

SECTION III – PRINCIPAL USE SECTION

3.0 SCHEDULE OF USE REGULATIONS

TABLE I – WESTHAMPTON SCHEDULE OF USE REGULATIONS					
BYLAW NUMBER	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT		
			AR	FPD	WS
	<u>GENERAL USES</u>				
3.098	Personal Wireless Service Facility, Tower or Repeater	See Section 5.11	SP/PB/SPA	N	N

SECTION V – SPECIAL REGULATIONS

5.11 Personal Wireless Service Facilities and Repeaters

5.110 Purposes

The purposes of the Town of Westhampton Personal Wireless Service Facilities, Towers and Repeaters By-Law are to:

- a. Preserve the character and appearance of the Town while simultaneously allowing Adequate Personal Wireless Services to be developed.
- b. Protect the scenic, historical, environmental, and natural or man-made resources of the community.
- c. Provide standards and requirements for regulation, placement, constructing, monitoring, design, modification, and removal of Personal Wireless Service Facilities and Repeaters.
- d. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify Personal Wireless Service Facilities and Repeaters.
- e. Preserve property values, locate Towers so as to minimize negative impacts on general safety, welfare and quality of life in the community, such as, but not limited to, visual blight, attractive nuisance, noise and falling objects.
- f. Require owners of Personal Wireless Service Facilities, Towers and Repeaters to configure them so as to minimize and mitigate the adverse visual impact of the Facilities, Towers and Repeaters, including clustering, co-locating, and camouflaging where appropriate.

5.111 Consistency with Federal Law.

These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:

- a. They do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services.
- b. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services.

- c. They do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.

5.112 Definitions

Act: The Telecommunications Act of 1996.

Adequate Coverage: Coverage is considered to be "adequate" within the Coverage Area when the predicted or measured median field strength of the transmitted signal is greater than -95 dbm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain strength of greater than -95 dbm.

Adequate Capacity: Capacity is considered to be "adequate" if the Grade of Service is 0.05 or better for a worst-case day in a preceding month. Based on the Erlang B Tables, prior to the date of Application, or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

Antenna: A device which is attached to a Tower, or other structure for transmitting and receiving electromagnetic waves.

Base Station: The primary sending and receiving site in a wireless telecommunications network.

Channel: The segment of the radiation spectrum from an Antenna, which carries one signal. An Antenna may radiate on many Channels simultaneously.

Communication Equipment Shelter: A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

Coverage Area: An area extending radially from the base station a distance equal to 75% of the maximum distance that the signal will maintain a strength of -95 dbm.

Dbm: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced by 1 milliwatt.

Emf: Electromagnetic Frequency Radiation.

Facility Site: A property, or any part thereof, which is owned or leased by one or more Personal Wireless Service Providers and upon which one or more Personal Wireless Service Facilities and required landscaping are located.

Facility/Tower Special Permit (F/Tsp): The Special Permit required to be obtained in order to install any Tower or Personal Wireless Service Facility or for any Major Modification of an existing Facility.

FCC: Federal Communications Commission. The federal agency responsible for regulating telecommunications in the United States.

FCC 96-326: A Report and Order which sets new national standards for emission of Radio-Frequency emissions from FCC-regulated transmitters. This Report and Order is now contained within title 47 Regulations, Section 1 & 1.1307.

Grade Of Service: A measure of the percentage of calls, which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a

number, such as p. 05 - which means that 95% of callers will connect on their first try. A lower number (p. 04) indicates a better Grade of Service.

Major Modification Of An Existing Facility: Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit. Also any increase, or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

Major Modification Of An Existing Repeater: Any removal of or change in location of any Repeater (s) from the Repeater Site(s) for which a Repeater Special Permit has been received.

Monitoring: The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual Personal Wireless Service Facilities, Towers, Antennas or Repeaters.

Monitoring Protocol: The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new Personal Wireless Service Facilities and Repeaters upon adoption of this Article. The Special Permit Granting Authority (SPGA) may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Town Clerk.

Monopole: A single self-supporting vertical pole with below grade foundations.

Personal Wireless Services: Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

Personal Wireless Service Facility: All equipment (excluding any Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

Personal Wireless Services Provider: An entity, licensed by the FCC to provide Personal Wireless Services to individuals or institutions.

