

Section 44 Commercial Radio Service (CRS) Facilities Cell Towers

44.1 Purpose.

The purpose of these regulations is: 1) to minimize the adverse impact of wireless communications towers, antennas, and facilities on Charlemont's unique community character and natural amenities; 2) to minimize the overall number and height of such facilities; 3) to regulate the siting of towers in an effort to aid the provision of communication services; and 4) to also ensure that no discrimination occurs with competing providers.

44.2 Conditions.

- a) To the extent feasible, ~~CRS wireless communication~~ facilities shall be placed on existing structures, including water tanks, towers and electrical transmission lines, or concealed within church spires, barn cupolas, and the likes.
- b) To the extent feasible they shall be co-located to minimize impact to the community and the environment.
- c) The height of any portion of the facility shall be limited so that it is the lesser of 120 feet in height or no more than 30% higher than the height of any forest canopy within 1,000 feet.
- d) The height of any portion shall be limited so that no light is required by regulation.
- e) To the extent feasible, the design of the facility shall minimize the visual impact on the community and the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, landscaping, and screening.
- f) All facilities shall be maintained in good order and repair, including removal of rust and repair of failing paint.
- g) All ~~CRS wireless communication~~ facilities which have not been used for their intended purpose for ~~one two~~ years shall be dismantled and removed at the owner's expense. The carrier shall have one (1) year to complete restoration of the land and removal of the facility.
- h) Any new ~~CRS facilities tower or mono pole~~ shall not be erected nearer to a property line than a distance equal to twice the vertical height of the structure, nor shall it be allowed nearer than 800 feet to any existing residential structure or 800 feet to any school.
- i) No advertising devices shall be allowed on any ~~CRS wireless communication~~ facility.
- j) A bond will be posted for the removal, maintenance, or abandonment of the facility.
- k) Clearing shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources; which will minimize marring and scarring of landscape of silting or wet lands.
- l) ~~That n~~No lighting shall be used on any portion of the facility unless required by code.
- m) ~~That CRS~~ facilities shall not be located on ridge lines whenever possible.
- n) No CRS Facilities are permitted in the Village Center District.
- o) In the event of a single application for multiple Small Cell Installations, the Planning Board shall have the right to deny some or all of the proposed individual small cell sites given that each location will have unique impacts on the Town. CRS Facility proposals in the public right of way will require a special permit as specified in Section 44 and shall not be treated as a "utility" or utility pole application.
- p) All CRS Facilities shall comply with all applicable FCC rules regarding acceptable limits on radio frequency radiation exposure to the general public as determined by a

qualified radio frequency engineer.

#### 44.3 Regulations.

##### All CRS Facilities shall:

- a) Adhere to all wetland regulations imposed by the Charlemont Conservation Commission.
- b) Adhere to all state and federal protection acts.
- c) ~~Those facilities~~ Be monitored and the security of such facilities shall be maintained.

#### 44.4 Submittal & Application Requirements.

All ~~S~~pecial ~~P~~ermit applications for ~~CRS wireless communication~~ ~~f~~Facilities shall be made and filed in compliance with the procedural requirements of MGL Chapter 40A Section 9. In addition, five copies of the following information, professionally prepared, must be submitted for an application to be considered complete:

- a) A locus plan at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed facility, streets, topography, landscape features, and structures within 1,000 feet;
- b) A detailed site plan and elevations at a scale of 1" = 10' or larger;
- c) Color renderings and/or photographs of the visual impact of the proposed facility from a minimum of three lines of sight locations, with more locations if required by the Planning Board;
- d) Technical specification of the proposed facility, for structural integrity and potential capacity for the carriers, prepared by a Massachusetts registered professional engineer.
- e) A description of technical, economic, and other reasons for the proposed location, height and design;
- f) In the event the Planning Board determines that circumstances necessitate expert technical review, that expense shall be paid by the applicant;
- g) A description of technical, economic, and other reasons for the proposed location, height and design; and certification that the proposed CRS Facility addresses an existing and significant gap in coverage in the service area, such certification to include a detailed map of the "gap areas" and documentation of such gaps causing an inability for a user to connect with the land-based national telephone network or maintain a connection capable of supporting a reasonably uninterrupted communication. These gaps must be demonstrated using dropped call as well as drive test data (i.e., "hard data" certified by a qualified engineer) rather than so called "propagation maps"; and
- h) Submission of the name(s) of the carrier(s) that will provide telecommunications services utilizing the proposed tower and a copy of the contract or other form of documentation acceptable to the Planning Board demonstrating that the Applicant has a firm commitment from a carrier to use the proposed tower to provide telecommunication services.

