

PERSONAL WIRELESS FACILITY

SPECIAL PERMIT RULES AND REGULATIONS



PLANNING BOARD

TOWN OF ACTON

Acton Planning Department
472 Main Street
Acton, MA 01720
(978) 929-6631
www.acton-ma.gov

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SECTION 1
GENERAL PROVISIONS

1.1 Authority

These RULES are adopted by the Planning BOARD as authorized by MGL Ch. 40A and the Acton Zoning BYLAW.

1.2 Purpose

The purpose of these RULES is to establish uniform procedures for conducting the business of the BOARD under its jurisdiction as a Special Permit Granting Authority for Wireless Communications Facility Special Permits.

1.3 Applicability

Any person applying for Wireless Communications Facility Special Permits under the BYLAW, whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these RULES.

1.4 Definitions

Defined terms are capitalized in these RULES.

APPLICANT	Any person or such person's authorized representative who files an APPLICATION for a PERMIT under the BYLAW.
APPLICATION	All plans, forms, reports, studies or other documents which are submitted to the BOARD under these RULES by an APPLICANT.
BOARD	The Planning BOARD of the TOWN of Acton.
BYLAW	The Zoning BYLAW of the TOWN of Acton, as amended
DECISION	Action by the BOARD on an APPLICATION.
PARTIES IN INTEREST	The APPLICANT; abutters; owners of land within 1000 feet of the property boundary of the Site or LOT where the Personal Wireless Facility is proposed as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the Acton Planning BOARD; and the Planning Board of every abutting city or town.
PERMIT	A Wireless Communications Facility Special Permit under the BYLAW
RULES	The Wireless Communications Facility Special Permit Rules and Regulations as contained herein.
TOWN	The TOWN of Acton.

Other Definitions - Refer to the "Definitions" section of the SUBDIVISION Rules and Regulations and the BYLAW for additional defined terms which are also capitalized when used in these RULES.

1.5 Waiver of RULES

Strict compliance with these RULES may be waived if the BOARD finds that the waiver is in the public interest or is irrelevant to the project, and is consistent with the intent and purpose of the BYLAW and these RULES.

Any request from an APPLICANT for a waiver of these RULES must be submitted, in writing, to the BOARD at the time of submission of the APPLICATION. Such requests must clearly identify the provision(s) of the RULES from which relief is sought and be accompanied by a statement setting forth the reasons why, in the APPLICANT'S opinion, the granting of such a waiver would be in the public interest or the specific information required is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of the BYLAW and these RULES.

1.6 Provision of Security

The BOARD may require in its DECISION that security be posted with the TOWN in such form and amount as is required by the BOARD to secure the satisfactory completion of all or any part of the work authorized under a PERMIT. The form of security shall be generally as required in the Town of Acton SUBDIVISION Rules and Regulations.

1.7 Advice from TOWN Staff

Any advice, opinion, or information given to the APPLICANT by a BOARD member or by any agency, official, or employee of the TOWN shall be considered advisory only and not binding on the BOARD.

1.8 Amendments to the RULES

The RULES may be amended by a majority vote of the BOARD in a public meeting.

SECTION 2

PRELIMINARY REVIEW

2.1 Preliminary Consultations

Consultations between a prospective APPLICANT and the professional staff of the TOWN prior to the filing of an APPLICATION under these RULES with the BOARD are strongly recommended and can prevent serious delays in the processing of the final APPLICATION.

- 2.1.1 Any action or communication initiated by the APPLICANT prior to the filing of an APPLICATION with the Town Clerk and the BOARD shall not constitute a PERMIT APPLICATION. The following rules shall apply to such preliminary consultations.

2.2 Form of Request

All materials to be reviewed shall be provided in electronic PDF format to the Planning Department including a letter requesting a review with the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Planning Department or a copy of said communication must be provided to the Planning Department.

2.3 Scope of TOWN Staff Reviews

The TOWN staff will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the final APPLICATION and to promote efficiency in the formal review process. Staff will limit their review of such materials to technical issues appropriate to their area of expertise and to assessments of whether the project in question adequately addresses major issues of concern to the TOWN and the neighborhood. In general, staff will complete the preliminary review within 30 days. Staff will not be responsible for assuring the thoroughness, completeness, or correctness of any final APPLICATION. It is the responsibility of the APPLICANT to assure that any APPLICATION to the BOARD is complete and accurate.