Radiation Propagation Studies or Radial Plots: Computer-generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations.

Repeater: A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

Repeater Site: The location within the Town of Westhampton leased by one or more Personal Wireless Service Providers and upon which one or more Repeater(s) and required camouflage or screening is located.

Repeater Special Permit (RSP): The Special Permit required to be obtained in order to install any Repeater, or for Major Modification Of An Existing Repeater within the Town of Westhampton.

Teleport: A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

Tower: A monopole, lattice, or other structure that is designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

5.113 Scope

- a. This Article specifically exempts the following wireless telecommunications facilities:
 - i. police, fire, ambulance and other emergency dispatch citizen band radio.
 - ii. Municipal facilities are exempt from the special permit requirements but are subject to site plan approval
 - iii. amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that:
 1. the tower is not used for any commercial purpose, and
 2. the tower does not exceed 100 feet in height, and
 3. the tower shall be removed upon loss or termination of said FCC license
 - iv. Placement of a communications device on an existing legally permitted tower unless the number of such devices on the tower has been specifically limited in the permit previously issued for the tower.
 - v. Placement of an antenna within an existing building provided said antenna is not visible from outside the building, no construction is required on the outside of the building and installation is made in accordance with all applicable federal, state and local laws, codes and regulations.
 - vi. No Personal Wireless Service Facility or Repeater shall be considered exempt from this Article for any reason, whether or not said Facility or Repeater is proposed to share a Tower or other structure with such exempt uses.
- b. There shall be no Teleport(s) or microwave reflector dish Antenna (s) within the Town of Westhampton.
- c. Communication relay structures, TV broadcast systems, radio broadcast systems and other similar systems are not permitted under this telecommunications tower By-Law

5.114 Requirement of Special Permit

- a. No Personal Wireless Service Facility, Tower or Repeater shall be erected, constructed, or installed or undergo Major Modification without first obtaining a Special Permit from the Special Permit Granting Authority (SPGA) in accordance with the requirements set forth herein. One or both of two kinds of Special Permits are required. a) A Facility/Tower Special Permit (hereforth F/TSP) for new Facility/Tower construction (or Major Modification Of An Existing Facility); b) A Repeater Special Permit (hereforth RSP) for Repeater(s) to be mounted on an existing, or newly permitted Tower or structure (or Major Modification Of An Existing Repeater).
- b. The Planning Board shall be the SPGA for this use.
- c. No Special Permit shall be granted unless the facility is proposed to be located within one of the following two categories which are prioritized by desirability of location:
 - 1st - on existing non-residential buildings, structures or towers
 - 2nd - a communication device only, on existing buildings, structures or towers in residential districts.

Before the Planning Board may grant a Special permit for a prioritized 2nd category location, the applicant shall establish the unavailability of a location in the 1st prioritized category and submit documentation supporting it.

- d. All applications to construct a tower must provide space on top of the tower for fire, police and any and all emergency services to install communication equipment at fair

market value. Additionally, space shall be provided within the base station for a shelter for communications equipment suitable to such services, at fair market value. Access to the station shall be provided to fire, police and emergency services to maintain their equipment through the use of a "key safe" installed at the primary point of entry into the Base Station.

5.115 Application Requirements

- a. For Personal Wireless Service Facilities or Towers an F/TSP is required. Applicant must submit all information required in §10-10(5.b.). For all Repeaters proposed for installation, a RSP is required. A RSP may be applied for by an Applicant who is currently applying for a F/TSP under this Article, or by an Applicant who has previously received a F/TSP under this Article, or by an entity that is providing Personal Wireless Services to the Town of Westhampton from a base station outside the Town. Applicant must submit all information required in §10-10(5.c). If Applicant is applying for both Permits, they shall be submitted and examined concurrently.
- b. Application Requirements for Facilities or Towers.
 - i. General - The application shall include the following information:
 1. The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.
 2. The name, title, addresses and phone numbers of the person to whom correspondence or communications in regard to the application are to be sent. Notice orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.
 3. Name, address, phone number and written consent to apply for this permit. From the owner of the property that the proposed Personal Wireless Service Facility and/or Tower shall be located, or the owner(s) of the Tower or structure on which the proposed Personal Wireless Service Facility shall be located.
 - ii. Engineering Requirements - Reports prepared by one or more professional engineers, licensed to practice in the Commonwealth of Massachusetts that shall include the following:
 1. Copies of all submittals and showings pertaining to: FCC Licensing Environmental Impact Statements; Federal Aviation Administration Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.
 2. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122 fixed facilities that generate electromagnetic fields in the frequency range of 300 kHz to 100 GHz and microwave ovens. Or any revisions thereof as the Department of Public Health may, by written notice, create.
 - iii. Adequate Coverage - Adequate Capacity and Justification of Need for F/TSP.
 1. Applicant shall provide written documentation of any Facility Site(s) in Westhampton, and any sites in abutting towns located within five miles of any boundary of the Town of Westhampton, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is