Within thirty (30) days prior to the Public Hearing, the applicant shall arrange to fly a brightly colored and clearly visible balloon, or conduct a crane test, at the maximum height of the proposed installation. The balloon or crane shall remain raised in place for a period of at least two (2) consecutive days, including a weekend day between sunrise and sunset, and

will be subject to a repeat if visibility or weather conditions require. If a balloon is used, the diameter shall be the greater of three (3) feet, the largest antenna/dish proposed for the CRS facility or the width of the tower, whichever is largest. Said date will be established, including an alternative date due to inclement weather, at the time of the pre-submission meeting with the Planning Board. The Applicant shall be responsible for advertising the date, time, and location of such test in a newspaper of general circulation in the town at least 7 days prior to, but no more than 21 days, before the beginning date of the test. The Applicant will also be responsible for placing a public notice at the Town Hall and notifying abutters via US Mail at least 1 week prior to the test.

#### 44.5 Exemptions.

The following types of CRS wireless communication facilities are exempt from this section:

- 1) Amateur radio towers used in accordance with the terms of any amateur radio service license by the FCC, provided that the tower is not used or licensed for any commercial purpose.
- 2) Satellite dishes and antennas for residential uses.

#### 44.6 Performance Guarantees and Fees.

- 1) CRS Towers and Personal Wireless Service Facilities shall be insured by the owner(s) against damage to the persons or property. Annual proof of said insurance shall be filed with the Town Clerk.
- 2) The Applicant, upon obtaining a permit, shall obtain a financial surety sufficient to cover the cost of removal of the facility and the restoration demption of the landscape as defined under 44.2 g.) Conditions;g, should the facility cease to operate.
- 3) A filing fee of \$200 shall be submitted with the application to cover the cost of processing and notification.
- 4) Prior to issuance of a Building Permit for a CRS facility, the Applicant is required to post with the Town Treasurer a bond or other form of financial security in the minimum amount of \$50,000.00 or greater, depending on a determination by the Engineer or as set forth by the Planning Board. The bond will cover all removal, decommissioning and restoration costs in the event that the Building Inspector condemns the tower or parts thereof or accessory facilities and structures or deems it unused continuously for more than a year. The Building Inspector shall give the applicant 90 days written notice in advance of any removal action. In addition, a separate \$10,000.00 bond shall be required for each Small Cell Installation. This bond(s) will be held as a guarantee that no such installation exceeds or will exceed the allowable FCC limits for radio frequency radiation exposure to the general public as determined by a qualified radio frequency engineer.

#### 44.7 Definitions

Architectural and Engineering Plans - plans certified by a State of Massachusetts licensed engineer, created to show the design of a CRS facility.

**Balloon Test** – The raising of a balloon (or placement of a “crank up” tower, crane or temporary structure) equal to the height of the proposed CRS facility for a specified period of time on pre-determined dates prior to the Public Hearing for a Special Permit application. (see Section 44.4)

**Building, roof, or wall-mounted CRS Facility** - a CRS facility where antennas are mounted either on the roof or on the face(s) of a legally existing building or structure other than one, which is accessory to a telecommunications facility.

**Collocation** - the act of placing antennas at a CRS Facility.

**Commercial Radio Service (CRS) Facility** - a facility consisting of one or more of the following: a radio frequency configuration, wireless antenna (regardless of size), support structures (including telephone/electricity/cable poles as well as CRS towers, equipment storage shelters, and accessory equipment required for the reception, switching, and/or transmission of wireless telecommunications including, but not limited to, paging, enhanced specialized mobile radio, personal communications services, cellular telephones, so called "small cell installations" and similar technologies, but excluding personal and/or small business cell phone systems. For the purposes of this by-law, "CRS Facility" includes "Small Cell Installations."

**Commercial Radio Service (CRS) tower** - a support structure including monopoles, self-supporting towers, or guyed towers used to attach antennas for the purpose of operating a CRS facility.

**Equipment Storage Shelter** - a structure used to house CRS Facility equipment. These shelters are not intended for human habitation.

**Fixed Wireless** - The operation of wireless communication devices or systems used to connect two fixed locations (e.g., building to building or tower to building) with a wireless link through point-to-point microwave signal transmission.

**Guyed tower** - a tower supported by guy wires.

**Height** - shall mean, when referring to a CRS tower, the distance measured from the mean ground level to the highest point on the structure, including antennae.

**Monopole** - a self-supporting structure composed of a single spire or column used to support telecommunications equipment.

**Municipal Facility** - any structure or land owned by the Town of Charlemont used for municipal purposes. This includes, but is not limited to office space, garages, storage yards, parks, playgrounds, roads, or other Town-owned property.

**Public Right of Way** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or

similar purpose, and for purposes of this Chapter shall include Public Utility Easements, but only to the extent the Town has the authority to permit use of the area for this purpose. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town.

**Small Cell Installation** means all equipment required for the operation and maintenance of so-called "small cell" wireless communications systems that transmit and/or receive signals designed to provide network coverage to smaller areas as opposed to tall, high-power, "macro" towers which serve a wide area.

**Wireless Antenna** - a device for transmitting and receiving electromagnetic waves, including but not limited to, antennas, whip antennas, microwave dishes, and antennas designed to be located on a widely-distributed basis as opposed to on a central tower.