- 2.3.1 Through the preliminary review process staff will make recommendations for any fee waivers or additional deposits that may be appropriate. Note that substantial changes in the project may require the alteration of these recommendations at the time of final submission. In all cases APPLICANTS shall contact the Planning Department prior to the final submission to discuss these fees.
- 2.3.2 If any other Special Permits are required from the BOARD for the project, then these should be discussed with the staff at this time.

2.4 Fees

The first such preliminary review by staff of an APPLICATION shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$500 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Acton".

SECTION 3

CONTENTS OF AN APPLICATION

An APPLICATION for a PERMIT which lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the APPLICANT to assure the accuracy and completeness of all information submitted to the BOARD as part of an APPLICATION. The APPLICANT shall be responsible for factually supporting all points relied upon in the APPLICATION including references for methodologies used in design calculations.

Except as otherwise noted, a complete APPLICATION for a PERMIT shall be made in electronic PDF format together with 2 paper copies and shall include the information listed in this section 3 and all its subsections.

Changes made during the course of the APPLICATION review process, and requests for amendments of previously issued PERMITS and approved Personal Wireless Facility plans shall be submitted in the same manner as above with changes and amendments clearly identified.

3.1 APPLICATION Form

Any APPLICATION for a PERMIT shall be made in writing and include the completed APPLICATION form entitled "Application for a Personal Wireless Facility Special Permit" attached to these RULES and also available from the office of the BOARD at Town Hall.

- 3.1.1 In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT shall obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION.
- 3.1.2 If the APPLICANT is acting in the name of a trust, corporation, or company, an authorizing vote shall be attached.

3.2 Certified Abutters List

List of the PARTIES IN INTEREST as defined in these RULES, taken from the most recent tax list of the TOWN and certified by the Town Assessor. The APPLICANT shall pay any charges required by the Town Assessor for the list.

3.3 Other Permits and Variances

A list and copies of variances, permits, and other special permits previously issued by other TOWN boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the State Dept. of Public Works, the Army Corp. of Engineers, and the State Dept. of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

NOTE: If any other special permits are required from the BOARD, the APPLICANT is hereby strongly advised to make the applications for such additional permits concurrently with this PERMIT APPLICATION.

3.4 Recorded Plans and Deeds

A copy of the most recently recorded plan(s) and deed(s) for the LOT(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

3.5 Mortgage Holders

A list of mortgage holders which shall be kept current during the period of development.

3.6 Proof of Need

The BOARD cannot issue a special permit unless it can make numerous mandatory findings (refer to S. 3.10.6.17 of the BYLAW). The APPLICANT shall submit written statements that explain the following:

- 3.6.1 How the proposed Personal Wireless Facility is designed to minimize any adverse visual or economic impacts on abutters and other PARTIES IN INTEREST.
- 3.6.2 How the proposed Personal Wireless Facility is designed to provide, in the most community-compatible method practicable, Service Coverage to a Significant Gap within the Town. The applicant shall bear the burden of demonstrating, by clear and convincing evidence, the existence of such Significant Gap.
- 3.6.3 How the proposed Personal Wireless Facility is designed in the most community-compatible method practicable and is necessary to satisfy a Significant Gap in service. The applicant shall bear the burden of demonstrating that other methods preferred by the Town are not feasible for providing Service Coverage to satisfy such Significant Gap.
- 3.6.4 Why the Personal Wireless Facility cannot for technical or physical reasons be located on an existing Personal Wireless Facility or Tower that would be expected to provide comparable Service Coverage. Such alternative existing location or locations need not provide full service to the entire Significant Gap if, in the determination of the Planning Board, the remaining Gap to have been served by the proposed Facility is not Significant and/or if remaining portions of the Significant Gap can be served by new Facilities preferred by the Planning Board.
- 3.6.5 Why the Personal Wireless Facility cannot be located at any other practicably available site that is less objectionable to the general public due to technical requirements, topography, or other unique circumstances. The applicant shall have the burden of showing what alternative sites and technologies it considered and why such sites and technologies are not practicably available.
- 3.6.6 How the proposed Personal Wireless Facility is sited in such a manner that it is suitably screened.
- 3.6.7 That the proposed Personal Wireless Facility is colored so that it will as much as possible blend in with its surroundings.
- 3.6.8 How the proposed Personal Wireless Facility is designed to accommodate the maximum number of users technologically feasible.
- 3.6.9 That the proposed Personal Wireless Facility is necessary because there is no other existing Facility or Facilities with available space or capacity available to satisfy the Significant Gap.
- 3.6.10 That the proposed Personal Wireless Facility is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations.
 - 3.6.10.1 Compliance shall be demonstrated by submission of letters from the above named entities and by submission of a copy of an FCC license issued to the APPLICANT for the service area that includes Acton.
- 3.6.11 That the proposed Personal Wireless Facility complies with all applicable requirements of this Bylaw, including Section 10.3.