not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town of Westhampton. The documentation shall include, for each Facility Site listed:

- a) The exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds), ground elevation above mean sea level at the Tower location, height of Tower or structure, and height of proposed antennas on tower or structure.
 - b) Type, manufacturer and model number of antennas, and antenna gain.
 - c) Output frequency number of channels, power input, and maximum Power output per channel.
 - d) Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain; height or power output shall be specified.
 - e) Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.
2. Applicant shall demonstrate with written documentation that they have examined all existing Facility Sites located in Westhampton and in any sites in abutting towns located within five miles of any boundary of the Town of Westhampton in which an Applicant has no legal or equitable interest. Whether by ownership, leasehold, or otherwise to determine whether those existing Facility sites can be used to provide Adequate Coverage and/or Adequate Capacity to the Town of Westhampton. The documentation shall include, for each existing Facility Site examined:
 - a) The exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds), ground elevation above mean sea level at the Tower location, height of Tower or structure, and height of proposed antennas on tower or structure.
 - b) Type, manufacturer and model number of antennas, and antenna gain.
 - c) Output frequency, number of channels, power input and maximum power output per channel. Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.
 3. Application shall demonstrate with written documentation that the fee, costs, or contractual provisions required by the owner(s) in order to share an existing wireless communication structure or to adapt an existing structure for use are unreasonable. Unreasonable cost would be equal to twice the cost of building a new structure.
 4. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites listed in compliance with §10-10(5.b.3.a) and §10-10(5.b.3.b) (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Westhampton. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.
 5. Applicant shall provide documentation from the FAA that the proposed facility is exempt from applicable regulations administered by the FAA.
- iv. The following engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. (Note: survey plans shall also be stamped and signed by a Professional Land Surveyor registered in Massachusetts.)

Plans shall be on 24"x 36" sheets, on as many sheets as necessary, and at scales that are no smaller (i.e. no less precise) than listed below and in §10-10 (5.b.4). Each plan sheet shall have a title block indicating a project title, sheet title, sheet numbers, date, revision dates, scale(s) and original seal and signature of the P.E. and other professionals who prepared the plan.

1. Proposed Site Plans: Proposed Facility Site layout, grading and utilities at a scale no smaller than 1"=40' (1:480 or metric equivalent 1:500) showing the entire vicinity within a 400' radius of the Tower site with topography drawn with a maximum of 2'(0.6 meter) contour interval, and including:
 - a) Proposed Tower location and appurtenances, if any, and any accessory building (Communication Equipment Shelter or other), indicate property boundaries and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. The site plan shall include the location of all abutting properties within 300' of the tower property and names of current owners of each.
 - b) Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.
 - c) Plans for proposed access driveway or roadway and parking area at the Facility Site. Including grading, drainage and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, and paving or surface materials.
2. Proposed Tower and Appurtenances
 - a) Plans, elevations, sections and details at appropriate scales but no smaller than 1"=10'
 - b) Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Indicate the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.
 - c) Details of typical Tower foundation, including cross-sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
 - d) Detail proposed exterior finish and camouflage of the tower.
 - e) Indicate height of the Tower relative to the tops of surrounding trees as they currently exist.
3. Proposed Communications Equipment Shelter.
 - a) Floor Plans, elevations and cross sections at a scale of no smaller than ¼"=1' (1:48) of any proposed appurtenant structure.
 - b) Representative elevation views, indicating the roof, facades, doors and other exterior appearances and materials.
4. Proposed Equipment Plan.
 - a) Plans, elevations, sections and details at appropriate scales but no smaller than 1"=10'.

