

Rules and Regulations of the Lexington Zoning Board of Appeals relative to  
Instructions for Completing an  
Application for a Permit for a Wireless Communications Facility  
in  
Lexington, Massachusetts

NOTE: See the Zoning By-Law of the Town of Lexington (the "Town") for definitions and all references. If there is any conflict between these instructions and the By-Law, the latter takes precedence. Italics indicate material taken directly from the By-Law.

## INTRODUCTION

Read the Town's Zoning By-Law—with special attention to §15 in its entirety—before completing any application for a permit for such a Facility. Whether applying for a Building Permit for a by-right facility (§15.3.2) or for a Special Permit for any other Facility (§15.3.3), you are required to explicitly respond to all the requirements in these Instructions—which are regulations adopted under the By-Law (§15.6.6).

The Town can only permit Facilities that are consistent with the following objectives:

### *§15.1 OBJECTIVES*

*This Section permits the use of wireless communication facilities within the town, regulates their impacts and accommodates their location and use in a manner intended to:*

- a. protect the scenic, historic, environmental and natural or man-made resources of the town,*
- b. protect property values,*
- c. minimize any adverse impacts on the residents of the town (such as, but not limited to, attractive nuisance, noise and falling objects) with regard to the general safety, welfare and quality of life in the community,*
- d. provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of wireless communications facilities,*
- e. provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communication facilities,*
- f. encourage the use of certain existing structures and towers,*
- g. minimize the total number and height of towers located within the community,*
- h. require tower sharing and clustering of wireless communication facilities where they reinforce the other Objectives in this Section, and*
- i. be in compliance with the federal Telecommunications Act of 1996.*

And these instructions apply as follows:

### *§15.2.1 APPLICABILITY*

*The requirements of this section shall apply to all wireless communications facilities, except where Federal or State Law or Regulations exempt certain users or uses from all or portions of the provisions of this Section.*

*No wireless communication facility shall be considered exempt from this Section by sharing a tower or other structure with such exempt uses.*

And approval of any Special Permit considers, among other things, the following:

**§15.6.7 APPROVAL CRITERIA**

*A special permit shall be granted under this section only if the SPGA shall find that the project is in harmony with the general purpose and intent of this By-Law and the SPGA's Regulations. In addition, the SPGA shall make all the applicable findings before granting the special permit, as follows:*

- a. that the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit,*
- b. that the applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage,*
- c. that the proposed wireless service facility minimizes any adverse impact on historic resources, scenic views, residential property values, natural or man-made resources,*
- d. that the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities,*
- e. that the facility shall comply with the appropriate FCC Regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant, and*
- f. that the applicant has agreed to rent or lease available space on any tower it controls within Lexington or its contiguous towns, under the terms of a fair-market lease, without discrimination to other wireless service providers.*

The Board of Appeals shall make specific findings in conjunction with their consideration of your application for a Special Permit. Include in your application any information that relates to the above.

If you have any questions about completing your application, please contact the Town's Office of Community Development (formerly the Inspectional Services Department).

After preparing a draft of your application, meet informally with the Town's Design Advisory Committee and the Town's Communications Advisory Committee, or their designated representatives. Such pre-submittal discussions will likely save time in the overall process as both committees will comment on your formal application (see §15.6.2 & §15.6.3) and, in special circumstances, can recommend waiving certain requirements set forth in these instructions if not applicable to the specific application. You can reach the Design Advisory Committee or the Communications Advisory Committee by calling the Town's Office of Community Development.

Note that until your application has been reviewed and determined to be complete by the Town's Office of Community Development, no further processing or scheduling (e.g., a public hearing for a Special Permit) will be done. (That Office will complete that review within 14 days of the filing and, if deemed incomplete, will advise the applicant in writing of the deficiencies.)

## SPECIFIC INSTRUCTIONS

### Application

Complete the applicable application form—"APPLICATION FOR BUILDING PERMIT" or "APPLICATION FOR HEARING"—according to the pertinent instructions for it. Include on the application form an explicit reference to whatever accompanying document(s) you are including with the form to provide the below-required supplemental information.

If applying for a Special Permit, on the "APPLICATION FOR HEARING", identify which subparagraph of § 15.3.3 applies.

The application must be accompanied by a notarized certificate that stipulates that all the statements and information provided in the application and its attachments or enclosures are true and correct and complete to the best of the signer's knowledge, and that the certificate is signed under the personal pains and penalties of perjury. If the application is being made by or on behalf of an entity, this certificate must be signed by an authorized representative of that entity.