3.7 Coverage Maps

The following maps and plots shall be included in the application:

- 3.7.1 A map at a suitable scale showing all existing and proposed Personal Wireless Facility locations surrounding the proposed location for which the special is sought. This shall include all locations, including facilities mounted on buildings, in church steeples, etc.
 - 3.7.1.1 Identify on the map, at which locations the APPLICANT has wireless transmission equipment installed.
 - 3.7.1.2 Where the APPLICANT does not have such equipment, identify on the map, which of these sites have co-location potential and which have not.
- 3.7.2 Coverage plots for all existing and proposed surrounding Personal Wireless Facility locations. Use the actual plots for the locations where the applicant has equipment installed, and hypothetical plots for the other locations assuming an installation height of 125 feet above mean ground level unless there is specific information that suggests a different height.

3.8 Personal Wireless Facility Plans

The Personal Wireless Facility plan with the form and contents as set forth below shall be submitted in electronic PDF and scalable CADD formats and registered to the Massachusetts State Plane Coordinate System, plus 3 full size plans printed on 24" x 36" sheets and 11 copies thereof reduced to fit legibly on 11"x17" or 8.5"x11" sheets.

Plans shall be legibly drawn to fully detail and explain the intentions of the APPLICANT. All plan sheets shall be drawn at a standard scale (1 inch = 20, 40, or 50 feet) and shall include a reasonable numbering system with an appropriate title block, north arrow, and legend identifying any representative symbols used on the sheet in question. Each plan sheet shall show the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet. The Personal Wireless Facility plans shall include at least the following information:

- 3.8.1 Locus Plan - A Locus Plan showing an area a minimum of one mile diameter around the proposed facility location at a scale of 1" = 1200', with major STREETS and landmarks shown with sufficient clarity to be easily discernible.
- 3.8.2 General Site Characteristics:
 - 3.8.2.1 All LOT lines and boundaries of the site, with ownership of abutting properties indicated.
 - 3.8.2.2. Access and utility easements.
 - 3.8.2.3 All required setbacks for BUILDINGS, STRUCTURES, parking, or loading facilities shall be dimensioned on the plan to demonstrate compliance with zoning requirements.
 - 3.8.2.4 All zoning district boundaries, including the boundaries of the Flood Plain and Groundwater Protection Districts, if applicable, shown in their proper location.
 - 3.8.2.5 Any special site features including, but not limited to stone walls, fences, wells, historic STRUCTURES, and historic BUILDINGS.
- 3.8.3 Natural Site Characteristics:
 - 3.8.3.1 Site features such as, but not limited to, flood plains, waterways, drainage courses, and ledge outcroppings.
 - 3.8.3.2 Existing and proposed contours of the land shown at two (2) foot intervals unless otherwise required by the Flood Plain Bylaw. Topography shall be referenced to the

National Geodetic Vertical Datum of 1929 with the location and elevation of the starting bench mark plus at least two additional temporary bench marks on the site.