- b) Numbers of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by Degrees, minutes and seconds of Latitude and Longitude.
 - c) Mounting locations on Tower or structure, including height above ground.
 - d) Antenna type(s), manufacturer(s) model number(s).
 - e) For each Antenna, the Antenna gain and Antenna radiation pattern.
 - f) Number of channels per Antenna, projected and maximum.
 - g) Power input to Antenna(s).
 - h) Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
 - i) Output frequency of the Transmitter(s).
- v. Details of proposed method of financial surety as required in §10-10(12)
- vi. A written, irrevocable commitment valid for the duration of the existence of the Tower, to rent or lease Available Space for co-location on the Tower at fair market prices and terms, without discrimination to other Personal Wireless Service Providers.
- vii. Within thirty days after filing an application for any new tower, or extension in height thereto, the applicant shall arrange to fly a balloon at the proposed site, at the maximum height of the proposed installation, on a weekend day. The balloon shall be of size and color that can be seen from every direction for a distance of one mile. Applicant shall be responsible for posting the date and location of the balloon(s) as a legal advertisement at least 14 days, but not more than 21 days before the flights in at least two different issues of a newspaper with a general circulation in the Town of Westhampton.
- viii. Written documentation from a provider of landlines indicating adequate landline capacity for the proposed installation.
- c. Application Requirements for R.S.P.
 The use of Repeaters to assure adequate Coverage or to fill holes within areas of otherwise adequate coverage, while minimizing the number of required Towers is permitted and encouraged. An Applicant who has received and is in compliance with a current F/TSP under this Article, or an entity which is providing Personal Wireless Services to the Town of Westhampton from a base station outside the Town, may apply for a RSP. Applicants for RSP shall provide the following information:
 - i. Exact location (in Longitude and Latitude, to degrees, minutes, seconds) as well as by street address or Pole number (if applicable).
 - ii. Ground elevation.
 - iii. Type, manufacturer and model number of proposed Repeater.
 - iv. Height of proposed Repeater above ground.
 - v. Proposed output frequency.
 - vi. Proposed number of channels.
 - vii. Proposed power input.
 - viii. Proposed maximum power output per channel.
 - ix. Radial plots from any proposed Repeater(s), configured as documented above, shall be provided as part of the Application.
 - x. Photo or drawing of proposed Repeater.
 - xi. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Repeater shall be located, and of the

- owner(s) of the Tower or structure on which the proposed Repeater shall be located.
- xii. Proposed Repeater Site layout, grading and utilities at a scale no smaller than 1"=40' (1:480 or metric equivalent 1:500) showing the entire vicinity within 300' radius of the Repeater site with topography drawn with a minimum of 2' (0.6 meter) contour interval.
 - xiii. Proposed Repeater location and appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). The site plan shall include the location of all abutting properties within 300' of the tower property and names of current owners of each.
 - xiv. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
 - xv. Plans of any proposed access driveway or roadway and parking area at the Repeater site. Include grading, drainage and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, and paving or surface materials.
 - xvi. Written documentation from a provider of landlines indicating adequate landline capacity for the proposed installation.
- a. General Requirements For Issuance of F/TSP (s)
 - i. Provision of Service - No new facility or tower shall be permitted unless the SPGA finds that Applicant cannot provide Adequate Coverage and Adequate Capacity from existing Facility Sites, either controlled by Applicant or on which Applicant could reasonably co-locate. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not, itself, simultaneously installing a Personal Wireless Service Facility on the Tower, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. Said Provider shall provide all necessary data to comply with the terms of this Article, as part of Applicant's application for a F/TSP, or the Special Permit shall not be granted. If primary coverage (greater than 50%) from proposed Wireless Service facility were outside Westhampton, then the permit may be denied. Repeaters shall be required in areas deemed not to have Adequate Coverage within the Coverage Area.
 - ii. Environmental Conditions
 - 1. In general, Towers and Personal Wireless Service Facilities shall be located so as to provide adequate coverage and Adequate Capacity with the least number of Towers and Antennas, which is technically and economically feasible.
 - 2. In furtherance of the above, the following locations are ranked in order of preference:
 - a) The use of Repeaters to provide Adequate Coverage without requiring new Tower(s).
 - b) Shared use of existing Personal Wireless Service Facilities.
 - c) The use of land distant from higher-density residential properties, where visual impact is minimized.
 - d) The use of municipal lands complying with other requirements of this Article, where visual impact can be minimized and mitigated.
 - 3. Those towers that are necessary shall minimize, to the extent feasible, adverse visual impacts on the environment. The SPGA may impose reasonable conditions to ensure this result, including but not limited to, requiring the use of camouflage, painting, lighting standards and screening, or the mimicking of a tree or other appropriate object. Towers shall be sited off ridgelines, and where

their visual impact is least detrimental to highly rated scenic areas. (See, for example, Massachusetts Landscape Inventory, M.G.L. Ch. 131, Sec 39A, conducted by Massachusetts Dept of Environmental Management, 1982).