### Supplemental Information

Provide the following information, in the same sequence as follows, as backup to the application form. If any item is not applicable, so stipulate. If the information required from you is included elsewhere in your application, do not duplicate it, but provide an explicit cross-reference to where it can be found.

#### 1. §15.6.4 PERMITS

*Each application for a Permit must contain site plans with sufficient detail that would enable the Town to determine whether the proposed facility meets the requirements of Section 15.*

As a minimum, include in the Site Plan Package:

#### a. For ALL Facilities:

- (1) Site plans and engineering drawings, prepared by a professional engineer, professional architect, or professional landscape architect licensed to practice in Massachusetts, on as many sheets (each not exceeding 24" x 36") as necessary to show the following. Typewritten or printed material shall be submitted in 8.5" by 11" format. All material shall be drawn at scales and printed with fonts and sizes consistent with easily legibility. Cite the vertical datum applicable for all elevations shown on profiles and topographical plans and identify all bench marks used and their elevations. It is essential that the drawings explicitly differentiate between the pre-existing conditions and those with the proposed Facility in place.

- (a) North arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for reviewing licensed engineer's seal.

- (b) Property lines of, and locations of permanent structures or buildings within, the parcel on which the proposed Facility will be sited.
  - (c) Location of the proposed Facility and identification of all of its equipment, buildings, and structures. Include an explanation of how any power (including backup or alternate power), telephone, air-conditioning or other utilities will be connected or provided to the Facility. Identify whether each of those capabilities will use newly installed or existing equipment/circuits and, if they will not be underground, why making them underground is not practical. All intra-facility data, control, power, and communications transmissions are expected to be by wired, rather than wireless, mode. If any are not, explain when and why such transmissions need to be by a wireless mode. Describe in quantitative terms any noise generated by the Facility—including by any air-conditioning and backup or alternate power equipment. If that noise would be audible at any point and any time on the property boundary, provide quantified sound-level data along the property boundary for both the best-case and worst-case ambient levels without the Facility noise and then with the Facility noise added in. Describe what oil and hazardous materials—including fuels and lubricants—will be used or stored at the Facility and what procedures will be taken to ensure the proper handling and disposal of such materials.
- (2) View lines in a one- to three-mile radius of the site (typically four, beginning at True North and continuing clockwise at ninety-degree intervals) from location(s) identified by the Lexington Design Advisory Committee at the pre-submittal discussion addressed earlier under INTRODUCTION.
- (3) A locus map which puts the location of the proposed Facility in the context of the Town and additional maps which shall show streets, buildings, zoning boundaries, and landscape features further detailing that location.
- (4) A report written by a suitably qualified professional engineer which shall:
- (a) Justify the need for the proposed Facility at the proposed site. Demonstrate that the proposed Facility is the necessary addition to the applicant's existing Facilities to provide adequate service coverage in the Town and represents the least disruptive or intrusive manner for achieving that end.
    - 1 Include quantified, graphical presentations overlaid on a map which show the quality of service coverage in the Town from all of the applicant's existing and any other projected Facilities (any of whose coverage extends into Town), the coverage from each of the other sites considered before choosing the proposed site, and the coverage from the proposed site. (As used herein, "Radiated Power" is in terms of the total power of all channels per the latest edition of FCC's Office of Engineering & Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic

Fields [or any successor publication].) The coverage from the proposed site must be shown at the minimum Radiated Power necessary to achieve adequate coverage and at minus 3db from that minimum level.