- 3.8.3.3 Location and results of any field tests to determine the MAXIMUM GROUNDWATER ELEVATION, if the proposed facility location is in a Zone 1, 2, or 3 of the Groundwater Protection District and the proposed finished grade is below the pre-development ground elevation.
- 3.8.3.4 All wetlands and wetland buffer area boundaries. Wetlands are defined as those areas subject to the provisions of the "Wetlands Protection Act", MGL, Ch. 131, Section 40, and the "Acton Wetlands Bylaw".
- 3.8.3.5 An inventory map of all trees that exceed a height of 75 feet above the mean ground elevation within a circle of 500 feet of the proposed Wireless Communications Facility.
- 3.8.3.6 Show two profiles with an exaggerated vertical scale above the mean elevation within 500 feet showing said trees and the proposed Facility in the center - one capturing all trees in the circle between NW-NE and SE-SW, and the other for SW-NW and NE-SE.
- 3.8.4 Site Improvements
 - 3.8.4.1 Tabulations - A table shall show the zoning requirements and limits for Wireless Communication Facilities for height, various setbacks, tower style, and co-location slots, and the data for the proposed facility that relate to these requirements. Where the facility is proposed on a LOT with other BUILDINGS and STRUCTURES on it, the table shall also demonstrate that zoning compliance for the applicable district and overlay district will be maintained with the installation of the Personal Wireless Facility. For instance, in business and industrial districts this would include, but not be limited to, a tabulation of zoning requirements, existing data, and proposed data for total LOT area, DEVELOPABLE SITE AREA, total NET FLOOR AREA, wetlands and flood plain areas, OPEN SPACE, and FLOOR AREA RATIO.
 - 3.8.4.2 Outline or footprint of the proposed Personal Wireless Facility including:
 - a) A plan for the fenced equipment compound showing the arrangement of all ground equipment for at least 5 separate wireless communications service companies, and the outline of the related easement or lease area. Indicate on the plan BUILDINGS, STRUCTURES and other improvements that would be removed, if any.
 - b) A plan showing the proposed location and route of all utility and service lines for the proposed Personal Wireless Facility, including easements or lease areas.
 - 3.8.4.3 Sidewalks in plan view and cross section with notations and details on the construction materials and methods to be used.
 - 3.8.4.4 Plan views and cross sections of any proposed driveways for the facility, with notations and details on the construction materials and methods to be used. The size of the largest vehicle expected to access the facility shall be noted. All of the drives and entrances must be designed to accommodate the designated size of the largest expected vehicle. The smallest size for the design shall be the SU-30 design vehicle so that fire trucks may maneuver on the site.
 - 3.8.4.5 Existing and proposed parking facilities with proper dimensions.
 - 3.8.4.6 Location, dimension, and rendering of the required sign that provides the telephone number where the operator in charge can be reached on a 24-hour basis.
 - 3.8.4.7 Outdoor lighting details for low intensity security lights.
 - 3.8.4.8 A detail of proposed equipment compound fence and gate.

3.8.5 Site Utilities (as applicable)

- 3.8.5.1 Location and type of storm water drainage facilities including notes on the construction materials of any pipes, culverts, catch basins or any other system component. Sufficient information relating to placement of the drainage system components (rim and invert elevations, pipe slopes, amount of cover, etc.) shall be shown so that the operations of the system can be evaluated. Any drainage ponds intended to be constructed shall be shown fully dimensioned.
- 3.8.5.2 Location of any underground storage tanks for fuel or other chemical storage, including the tank types, capacities, and condition.
- 3.8.5.3 Location and type of existing and proposed water services to serve the facility (including abandoned wells). If the site is to utilize an on-site well, its proposed location must be shown in addition to its setbacks from any BUILDING, STRUCTURE, or sewage disposal system. If public water services are to be utilized, then the water main which will service the site must be shown and identified.
- 3.8.5.4 All fire hydrants on the site or off the site but within 500' of the principal BUILDING on the site. If no fire hydrants are located within 500' of the principal BUILDING on the site, then a note shall appear clearly explaining how the APPLICANT will provide fire protection to the site. The location of any proposed municipal fire alarm boxes or other warning systems and any proposed fire lanes shall be clearly shown and identified. Any underground conduit for municipal fire alarm connections shall be shown.
- 3.8.5.5 The location and type of any other underground utilities including but not limited to electric, gas, telephone, or cable television services.

3.8.5.6 Provisions for emergency power back-up.

3.8.6 Construction Details (as applicable) - Typical detail of a proposed catch basin, diversion box, emergency slide gate, manhole, headwall, retaining wall, walkway, subdrain, waterway, leaching basin, drainage pond, or other similar structure, if any. In Groundwater Protection Zones 1, 2, and 3, catch basins must be precast concrete with gas traps (Lebaron I-219, Neenah 3705, or equivalent). Precast catch basins must show gas traps and construction joints sealed with a minimum of 1" butyl-rubber gastight sealant or equivalent caulking material.

3.8.7 Erosion & Sediment Control Plan

- 3.8.7.1 The Plan shall show adequate erosion and sediment control measures during and after construction. Control measures such as hydroseeding, berms, interceptor ditches, terraces, and sediment traps shall be put into effect prior to the commencement of each increment of the development/construction process.
- 3.8.7.2 A note on the Erosion and Sedimentation Plan shall state that the developer is required to clean up any sand, dirt, or debris which erodes from the site onto any public STREET or private property, and to remove silt or debris that enters any existing drainage system including catch basin sumps, pipe lines, manholes, and ditches.

