify the Planning and Community Development Department of the scheduled date and time of such testing.
- c. Design: Applicant's zoning drawings shall include details of the concealment or camouflage design.
- d. Radio Frequency Emissions Analysis: Applicant shall provide an analysis of radio frequency energy emissions for the proposed and potentially collocating Personal Wireless Services Facilities based on the methods outlined in FCC Office of Engineering and Technology Bulletin 65, demonstrating compliance with applicable safety standards.
- e. Noise Analysis: Applicant shall provide a noise analysis of the proposed Facility prepared by a qualified professional, demonstrating compliance with the Commonwealth's Department of Environmental Protection regulation of noise and with any noise restrictions of the Town of Sudbury.
- f. Applicant shall provide a narrative and additional exhibits as necessary to demonstrate fulfillment of and compliance with the criteria outlined in all sections of this bylaw Section 4300 including, as per the type of application, A through B.
- g. A report and supporting technical data shall be submitted, demonstrating the following:
 - i. All potential Antenna attachments, Collocations, and alternative Antenna configurations on existing elevated structures, including all usable utility distribution towers within the proposed service area have been examined, and found unacceptable.
 - ii. A technical report by a qualified professional, which qualifications shall be included, regarding service gaps, service expansions, and/or system capacity or other evidence of need for the Personal Wireless Services Facility (Section 4341 Determination of Need) and accompanying exhibits including coverage and other maps, graphics, charts and calculations to support the claims in the report.
 - iii. The application shall include a written narrative and exhibits describing how the proposed Facility's coverage or capacity benefits cannot be substantially achieved by the use of one or more of any higher ranked alternatives (Section 4341 Determination of Need) and alternatives ranking (Sections A Facility Impacts Qualitative Criteria and B Facility Impacts Quantitative Criteria).
 - iv. No existing Towers or Personal Wireless Services Facilities located within the geographic area meet the applicant's engineering requirements without increasing the height of the existing Tower or structure or otherwise creating a greater visual impact, and why.

- v. Existing Towers cannot physically accommodate the applicant's proposed Personal Wireless Services Facilities and related equipment, and the existing Facility cannot be sufficiently improved.
- vi. Other limiting factors that render existing Personal Wireless Services Facilities unsuitable.
- vii. Demonstration of satisfaction of FAA hazard to air navigation requirements, including as applicable, a professional technical evaluation indicating FAA requires no notification and no lighting will be required, or an FAA Determination of No Hazard.
- h. Balloon/Crane Test for New Towers. During the hearing process and to be considered part of the application, the Planning Board shall require the applicant to conduct a publicly noticed balloon/crane test. If the proposed site is accessible by crane, a crane test is preferred. The applicant shall arrange to raise a red or orange colored balloon no less than three (3) feet in diameter at the maximum height of the proposed Tower, and within twenty-five (25) horizontal feet of the center of the proposed Tower. A second balloon twenty (20) feet below the first (or at some other height requested by the Town) shall also be raised.
- i. A three-foot by five-foot (3' by 5') sign or signs with lettering no less than three (3) inches high stating the date, time, and location, including alternative date, time and location, of the balloon test shall be posted at a site or sites determined in consultation with the Permit Granting Authority.
- j. The balloon shall be flown the day prior, the day of, and the day after a site visit to be scheduled by the Permit Granting Authority. The applicant shall record the weather, including wind speed and direction during the balloon test. Photographs taken of the balloon test shall be timed to capture the balloon at its apex during wind-induced motion. The height of the balloon shall be measured, and tether length shall not be relied upon to determine height.
- k. HACE Documentation: Documentation of all historical, archaeological, cultural and environmental (HACE) reviews related to the project and conducted pursuant to 47 CFR Part 1, Subpart I, Procedures Implementing the National Environmental Policy Act of 1969, as well as information on the status of any pending matter subject to such reviews.
- l. Waivers. Upon the request of the applicant and subject to compliance with the intent and spirit of the Design Criteria, set forth in Section 4360 of this Bylaw, the SPGA may waive specific requirements of Section 4390 Application, in the interests of project flexibility, overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the Personal Wireless Services Facilities Overlay District, the Sudbury Master Plan, as amended, and the overall benefit of the residents of the Town of Sudbury.
- m. Employment of Outside Consultants
 - i. Pursuant to MGL Ch 44 Sec 53G, the Planning Board shall engage outside consultants at the expense of the applicant to assist the Planning Board's review of an application under this Personal Wireless Services Facilities Bylaw.