4. A vegetated buffer strip of undisturbed trees of at least 200' in depth (or less if determined by the SPGA to be sufficient), shall be retained as close to the Tower as possible, but in all cases there shall be no clearing at a distance in excess of 25 feet square from the base of the Tower except where the access drive is located. The access drive shall be winding and well landscaped. The base of the Facility shall not be visible from any public roadway. If a Tower is proposed for an area without mature forest growth, it shall be camouflaged as determined by the SPGA. This may include the requirement to plant a sufficient number of mature trees to adequately screen the base of the Tower and equipment shelters.
 5. No Tower or Personal Wireless Service Facility with the exception of Repeaters shall be located within any of the following prohibited areas:
 - a) Massachusetts-or-federally regulated wetland.
 - b) Massachusetts Certified Vernal Pool.
 - c) The habitat of any State listed Rare or Endangered Wildlife or Rare Plant Species.
 - d) Within 100 feet horizontally from any Massachusetts regulated wetland.
 - e) Within 200 feet horizontally of the Outer Riparian Zone of any river or perennial stream, as defined in the Wetlands Protection Act and Regulations.
 - f) Within 500 feet horizontally from any Historic District or property listed or eligible to be listed on the state or federal Register of Historic Places, or site determined by the Massachusetts Historical Commission to be eligible for such listing.
 - g) Where the Facility would be visible from a Historic Site.
 6. In addition to the above, Towers and Personal Wireless Service Facilities shall be located so as to minimize the following potential impacts:
 - a) Diminution of residential property values: Siting shall be in areas of as low population density as possible.
 - b) Unsafe structural conditions and attractive nuisance.
 - c) Excessive electromagnetic radiation: In case the Tower or Personal Wireless Service Facility is found in excess of the FCC guidelines.
- iii. Physical Plant
1. Fencing. The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security within an area no greater than 25 feet square from the base of the Tower, and to a height of six feet, and gated. Use of razor wire is not permitted. Fencing shall be compatible with the scenic character of the Town and of abutting properties, and shall be approved by the SPGA.
 2. Signs. There shall be no signs except the following: A sign no greater than two (2) square feet indicating the name of the Personal Wireless Service Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing", or other warning signs, may be posted on the fence. All signs are subject to approval by the SPGA.

3. Communication Equipment Shelters and Accessory Buildings shall be designed to be architecturally similar and compatible with each other and with residential buildings on Main Street in Westhampton, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
4. The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least 1.5 times the height of the structure plus any attached wireless communication devices, to ensure an adequate fall zone.
5. New Towers shall not exceed the minimum height necessary as determined by the SPGA to provide Adequate Coverage from the Personal Wireless Service Facility(ies) proposed for use on the Tower, and shall in no event exceed 190 feet, or any lesser height, which according to FAA regulations would require placement of warning lights for aircraft.
6. Towers shall be located at least one and one half times their maximum structural height from any structure, excluding equipment shelter(s).
7. To the extent feasible, all network interconnections to and from the telecommunications site and all power to the site shall be installed underground. At the initial construction of the access road to the site, sufficient conduit shall be laid to accommodate the maximum possible number of Personal Wireless Service Providers likely to utilize the site to provide services to the Town of Westhampton and surrounding areas.
8. Unless required by the Federal Aviation Administration, no night lighting of Towers, or the Personal Wireless Service Facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
9. No Tower or Personal Wireless Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.
10. Tower(s) must be of a type, which will maximize potential sharing. Applicant must demonstrate the future utility of such structure for expansion of service to Applicant and to other future Applicants.
11. Commercial advertising shall not be allowed on any Antenna, Tower, or Accessory Building or Communication Equipment Shelter.
12. All towers shall be self-supporting. There shall be no guide wires.
13. All Network interconnections shall be via landline. Applicant shall demonstrate availability of adequate landline capacity as part of their application.
- b. General Requirements for Repeater Special Permits
 - i. No Repeater shall be located closer than 50 feet to an existing Dwelling Unit or less than 25 feet above ground.
 - ii. The SPGA may require the use of screening, painting, or camouflage to reduce the visual impacts of Repeaters.
 - iii. Repeaters shall be located so as to have the least impact on the views of the residents of the Town of Westhampton.
- c. Evaluation by Independent Consultants.
 - i. Upon submission of an application for any Special Permit under this Article, the Applicant shall pay a review fee determined by the SPGA, and submit an affidavit