3.8.8 Landscape Plan - Landscaping information must be shown on a separate plan sheet or sheets. In addition to showing proposed landscape treatments which may be need to screen ground-level equipment compound, the Landscape Plan shall show natural vegetation that would be retained for the same purpose and general site features in the facility location area such as LOT lines, STRUCTURES, parking areas, curbs, walkways, land contours, water bodies, wetlands, and streams.

- 3.8.8.1 Screening - The Plan shall show the methods, plant materials, fencing and other treatments that will be employed to ensure that the Personal Wireless Facility is not visible from residential BUILDINGS or public STREETS within 500 feet.
- 3.8.8.2 Planting Table - The botanical and common name of each species, its height (at planting), its spread (at maturity), and the quantity intended to be planted shall be listed in a table along with the symbols used to represent the plants on the plan.
- 3.8.8.3 Landscaping Details - A typical detail of a tree well, tree planting, and specialty planting area, if applicable.
- 3.8.8.4 Limits of Work - Any area where existing conditions may reasonably be expected to be disturbed during construction shall be shown and identified on the Landscape Plan.
- 3.8.8.5 Perimeter of Trees - The perimeter of any existing wooded areas on the site shall be shown. Existing wooded areas intended for preservation shall be noted. The location, size, and proposed fate of any existing trees larger than 16" in diameter shall be shown.
- 3.8.9 Camouflage - The Plan shall include a colored rendering of the proposed wireless communications facility legibly drawn at a standard architectural scale, as appropriate, showing the methods and treatments that will be employed to ensure that the Wireless Communications Facility will blend in with its surroundings when viewed from residential BUILDINGS or public STREETS within 500 feet.
- 3.8.10 Visibility Test & Visibility Map -
 - 3.8.10.1 The Applicant shall conduct a visibility test by floating or projecting for one day a highly visible object at the location and height of the proposed tower and provide photographs that show visibility of the object from all public streets and places within 1 mile. This test shall be conducted before the application is filed during the winter months when there is no foliage on deciduous vegetation.
 - 3.8.10.2 The Applicant shall cause a legal advertisement to appear in a newspaper of general circulation in Acton at least two weeks before the date of the visibility test announcing the date of the test, one alternate later date in case of cancellation due to unsuitable weather conditions (heavy wind, fog, etc.), and the place and start and end time of the test. A copy of the ad as submitted to the newspaper shall be submitted to the Planning Board forthwith.
 - 3.8.10.3 The application shall include a topographic map showing the areas from where the top of the proposed Personal Wireless Facility will be visible during the winter months when there is no foliage on deciduous trees. The locations of the photographs taken under 3.7.11.1 above shall be keyed onto the map.
 - 3.8.10.4 The application shall also include the same topographic showing the areas from where the top of the proposed Personal Wireless Facility will be visible during the growing season when there is foliage with images attached from the same locations as the photos taken in the winter and their locations keyed to the map. The images for the growing season visibility conditions may be simulated.
- 3.8.11 Elevations - An elevation profile of the proposed Personal Wireless Facility tower at the proposed initial height from its base and at a height of 175 feet from its base, shown at an appropriate scale generally not less than 1/8" = 1'. Indicate on the profile the co-location slots for at least 5 wireless service providers. Also, note the top elevation of the tower as initially proposed and as fully extended, and the mean ground elevation within 500 feet of the proposed tower location.
- 3.8.12 Plan Notes - Plan Notes shall: 1) forbid the use of fill containing hazardous materials as required by the BYLAW, 2) require the marking of the limits of work in the field prior to the

start of construction or site clearing, 3) require the cleaning of catch basin sumps and storm water basins following construction and annually thereafter, 4) restrict the hauling of earth to or from the site to the hours between 9 a.m. and 4 p.m. on weekdays if earth materials are intended to be removed from or brought to the site, 5) describe the materials to be used in the construction of impermeable surfaces such as sidewalks and driveways (as a minimum, the BOARD requires 12" of gravel and 3" of bituminous concrete paving laid in two courses).

3.9 Water Balance Calculations (only where new impervious cover is added)

The portion of the site in each GROUNDWATER Protection District Zone shall be noted. A hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge, and septic flow shall be included. Compliance with all applicable portions of Sect. 4.3 of the BYLAW shall be demonstrated.

3.10 Drainage Calculations (only where new impervious cover is added)

Storm drainage runoff calculations used for the drainage system design must be prepared by and display the seal of a Registered Professional Engineer and must support the sizing of all drainage structures and pipes.

3.10.1 These calculations must be based on a recognized standard method (usually the Rational or Soil Conservation Service Methods). The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity for the site in question. Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review possible.