4390A Decision

Special Permits: In addition to the findings required by the Bylaw in Section 6220, the Planning Board shall, in consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit as follows:

- a. Special Permit Findings
 - i. The Planning Board shall evaluate the application in light of Section X of the Bylaw and make findings and apply conditions as appropriate.
 - ii. The Board also shall make findings that:
 - a. The application meets all the Application Criteria (Section 4390) or is granted waivers to specific application requirements, as authorized in this bylaw section.
 - b. The applicant has/has not met the burden of Demonstrating the Need for the proposed Personal Wireless Services Facility Section 4341.

- c. The application satisfies the Qualitative and Quantitative Criteria for Facility Impacts Sections 4351 and 4352.
 - d. The application meets the performance criteria for Collocation (Section 4353), New Tower Height (Section 4354) and New Tower Setbacks (Section 4355), or Tower Replacement (Section 8.18.10) as applicable.
 - e. The application is an acceptable Design and meets Design Criteria (Section 4360).
 - f. The application and any waivers granted are consistent with the Purpose (Section 4310) of this Bylaw.
- b. Administrative Approval / Eligible Facilities Requests Finding
- i. Eligible Facilities Requests (Section 4370) shall be granted Administrative Approval consistent with findings based on requirements and application in this bylaw (4390Ab).
 - ii. Post Construction RFR Study
 After the installation of an approved Personal Wireless Services Facility, the Town at any time 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 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 Personal Wireless Services 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.

4390C Abandonment (Discontinued Use)

- a. Towers, Personal Wireless Services Facilities, Antennas, and the equipment compound shall be removed, at the owner’s expense, within 180 days of cessation of use.
- b. An facility or property 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 either with the owner’s permission or pursuant to a court order. Thereafter, the Town may cause removal of the Tower with costs being borne by the owner.
- c. Upon removal of the Tower, Personal Wireless Services 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.
- d. All applicants shall, upon grant of Administrative Approval or a Special Permit, furnish a performance bond or irrevocable letter of credit naming Town of Sudbury as beneficiary in an amount to be determined by the Planning Board (“Performance Bond”) which shall state, inter alia, that it is for the purpose of assuring the removal of the permitted Personal Wireless Services Facility in the case of abandonment as contemplated herein. The amount of this “removal bond” shall be reviewed and approved by the Planning Board at or before each decade (10 years) after the date of the Approval or Permit, and the removal bond amount shall be adjusted to reflect current costs at the time of each review.

4390D Exempt Facilities

The following are exempt from the standards for Personal Wireless Services Facilities notwithstanding any other provisions.

- a. 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.
- b. A government-owned Wireless Communication Facility erected for the purposes of providing communications for public health and safety.
- c. 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 Planning Board.
- d. A temporary Wireless Communication 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.
- e. A temporary Wireless Communication 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.

4390E Definitions

The following definitions are used exclusively in the Personal Wireless Services Facilities Bylaw.

- 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.
- 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 Personal Wireless Services 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 Personal Wireless Services 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.
- Eligible Facilities Request: an application for a type of modification to an existing approved Personal Wireless Services Facility as defined in 47 CFR 1.6100.
- FCC: The Federal Communications Commission of the United States.
- Person: an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.
- Personal Wireless Services: Personal Wireless Services as defined in the National Wireless Telecommunications Policy, 47 U.S.C. 332(7)(c) Definitions: “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.

- Personal Wireless Services Facility (Facility): an installation of equipment and utilities for the provision of Personal Wireless Services to link remote user equipment to a communications network.
- Substantial Change: a type of modification to an existing approved Personal Wireless Services Facility as defined in in 47 CFR 1.6100.
- Tower: A structure constructed on the ground for the sole or primary purpose of supporting Antennas and their associated equipment.