- 2 Include quantified, graphical presentations which show the exposure contours (in terms of power density) for 360 degrees around the proposed Facility as a function of height and horizontal distance from the ground-level point beneath the antennas at the minimum necessary Radiated Power per 1 above. Start with the contour for the Maximum Permissible Exposure (MPE) as defined by the FCC and continue at least until reaching the contour for MPE/100.
  - (b) Identify all antennas by quantity, type, and model number. Using quantified, graphical presentations, describe the 3-dimensional radiation pattern for each different transmitting and receiving antenna. Specify the frequencies, power levels (effective radiated power [ERP] for each antenna and the sum of the ERP of all co-located, simultaneously operating, antennas), and duty cycles.
  - (c) Describe the overall capacity of the structure for additional antennas.
  - (d) Describe how it would be detected if electromagnetic radiation from the Facility should exceed levels designated by the FCC and/or any permits—whichever is lower—and what actions would be taken to cease such excessive radiation.
  - (e) Describe projected future needs of the carrier, and how the proposed Facility fits with future projections to serve the Town and adjacent towns.
  - (f) Describe special design features to minimize the visual impact of the proposed Facility.
- (5) Describe leasing agreement should another carrier desire to co-locate and certify that it would be a fair-market lease without discrimination to other wireless service providers.
- (6) Identify all other necessary permits needed for construction and operation of the Facility.
- b. For a special permit facility:
  - (1) Site plan to include:
    - (a) Plans for anchoring and supporting any structure, with descriptions of hardware and other building material, including supports or guy wires, if any.
    - (b) Plans for accessory buildings and structures, if any.

(c) Layout and details of any access road and any parking requirements (including transient parking for installation, operations, and maintenance vehicles or equipment).

(d) Description of adjunct features such as lighting, fencing, landscaping.

(2) Engineer's report to include:

Description of the structure and the technical, economic, and other reasons for the Facility design.

c. For a proposed Facility taller than the zone-height restriction:

The applicant shall arrange to fly a 2-foot-diameter balloon at the site of the proposed wireless communication structure at the maximum height of the proposed installation for at least four daylight hours each day for a period of four successive days, weather permitting, beginning not more than seven days before the public hearing. The dates, times, and location of the flight shall be advertised at least seven days, but not more than 14, days before the first planned flight, and again in the public hearing advertisement—both in a newspaper with a general circulation in the Town.

d. For a proposed Facility sited on/in an existing Facility (including co-locating with another carrier) or structure, such as buildings, steeples, or water towers:

If the existing Facility or structure is not already owned by the applicant, include the contract or lease between the Facility/structure owner (whichever appropriate) and the applicant which authorizes the applicant to install, operate, and maintain the proposed Facility on that site. (It is understood that privileged information, such as lease-payment amounts to non-governmental entities, might be excised from the Town's copy.)

e. For a proposed Facility that is not being sited on/in an existing Facility, building, or structure:

(1) Existing (from a topographical survey completed within the 2 years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contours at a minimum of 2-foot intervals and spot elevations at the base of all the proposed and existing buildings and structures.

(2) A description of the soil and surficial geology at the proposed site or, if the Facility will be totally on top of a pre-existing, impervious surface, a description of that surface.

(3) A description of any vegetation to be removed or altered.

(4) Plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure.

- (5) Delineation of wetlands, if any.

2. **§15.3.1 CRITERIA, PRIORITY FOR LOCATION OF FACILITIES**

*Wireless communication facilities shall be located according to the following priorities:*

1. *within an existing structure concealed,*
2. *within an existing structure and camouflaged,*
3. *camouflaged on an existing structure, such as but not limited to an existing electric transmission tower or an existing radio antenna, a water tower, or building, and of a compatible design,*
4. *co-located with existing wireless communication service facilities,*
5. *on Town of Lexington owned land which complies with other requirements of this section and where visual impact can be minimized and mitigated,*
6. *if adequately demonstrated to the SPGA in the special permit process that each of the five types of locations is not feasible, erection of a new facility which complies with the other requirements of this section and where visual impact can be minimized and mitigated.*

*Applicants shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and whether sites are available and, if applicable, under what conditions.*

Cite which of the By-Law priorities applies to the location for which you are applying. If other than Priority 1, provide the required demonstration by identifying those higher-priority locations on a Town map and provide a keyed, accompanying, explanation of each site's availability and conditions. Explain why any locations higher in By-Law priority cannot meet your requirements.

a. **§15.3.2 LOCATIONS WHERE FACILITIES ARE PERMITTED BY RIGHT**

*A concealed wireless communication facility may be installed in a structure on a lot in a commercial district provided all the requirements for wireless communications facility building permit are met.*

b. **§15.3.3 LOCATIONS WHERE FACILITIES ARE PERMITTED BY SPECIAL PERMIT**

*A wireless communication facility may be installed in the locations indicated in subparagraphs 15.3.3.1 through 15.3.3. provided all prescribed conditions are met and the SPGA grants a special permit.*

Note: Only one of the following three subsections is applicable to an application for a Special Permit—and the one you consider applicable is the one you should cite as the Zoning By-Law Section on your APPLICATION FOR HEARING form.