3.10.2 The pre- and post-development runoff rates must be provided. If applicable, the methods used to comply with the "Storm water Runoff" design standards of the BYLAW shall be described. The use of computer generated reports is acceptable, however, the source of the software should be identified. Design of the storm drainage system can generally be based on a 10-year storm event, however, the system design shall not result in serious flood hazards during a 100-year storm.

3.11 Earth Removal Calculations (if applicable)

Calculations for determining the amount of earth to be removed or the amount of FILL to be brought into the site shall be prepared by and show the seal of a Registered Professional Engineer.

3.12 Additional Information

The Applicant may include additional information necessary or desirable to properly inform the BOARD about the development including legal opinions, copies of deeds, historical data, studies, and reports.

3.11.1 The BOARD is empowered by the BYLAW to require information in addition to that specifically required by the BYLAW or by these RULES. The BOARD will require the APPLICANT to supply additional information if it finds that such information is necessary to properly act upon the APPLICATION in question.

SECTION 4

FILING PROCEDURES

4.1 Who May File an APPLICATION

Anyone may file an APPLICATION for a PERMIT provided that the proposed Personal Wireless Facility complies with the requirements of the BYLAW. The property owner of record shall sign the APPLICATION form thereby granting his/her consent to the filing of the APPLICATION.

4.2 APPLICATION Fees

Any APPLICATION shall be accompanied by a fee to cover the expenses incurred by the TOWN in reviewing the APPLICATION. The fee is not refundable. The fee shall be submitted in check form and made payable to the "Town of Acton". The amount of the fee shall be \$2500 for an APPLICATION to construct or renovate a Personal Wireless Facility. Part of the filing fee may be waived if the BOARD chooses to have some of the review work performed by outside consultants as provided below.

4.2.1 Additional Review Fee Deposits - So that the BOARD may make the findings required under the BYLAW and insure that the public safety will be protected, the BOARD may select and hire outside traffic, engineering, legal, or planning consultants to review an APPLICATION. To cover the cost of these reviews a review fee deposit may also be required of an APPLICANT at the time of submission or at any appropriate time in the review process. As the scope of study and review will vary according to the size of a particular project, the APPLICANT is hereby strongly advised to consult the Planning Department concerning the scope and cost of any such studies during the preliminary review. *Failure to do so could result in serious delays in the processing of the APPLICATION.* The amount of the fee deposit will reflect the anticipated consultant fee(s) plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of BUILDING permits for the proposed construction plus any remaining accrued interest will be repaid to the APPLICANT or the APPLICANT'S successor in interest.

4.2.2 Appeal From the Selection of the Consultants - The APPLICANT may appeal from the selection of an outside review consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The APPLICANT must specify the specific grounds which the APPLICANT claims constitute a conflict of interest or a failure to meet minimum professional requirements.

4.3 Submission to the TOWN Clerk and the BOARD

Two complete paper copies of the APPLICATION shall be submitted to the office of the Acton Town Clerk. The Clerk will certify the date and time of filing on both copies, keep one of the copies, and return the other to the APPLICANT. The copy returned by the Clerk, the remaining 2 copies of full size plan, the 11 reduced size plan copies, and the required fees shall then be filed forthwith by the APPLICANT with the office of the BOARD during normal business hours. The APPLICANT may request and shall be entitled to a written receipt for the materials submitted.

4.4 Review of APPLICATION

The Board will transmit a copy of an APPLICATION to various other TOWN departments, boards, committees, agencies, or independent consultants in order to ensure full and qualified review of the APPLICATION. Thirty-five (35) days will be provided for such reviews; failure to submit comments on the APPLICATION shall be deemed an approval by the reviewing party. The BOARD will make available to the APPLICANT upon request a copy of any comments or recommendations received.

If significant information that was not included in the APPLICATION is presented at a later time or at the public hearing, the hearing may be continued to allow for staff review of the new material. Additional materials shall be submitted to the Board in the same manner and form as the original APPLICATION.

