

SECTION XXIIC. ANTENNAS.

Part A. PURPOSE.

This Section is adopted by the Town for the regulation and restriction of the construction, erection, installation, placement and/or use of antennas, and other devices that perform the functions of antennas, and of accessory telecommunications structures, equipment and facilities and similar devices, within the Town.

Part B. DEFINITIONS.

As used in this Section XXIIC., the following words and terms shall have and include the following respective meanings:

Device - Any antenna or other apparatus that performs the function of antennas, together with any telecommunications structures, equipment and facilities ancillary and/or accessory thereto; by way of example and not limitation, "device" shall mean among other things panel antennas, whip antennas, pole antennas, dish and cone-shaped antennas, other free-standing antennas and personal wireless service facilities.

It is recognized that technology is rapidly changing and the definitions herein, specifically that of a "device", is intended to encompass such devices and things as they evolve over time.

Free Standing Device - A monopole wireless service facility not requiring guy wires for support; and any other device mounted on the ground and not mounted on any existing building or structure.

Personal Wireless Service Facilities - Facilities for the provision of personal wireless services; such facilities may, by way of example, include but are not limited to transmitting and receiving equipment, antennas, antenna structures and supports and other equipment, structures and installations accessory to such facilities.

Personal Wireless Services - Wireless telecommunications services regulated by the Federal Communications Commission ("FCC") and defined as "personal wireless services" in Section 704, or other sections, of the Federal Telecommunications Act of 1996 as amended; by way of example but not limitation, personal wireless services include cellular telephone services, so-called personal communications services ("PCS") and paging services.

Height - A distance measured from the average finished grade of the land surrounding the device to its highest point, surface or projection, in the case of free-standing devices, or

A distance measured from the average finished grade of the land surrounding the exterior walls to the highest point, surface or projection of the device, in the case of devices mounted on existing buildings.

Part C. APPLICABILITY.

Other provisions of this Zoning Bylaw notwithstanding the regulations and restrictions set forth herein shall apply to the construction, erection, installation, placement and/or use of devices including but not limited to personal wireless service facilities, and free-standing devices, antennas of federally licensed amateur radio operators and so-called satellite dishes, on land, buildings or structures within the Town of Wellesley.

No device exterior to an enclosed building and/or structure, whether mounted thereon or free-standing shall be constructed, erected, installed, placed and/or used on land, buildings and/or structures within the Town of Wellesley on or after October 8, 1996 except in accordance with the provisions of this Section XXIIC. and Section XXV. Special Permits. Devices in existence on October 8, 1996 may be maintained and shall be kept in good condition. The Inspector of Buildings may order the removal, repair or securing of any device for public safety purposes that is determined, by the Inspector of Buildings, to be hazardous to life or property, in poor condition, disrepair or damaged by storm or other cause. The Inspector of Buildings shall determine on a case by case basis whether the repair of a device shall require a special permit in accordance with this section.

Part D. REGULATIONS AND RESTRICTIONS.

1. DESIGN REVIEW

The construction, erection, installation and/or placement of all devices, except those for customary private household use as further described in Part D.2.b. below, are subject to review by the Wellesley Design Review Board. In review of applications the Design Review Board shall employ the following guidelines:

Screening, Landscaping and Preservation of Existing Vegetation

Whenever possible, devices shall be sited so as to minimize the visibility of such devices from adjacent property and shall be suitably screened from abutters and residential neighborhoods. To the extent feasible installation of free-standing devices shall minimize the removal of existing trees and other vegetation.

Height

A device shall be designed and installed at the minimum height necessary for the proper functioning of the telecommunications services to be provided by the device at that location. Free-standing devices shall not exceed 45 feet in height unless the Special Permit Granting Authority makes the finding under Part D.3. (3) required for installation of a device at a height greater than 45 feet.

Color

Free-standing, wall mounted and roof-mounted devices shall be painted or otherwise colored or finished in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached.

Fencing

Any fencing necessary to control access to devices shall be compatible with the character of the area. (see also 4.c. below)

Signs

There shall be no advertising permitted on or in the vicinity of devices. There shall be a sign not exceeding 4 square feet in area at each installation which shall display a phone number where the person responsible for the maintenance of the installation may be reached on a 24 hour basis. All other signage shall be consistent with the provision of Section XXIIA.

Lighting

Night lighting of installations shall be prohibited except for such lighting as may be necessary for emergency repair purposes.

Parking

Free-standing device installations shall provide one off-street parking space for service vehicles.

Personal Safety

When devices are mounted in locations above or in the vicinity of pedestrian areas or other areas open to the public such installations shall be made in a manner that does not impede or restrict the movement of pedestrians nor pose a hazard to any person.