If the applicable subsection addresses a "concealed" and/or "camouflaged" facility, your Site Plan Package must explain how the proposed Facility (including all support equipment such as backup generators and air conditioners) meets the By-Law definitions for whichever of those terms applies to the proposed Facility.

(1) §15.3.3.1 MULTI-FAMILY DWELLING

*A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which a multi-family dwelling or group care facility (or other residential use listed in line 1.186 of Table 1, Permitted Uses and Development Standards), is the principal use provided all residents of such multi-family dwelling or group care facility (or other residential use listed in line 1.186 of Table 1, Permitted Uses and Development Standards) receive 30 days notice before the application for a special permit is submitted.*

Provide a copy of the notice and stipulate by whom, how, to whom, and when the notice was provided.

(2) §15.3.3.2 INSTITUTIONAL, AGRICULTURAL, NATURAL RESOURCE or COMMERCIAL USES IN RESIDENTIAL DISTRICTS

*A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which an Institutional, Agricultural, Natural Resource or Commercial Uses in A Residential District (as provided in subsections 2, 3, and 4 respectively of Table 1, Permitted Uses and Development Standards) is the principal use.*

Stipulate which subsection of Table 1 you believe applies.

*A wireless communication facility may be installed if it is co-located with an existing electrical power transmission line tower, an existing nonconforming transmitting or receiving tower, or a water tower, provided that the wireless communication facility is camouflaged and does not exceed the height of the tower as of January 1, 1998.*

Cite the maximum heights of the Facility and the existing tower.

*For the purposes of this section, an electrical power transmission tower, an existing transmitting or receiving tower or antenna for commercial activities other than a wireless communications facility (as provided in line 14.13 of Table 1, Permitted Uses and Development Standards) shall be considered to be a commercial use in a residential district.*

(3) §15.3.3.3 USES IN COMMERCIAL DISTRICTS

*A wireless communication facility may be installed on a lot in a commercial district provided the wireless communication facility is camouflaged and does not exceed the height controls under section 7.5.2.*

Cite the maximum height of the Facility and the height control from §7.5.2.

*c. §15.3.4 LOCATIONS WITH NON CONFORMING SITUATIONS*

*The SPGA may grant a special permit to:*

- a. *modify a pre-existing nonconforming wireless communication facility, subject to the provisions of Section 6 of this By-Law; or*
- b. *allow an existing wireless communication facility to be reconstructed with a replacement wireless communication facility if it decreases the degree of nonconformity.*

Stipulate which of the two circumstances you believe applies and why. If "a" above, include what you consider the applicable subparagraph in §6; if "b" above, describe how and to what extent you plan to decrease the degree of nonconformity.

3.     §15.4.1 *SHELTERS AND ACCESSORY BUILDINGS*

*Any communication equipment shelter or accessory building shall be designed to be architecturally similar and compatible with the surrounding area. Whenever feasible, a building shall be constructed underground.*

Show in the Site Plan Package how the architectural similarity and compatibility would be achieved. If any of the buildings are not to be underground, explain why you consider that is not feasible—citing the engineering reasons as well as any financial impact.

4.     §15.4.2 *SETBACKS*

*Any new tower shall be set back at least one (1) times the height of the tower plus ten feet from each lot line of the site on which the tower is located. Any non-concealed antenna shall be set back at least one (1) time the height of the antenna, as measured from the ground level, from each lot line of the site on which the antenna is located. However, if the antenna is being attached to an existing tower whose setback is already approved—either by right, by special permit or by variance—and, if the SPGA determines that the addition of the antenna does not materially alter the basis of that prior approval, then no, new, independent, setback requirement shall be created by the addition of the antenna. In nonresidential districts or on Town of Lexington owned land, the SPGA may grant a special permit to allow a lesser setback if it makes a finding that such lesser setback provides adequate safety, promotes co-location or improves design, and will not negatively impact the appearance and character of the neighborhood.*

Explain how the proposed setbacks comply with the above requirements, or if any do not, specify which lesser setbacks (variances) are being requested and the rationale.

5.     §15.4.3 *SECURITY, SIGNS*

*The area around the wireless communication facility shall be completely secure from trespass or vandalism. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a 24-hour emergency telephone number. Advertising on any antenna, tower, fencing, accessory building or communication equipment shelter is prohibited.*

Explain how these requirements (security, signage, and no advertising) will be satisfied. Note it is expected that these requirements are applicable to every Facility—even those concealed within other structures—as all will warrant security and the identifying signage at their point (or points) of entry (access). The emergency telephone number is to be a toll-free telephone number which

will be answered or monitored 24-hours/day, every day, so an appropriate response is provided in a timely manner.