SECTION 5

PUBLIC HEARING & DECISION

5.1 Public Hearing Notice

The BOARD will hold a public hearing within 65 days of the APPLICATION filing date. Pursuant to M.G.L. ch. 40A, s. 11, the BOARD will give notice of the time and place of the public hearing and its subject matter, sufficient for identification, as follows:

- 5.1.1 By publication of the notice in a newspaper of general circulation in the Town of Acton once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the public hearing. The newspaper will send the bill for the advertisement directly to the Applicant and the Applicant shall pay the bill directly to the newspaper.
- 5.1.2 By posting the notice in a conspicuous place in the Acton Town Hall or on the official Town of Acton website for a period of not less than fourteen days before the day of the public hearing.
- 5.1.3 By mailing the notice certified mail to all PARTIES IN INTEREST.
- 5.1.3.1 At least 21 days before the day of the public hearing, the APPLICANT shall submit to the Planning Department the certified mail letters containing the notice, addressed to each PARTY IN INTEREST, sender shown as the Town of Acton Planning Board, 472 Main Street, Acton, MA 01720. The envelopes are to be sealed, ready to be mailed, accompanied by one copy of the notice for the BOARD record, and payment to the Town of Acton for the cost of the certified mailings. In addition, submit a duplicate set of empty, open envelopes, standard postage prepaid, addressed to each PARTY IN INTEREST, sender as above, for the mailing of the decision notice.

5.2 Public Hearing Presentation

An APPLICANT may appear on his/her/its own behalf or be represented by an agent or attorney. It is the responsibility of the APPLICANT or his/her/its agent to present the APPLICATION to the BOARD and to the public. In the absence of an appearance, the BOARD may decide the matter using the information it has received. Failure to appear at a public hearing could seriously jeopardize the success of an APPLICATION.

- 5.2.1 Presentation of the APPLICATION by the APPLICANT should not exceed 10 minutes in duration except for good reason. The APPLICANT may be requested to answer questions raised by the BOARD or the public. The BOARD will retain any evidence which has been introduced at the hearing for reference in its deliberations on the case.
- 5.2.2 In no case will the BOARD allow new evidence to be admitted after the close of the public hearing unless this evidence was specifically requested by the BOARD prior to the close of the public hearing.

5.3 Withdrawal of APPLICATION

Any APPLICATION for a PERMIT submitted hereunder may be withdrawn without prejudice by notice in writing to the BOARD prior to the notice of a public hearing being posted or mailed pursuant to Sect. 5.1 above. Withdrawal of any APPLICATION thereafter requires BOARD approval. No refund of fees will be provided if an APPLICATION is withdrawn.

5.4 Time Period for Deliberation

The BOARD will act on each APPLICATION for a PERMIT within ninety (90) days after the public hearing, unless such APPLICATION has been withdrawn from consideration as set forth in Section 5.3 above.

- 5.4.1 Continuation & Extension - The period within which final action shall be taken may be extended for a defined period by written agreement between the BOARD and the APPLICANT. In the event that the BOARD determines that the APPLICATION is inadequate for the BOARD to make a finding, the BOARD may, at its discretion, continue the hearing to a later date to permit the APPLICANT to submit a revised APPLICATION. The BOARD may, at its discretion, require that an additional \$500 fee be paid by the APPLICANT prior to the close of the public hearing if such a continuation results from a deficiency in the original APPLICATION. Such a continuation may not automatically extend the 90-day period within which final action shall be taken by the BOARD unless the extension is agreed upon by both the BOARD and the APPLICANT.

5.5 Decision

The concurring vote of five (5) of the seven (7) members of the BOARD shall be necessary to decide in favor of granting a PERMIT. Only those members of the BOARD who were in attendance at the public hearing may vote on the APPLICATION in question.

- 5.5.1 The BOARD will file its DECISION with the Town Clerk and send a copy to the APPLICANT by certified mail. The BOARD shall also send a notice of its DECISION to the property owner, to other TOWN boards and departments, to PARTIES IN INTEREST, and to those who have requested such notice at the public hearing.

5.6 Recording of DECISION

The recording of a DECISION is required by THE ZONING ACT and the BYLAW. The APPLICANT shall be responsible for recording a full copy of the DECISION in the Middlesex South District Registry of Deeds in Cambridge or the Land Court and for paying any required recording fees. A copy of the recorded DECISION, certified by the Registry of Deeds, must be submitted to the BOARD and the Zoning Enforcement Officer prior to issuance of a BUILDING Permit or the start of any work.

5.7 Submission of Approved Plans

Prior to the issuance of a BUILDING permit, the approved plan as amended by the BOARD in its DECISION of approval shall be submitted for endorsement to the office of the BOARD in electronic PDF and scalable CADD formats and registered to the Massachusetts State Plane Coordinate System, plus 1 full size plan printed on 24" x 36" sheets. No BUILDING Permit will be issued until the plan is found to be in compliance with the BOARD'S DECISION and such endorsement has occurred.