2. BY-RIGHT PROVISIONS.

The following devices may be constructed, erected, installed, placed and/or used within the Town subject to the issuance of a building permit by the Inspector of Buildings in those instances when a building permit is required:

- a. A device or combination of devices installed on land, a building or other structure, provided that such a device or combination of devices, including its supports, is:
 - (1) finished in a manner designed to be aesthetically consistent with the exterior finish of such building or structure and otherwise in accordance with Part D hereof; and
 - (2) mounted in such a manner so that it does not:
 - (i) obscure any window or other exterior architectural feature;
 - (ii) extend above the highest point of the roof by more than 12 feet;
 - (iii) extend beyond the face of any wall, or exterior surface in the case of structures that do not have walls, by more than 18 inches;
 - (iv) extend below the top of the wall, or exterior surface in the case of structures that do not have walls, of a one-story building or structure; or
 - (v) extend more than 8 feet below the top of the wall, or exterior surface in the case of structures that do not have walls, of a multi-story building or structure; and
 - (3) comprised of devices which do not individually or in the aggregate have a front surface area facing surrounding streets and adjacent properties that exceeds 50 square feet in area;
- b. A device for customary private household use such as a conventional chimney-mount television antenna or home satellite dish not over 3 feet in diameter in conjunction with a single or two-family dwelling; provided that in the case of a home satellite dish that is a free-standing device, such home satellite dish shall be installed in the rear yard only and otherwise shall be in compliance with the provisions of Part D.1. above;
- c. A device owned by and located on the property of an amateur radio operator licensed by the FCC, which device shall be installed at the minimum height necessary for the proper functioning of amateur radio

communications in accordance with the licensing requirements for that location, provided that in the case of an amateur radio device that is a free-standing device, such device shall be installed in the rear yard only and otherwise shall be in compliance with the provisions of Part D. 1. above;

- d. A device installed wholly within and not protruding from the interior space of an existing building or structure (including interior space behind existing roofs or within existing mechanical penthouse space) or behind existing rooftop mechanical screens in such a manner that the device would not be visible from surrounding streets and from adjacent properties and only for so long as such device remains wholly within such space or behind such roofs or screens.
- e. A device used exclusively for non-commercial, public safety purposes.

All devices and installations not prohibited by this Section XXIIC., free-standing or otherwise, shall require a special permit in accordance with Part D.3. except those meeting the requirements of this Part D.2.

3. SPECIAL PERMIT PROVISIONS.

The Special Permit Granting Authority may issue a special permit under the provisions of SECTION XXV. SPECIAL PERMIT GRANTING AUTHORITY. for:

- a. A device or combination of devices (including its supports) installed on land, a building or structure, if such device or devices exceeds any one or more of the dimensional requirements of Part D.2.a. above;
- b. A free-standing device in accordance with 3) below;
- c. All other devices and installations not prohibited by this Section XXIIC. and not otherwise prohibited;

provided the Special Permit Granting Authority finds:

- 1) that the requested installation is essential to the proper functioning of the telecommunications services to be provided by the device at that location and that an alternative installation meeting the By-Right limitations of Part D. 2. is not workable; and
- 2) that the requested installation will not adversely impact adjacent property materially; and
- 3) in the case of a free-standing device, that the center point of the base of the monopole shall be set back from the property lines of the lot on

which such device is located by a distance equal to the overall vertical height of the monopole and mounted device plus five feet, unless the applicant demonstrates that due to topography and/or other characteristics of the site lesser setbacks shall not pose any public safety danger to any adjacent properties; and

- 4) that the overall height does not exceed 45 feet, unless the applicant demonstrates that a greater height is essential to the proper functioning of the telecommunications services to be provided by the device at that location and that an alternative installation meeting the requirements of this Section any less invasive is not workable; and
- 5) that the report of the Design Review Board has been received and the installation and the special permit are consistent with that report under the guidelines established in Part D.1.

4. PROHIBITIONS.

- a. Lattice style towers and facilities requiring three or more legs and/or guy wires for support shall not be allowed.
- b. Advertising signs shall not be allowed. Other signs shall not be allowed except in accordance with Part D.1. Design Review and Section XXIIA. Signs and Identification Devices.
- c. Fences utilizing razor wire or barbed wire or similar wire types shall not be allowed.

Part E. CERTIFICATION AND EVIDENCE.

In all cases, whether use is By-Right or otherwise, the owner and/or operator of any device except as described in Part D. 2. b. above shall, prior to installation of any device, and, if requested by the Inspector of Buildings, but not more than once each year, file with the Inspector of Buildings a certificate and evidence that the device complies with the applicable standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and a periodic (at least annual) maintenance schedule for the device and, in the case of existing devices, that the device remains in use.

Part F. CESSATION OF USE.

Devices shall be removed by the owner and/or operator of any device within one (1) year of cessation of use. Cessation of use shall be determined by the Inspector of Buildings.