- stating that the Applicant will pay all costs incurred in excess of this review fee. The fee plus additional costs shall consist of all reasonable costs to be incurred by the SPGA for the employment of independent consultants. The SPGA shall select the Independent Consultant(s) to assist in the review of the Application. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields, as appropriate: 1) telecommunications engineering, 2) structural engineering, 3) monitoring of electromagnetic fields, and 4) other relevant fields of experience as determined by the SPGA.
- ii. Upon submission of a complete Application for any Special Permit(s) under this Article, the SPGA shall provide its Independent Consultant(s) with the full Application(s) for their analysis and review.
 - iii. Applicants for any Special Permit(s) under this Article shall grant permission for the Town's Independent Consultant(s) to conduct any necessary site visit(s), or obtain permission from the owner(s) of the proposed site(s) for any site visit(s).
- d. Approval Criteria
- i. In acting on any Special Permit Application, the SPGA shall proceed in accordance with the procedures and time lines established for Special Permits in State law, this By-Law, and other applicable law.
 - ii. In addition to the findings required by the Zoning By-Law for Special Permits generally, the SPGA shall make the following findings before granting the Special Permit:
 - iii. Applicant is not already providing Adequate Coverage and/or Adequate Capacity within the Coverage Area.
 - iv. An applicant already providing service in the Town of Westhampton must be in full compliance with the terms of their existing F/TPS(s) or RSP(s)
 - v. Applicant has agreed to rent or lease Available Space on the Tower, under the terms of a fair market lease, without discrimination to other Personal Wireless Service Providers.
 - vi. Applicant is not able to use Existing Tower/Facility Sites in or around the Town of Westhampton, either with or without the use of Repeaters, to provide adequate coverage and/or Adequate Capacity within the Coverage Area.
 - vii. Proposed Personal Wireless Service Facility/Tower or Repeater will not be likely to have an undue adverse impact on historic resources, scenic views, residential property values, natural or man made resources.
 - viii. Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the towers and Facilities.
 - ix. Emergency access to the site via the planned drive or roadway is adequate; the SPGA shall request and consider input from the Chiefs (or the designees) of Fire, Police and other Emergency services regarding this issue.
 - x. The proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.
 - xi. The General Requirements (Sections 10-10(6) & 10-10(7) have been met.
 - xii. Any decision by the SPGA to deny an Application for a Special Permit under this Article shall be in conformance with Sec. 332 [47U.S.C.332] (7)(B)(ii)(iii) of the Act. In that it shall be in writing and supported by substantial evidence contained in a written record.
- e. Monitoring and Evaluation of Compliance