6. §15.4.4 LIGHTING

*Unless required by the Federal Aviation Administration, no exterior night lighting of towers or the wireless communication facility is permitted except for manually operated emergency lights for use when operating personnel are on site.*

Describe what lighting will be visible from outside the Facility—regardless of where the fixture may be mounted. If the proposed lighting is in response to a requirement of the Federal Aviation Administration, explain how that requirement applies to the proposed Facility.

7. §15.4.5 NEW TOWERS

*Any new freestanding tower shall be of a monopole construction. New towers shall not exceed the minimum height necessary to provide adequate coverage within the Town of Lexington. Erection of a new tower that exceeds the height restrictions listed in Section 15.3 is not permitted unless the applicant demonstrates in the special permit process that adequate coverage within the town of Lexington can not be met for the locations permitted under Section 15.3.*

Ensure that any freestanding tower proposed by you is of monopole construction and that its depiction in the Site Plan Package clearly reflects it as such. Consistent with the overlays and exposure contours provided per the above instructions for §15.6.4, explain how you arrived at the proposed height being the minimum necessary to provide adequate coverage within the Town.

8. JUSTIFICATION OF NEED

a. §15.5.1 COVERAGE AREA

*The applicant shall provide a map of the geographic area in which the proposed facility will provide adequate coverage.*

b. §15.5.2 ADEQUACY OF OTHER FACILITY SITES CONTROLLED BY THE APPLICANT

*The applicant shall provide written documentation of any facility sites in the town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.*

c. §15.5.3 CAPACITY OF EXISTING FACILITY SITES

*The applicant shall provide written documentation that it has examined all facility sites located in the town and in abutting towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.*

d. §15.5.4 ADEQUATE COVERAGE THROUGH THE LEAST DISRUPTIVE MEANS

*The applicant shall provide written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be*

*developed subsequent to adoption of this By-Law) in which it can provide adequate coverage in conjunction with all facility sites listed above.*

Each of the three above requirements must be addressed in the engineer's report (see 1a.(4) above).

9. §15.6.1 APPLICANT

*The applicant or co-applicant for any permit for a wireless communications facility must be a licensed carrier who has authority from the FCC to provide wireless communication services for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of the filing of the application for the permit.*

- a. Provide a copy of your existing license from the FCC under which you (or the co-applicant licensed carrier) intend to operate the proposed Facility and cite the 47 CFR Rule Part and, if applicable Subpart, under which that license was granted and the maximum radiated power allowed by that license.
- b. Explicitly certify that, if permitted by the Town, you (and any assignees) would then install, operate, and maintain that Facility in strict and complete compliance with all Federal, State, and Town requirements as they apply to the Facility at the time of your application and throughout the permit period ("Requirements").
- c. If those Requirements include submission of information on the proposed Facility or its operation, include a copy of that information in your Site Plan Package. In any case, and not to the exclusion of other required information, include the information to the same extent and in a similar format as had been required by the Massachusetts Department of Public Health in their 'Notification of Nonionizing Radiation Source' as had been outlined under 105 CMR 122.021. Excluding the information comparable to what had been in the 'Notification of Nonionizing Radiation Source,' if the required information is voluminous, you may simply explicitly reference it and defer submission to the Town until the Town requests you to do so.
- d. Explicitly cite whether routine environmental evaluation is required by the FCC of the operation of the proposed Facility and, if so, how you intend to accomplish that evaluation.
- e. Agree that failure to comply with the Requirements could, after appropriate show-cause notification and a reasonable time to cure, be grounds for removal of noncomplying structures, buildings, and/or devices by the Town at your expense.
- f. Certify that nothing in any contract or lease to install, operate, and maintain the proposed Facility in any way precludes you from fulfilling all those Requirements.