5.8 Appeal of DECISION

Any person aggrieved by a DECISION of the BOARD, whether or not previously a party to the proceeding, may appeal such DECISION in accordance with MGL, Ch. 40A, Section 17 within 20 days after the filing of the DECISION with the Office of the Town Clerk.

5.9 Time Limit for PERMIT

Any PERMIT granted by the BOARD shall lapse within two years from the date of filing of the BOARD'S DECISION with the Office of the Town Clerk unless substantial use or construction

under the PERMIT has begun, except for good cause, or if the BOARD has specified a shorter time period in the DECISION.

- 5.9.1 A reasonable extension of said time may be granted by the BOARD where good cause is shown. Any request for an extension of the specified time limitation set forth in the DECISION shall be made in writing to the BOARD at least thirty days prior to the expiration date. The BOARD reserves its rights to grant or to deny such extension if good cause for such extension is not shown. Failure to submit such a request as prescribed above shall be due cause for the Board to deny the requested time extension.

5.10 Limitation of the DECISION

The granting of a PERMIT constitutes approval only under the pertinent sections of the BYLAW. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction such as the Board of Health, Acton Water District, and Conservation Commission shall not be assumed or implied. The BOARD may condition any PERMIT hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the start of any work on the site, the issuance of a BUILDING Permit, or any other appropriate step in the development process. The APPLICANT is hereby encouraged to seek approvals and certificates of compliance from such other governmental bodies prior to or concurrently with the APPLICATION to the BOARD.

5.11 Repetitive Petition

Pursuant to MGL, Ch. 40, Sect. 16, no APPLICATION which has been unfavorably and finally acted upon by the BOARD shall be acted favorably upon within two years after the date of final unfavorable action unless four members of the BOARD vote to find that specific and material changes in the conditions upon which the previous unfavorable action was based have occurred and describe such changes in the records of the BOARD'S proceedings, and all but one member of the BOARD consents to the consideration of the matter. Notice to PARTIES IN INTEREST shall be given by the APPLICANT of the time and place of the proceedings at which the question of consent will be considered.

5.12 Amending a Wireless Communications Facility Special PERMIT

A previously granted PERMIT may be amended by written request to the BOARD or on the BOARD'S own motion. The BOARD shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new APPLICATION requiring a public hearing.

- 5.12.1 The BOARD may amend a PERMIT without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the BYLAW. Consultation with the Planning Department is recommended prior to the filing of any request to amend a PERMIT. The fee for minor amendments shall be \$250.

APPENDIX

Application for a Personal Wireless Facility Special Permit

Notice of Public Hearing

ACTON PLANNING BOARD

APPLICATION for a PERSONAL WIRELESS FACILITY SPECIAL PERMIT

Refer to the "Rules and Regulations for Personal Wireless Facility Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-929-6631 with any questions concerning the Rules. Incomplete applications may be denied.

Please type or print your application.

- 1. Applicant's Name _____
 Address _____
 Telephone _____ E-Mail _____
- 2. Record Owner's Name _____
 Address _____
 Telephone _____ E-Mail _____
- 3. Location and Street Address of Site _____
- 4. Town Atlas Map & Parcel Number(s) _____
- 5. Zoning District(s) of Parcel(s) _____
- 6. Area of Site _____ acres
- 7. Proposed Height of Facility _____ feet
- 5. Proposed Carriers

The undersigned hereby apply to the Planning Board for a public hearing and a Personal Wireless Facility Special Permit under Section 3.10 of the Zoning Bylaw.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of his/her knowledge.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with MGL Ch. 268, Section 1-A.

Date	Signature of Applicant

RECORD OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

Date	Signature of Owner

ACTON PLANNING BOARD

PUBLIC HEARING NOTICE

In accordance with the provisions of Massachusetts General Laws, Chapter 40 A, Section 9, the Acton Planning Board will hold a public hearing on _____ at _____ P.M., _____, Acton, MA on the petition of _____ for approval of a Wireless Communications Facility Special Permit for the parcel located at _____ and shown on Town Atlas Map _____, parcel _____.

NOTES

Such permits may be granted by the Planning Board under Massachusetts General Law, Ch. 40A and the Acton Zoning Bylaw in accordance with the "Rules and Regulations for a Personal Wireless Facility Special Permits" all of which are available for review or purchase at the offices of the Planning Board, and the Town Clerk. A copy of the application is also available for review at these offices in Town Hall between 8:00 A.M. and 5:00 P.M., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing. When all of the facts have been presented and all persons wishing to speak on the petition have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.