- i. Initial Monitoring. It shall be a condition of any Special Permit granted under this By-Law that, in order to determine the Tower and Facility's or Repeater's radio frequency emissions and their compliance with FCC regulations, the Applicant shall, after the granting of a Special Permit and within 30 days of the date that Applicant's Personal Wireless Service Facility (ies) or Repeater(s) begin(s) transmission, pay for an Independent Consultant, hired by the Town, to Monitor the levels of EMF radiation, around the proposed Facility and/or Repeater site(s). The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring result shall be prepared by the Independent Consultant and submitted to the Planning Board, Selectboard, the Board of Health, the Zoning Board of Appeals, and the Town Clerk.
- ii. Ongoing Monitoring. It shall be a condition of any Special Permit granted under this By-Law that in order to determine ongoing compliance with FCC regulation, after transmission begins, the owner(s) of any Personal Wireless Service Facility(s) or Repeater(s) located on any Facility or Repeater site shall pay for an Independent Consultant hired by the Town to conduct annual testing and monitoring of EMF radiation emitted from said Site, and to report results of said monitoring, as follows:
 1. There shall be annual Monitoring of emissions by the Independent Consultant using actual field measurement of radiation utilizing the Monitoring Protocol. This Monitoring shall measure levels of EMF radiations from the Facility Site's primary Antennas as well as from Repeater Site(s) (if any). A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the Planning Board, the Selectboard, the Board of Health, the Zoning Board of Appeals, and the Town Clerk.
 2. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, or the reactivation of any facility, which has been idle for six months, shall be cause for new Initial Monitoring in accordance with §10-10(10.a.)
 3. Excessive Emissions. Should the Monitoring of a Facility or Repeater Site reveal that the Site exceeds the FCC 96-326 standard, or any other applicable FCC standard, then the owner(s) of all Facilities utilizing that Site shall be so notified. The owner(s) shall submit to the SPGA, Selectboard, Board of Health and the Town Clerk a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard and any and all other applicable FCC regulations within 10 business days of notification of non-compliance. That plan shall reduce emissions to the applicable FCC standard within 15 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification on non-compliance shall be a violation of the Special Permit and subject to penalties and fines. Such fines shall be payable by the owner(s) of the Personal Wireless Service Facilities with Antennas on the Facility Site, until compliance is achieved.
 4. Structural Inspection. It shall be a condition of the Special Permit that Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Towers shall be inspected every five years. The Independent Consultant shall prepare a report of the inspection results and submit it to the Selectboard, the Planning Board, the Board of Health, the Building Inspector and the Town Clerk. Any Major Modification of Existing

Facility that includes changes to Tower dimensions or antenna numbers or type shall require new structural inspection.

5. **Unsafe Structure.** Should the inspection of any tower reveal any structural defect(s), which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be taken. Within 10 business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of Structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to penalties and fines as a zoning violation. Such fines shall be payable by the owner(s) of the Tower, until compliance is achieved.
- f. **Removal Requirements**

Any personal Wireless Service Facility or Repeater that ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the Personal Wireless Facility or Repeater and its equipment on a continuous and ongoing basis for a period on one year. At the time of removal, the Facility or Repeater Site shall be remedied such that all Personal Wireless Service Facility or Repeater improvements, which have ceased to operate, are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Facility or Repeater Site, including any access road(s), which lead to that Facility or Repeater Site from the main access road, shall be revegetated. Existing trees shall only be removed with the written permission of the SPGA, and only if the SPGA determines such removal of trees to be necessary to complete the required removal of Personal Wireless Service Facility(s) or Repeater(s). Police, Fire, and Emergency Services are specifically exempted from the above requirements.
- g. **Performance Guarantees**

Applicant shall, as a condition of the Special Permit:

 - i. Post a term insurance bond in a reasonable amount determined and approved by the SPGA. This bond shall be in force to cover the costs of the remediation of any damage to the landscape that occurs during the clearing of the Site. Also to cover the cost of removal of the Tower or Facility or Repeater from the Site, and remediation of the landscape, should the Facility or Repeater cease to operate.
 - ii. Post a maintenance bond for the access road(s) site(s) and Tower(s) in amounts approved by the SPGA.
- h. **Fees and Insurance**
 - i. Towers, Personal Wireless Service Facilities and Repeaters shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance to the SPGA and the Selectmen's Office on an annual basis. For Towers, Facilities and Repeaters located on property owned by the Town of Westhampton and the Town of Westhampton shall be an additional named insured.
 - ii. A schedule of fees for Personal Wireless Service Facility, Tower or Repeater permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the SPGA pursuant to M.G.L. c40A. §9. This schedule may be amended from time to time.
- i. **Permit Expiration and Renewal**

- i. Any Special Permit granted under this section shall lapse if the Applicant fails to begin construction on the Facility or Tower or Repeater within an eighteen-month period of said grant.
- ii. All Special Permits granted under this section shall be granted for five years. The SPGA shall upon application filed prior to the expiration of any five-year period renew said Special Permit for an additional five-year period. If the SPGA determines that the Tower and/or Facility and /or Repeater so permitted shall have been and shall remain in compliance with all terms and conditions of this By-Law, and of any conditions placed upon the original Special Permit at the time of granting.