10. REVIEWS

- a. §15.6.2 REVIEW BY THE DESIGN ADVISORY COMMITTEE

*The Town of Lexington's Design Advisory Committee shall review an applicant's site plans and make recommendations to the Director of Inspectional Services for By Right Permit applications and to the SPGA for Special Permits. The Design Advisory Committee will make comment on whether the site plans show that a proposed wireless communications facility will be concealed for a By Right Permit if built according to the plans, or whether the site plans show that a proposed wireless communications facility will be concealed, or sufficiently camouflaged for a Special Permit if built according to the plans.*

***b. §15.6.3 REVIEW BY THE CABLE TELEVISION AND COMMUNICATIONS ADVISORY COMMITTEE***

*The board of Selectmen's Cable Television and Communications Advisory Committee shall review an applicant's application and make recommendations to the Director of Inspectional Services for By Right Permit applications and to the SPGA for Special Permits. The Cable TV & Communications Advisory Committee will make comment as to the application's adherence to the provisions of Section 15. The Committee may recommend that a consultant be hired by the SPGA (at the applicant's expense) if technical expertise is needed.*

Notes: (1) On October 18, 1999, the Cable TV & Communications Advisory Committee was renamed by the Board of Selectmen to be the Communications Advisory Committee. (2) The applicant will be provided an information copy of the Committees' recommendations and comments.

Agree to work with the Design Advisory Committee, the Communications Advisory Committee, and any consultant hired by the SPGA, if, and when, they contact you in regard to your application. Identify the applicant's point of contact for matters relating to the applicant's payment for any such consultant. Note: The decision as to whether or not to hire the consultant is unilaterally made by the SPGA.

**11. §15.6.8 TERM OF PERMIT**

*Each Special Permit shall be valid for a fixed or conditional period of time as determined by the Special Permit Granting Authority. A special permit for any wireless communication service facility that exceeds height provisions of Section 7.5.2 shall be valid for a maximum of fifteen years. At the end of the approved time period, the facility shall be removed by the carrier or a new special permit shall be required.*

Stipulate the period of time you wish for the permit (not to exceed 15 years if the Facility exceeds the height provisions of §7.5.2).

*All permitted and special permitted wireless communications facility carriers shall periodically file with the Town, every five years (or sooner if specified in a special permit), on operational aspects of the facility including: power consumption; power radiation; frequency transmission; the number, location, and orientation of antennas; and types of services provided.*

Explicitly commit to the following reporting:

- a. Every five years (or sooner if specified in a Special Permit), the operator shall submit reports ("Periodic Report") on the operational aspects of the Facility, including the information cited in §15.6.8. (Also see c below.) These Periodic Reports shall be filed with the Town's Office of Community Development (Attn: Zoning Enforcement Officer) within 10 business days after the end of the period being reported on.
- b. Each and every day any of the Facility's radiated power levels and/or power density levels exceed once or more any of the maximum level(s) allowed in any license or permit for the operation of the Facility, the operator shall report such an incident or incidents ("Incident Report"). An initial advice to the Town of Lexington that such an Incident has occurred shall be made to the Town's Office of Community Development's Zoning Enforcement Officer as soon as practical during normal business hours by telephone or in person following any indications that such an Incident is occurring or has occurred. The full Incident Report shall be filed with that Department (Attn: Zoning Enforcement Officer) within 5 business days from the occurrence of the first incident within the period being reported on.
- c. In both Periodic and Incident Reports, the operator shall furnish certified reports containing contours of power-radiation information in sufficient detail to describe, for both the peak and average power (over the period covered by the report), the 3-dimensional geographical distribution of radiated power levels—both per channel and in the aggregate for all the appurtenances of the Facility. The contours filed in the application for permit or Special Permit shall be overlaid for reference.

## 12. §15.7 REMOVAL REQUIREMENTS

*Any wireless service facility 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 wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated such that all wireless communication facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be revegetated by the owner. Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the special permit, provide a financial surety or other form of financial guarantee acceptable to the SPGA, to cover the cost of removal of the facility and the remediation of the landscape, should the facility cease to operate.*

- a. Certify that you commit to effect the above-cited removal and remediation (including any oil and hazardous-materials effects related to the Facility) upon the expiration of your permit or when the Facility ceases to operate for a period of one year, whichever occurs first; and to providing after such removal and remediation a sworn statement under 310 CMR 40 affirming the Facility site is clear of any oil and hazardous materials, that you have no knowledge of any reportable-quantity spills or visible stains or odors, and that if you gain any such knowledge you will respond, assess, and remediate the condition(s) caused by the Facility Operation.

- b. Specify the manner in which you will provide the above-cited financial guarantee regarding removal requirements and provide a current-year cost estimate for those actions.