



SPECIAL PERMIT APPLICATION: ZONING BOARD SUPPLEMENT: Telecommunications

William Bailey
Chairman

The following application is made to the City of Lowell Division of Development Services in accordance with the provisions of The Code of Ordinances, City of Lowell, Massachusetts, Chapter 270, Zoning Code.

Property Location: _____

1. Other Required Review(s)

*The applicant shall be required to also fill out the appropriate application addendum for any other relief being sought from a City of Lowell Board.

2. Additional Special Permit Submission Requirements

- ____ A. Completed Main Application and Site Plan Review Supplement (this form)
- ____ B. An original and 8 copies of adequate plans to allow the Board to address the project and the standards for issuing the permit. Plans must meet the standards outlined in the City of Lowell Zoning Code (the only exception to this is for requests related solely to Special Permits for signage – Please see ZBA: Signage Addendum). In general, Plan(s) shall be drawn at a scale 1" = 20" on one full size plans set (24" by 36" sheets) with the rest as half size plans. Plans shall be drawn by a registered land surveyor, professional engineer, architect or landscape architect, as appropriate. Plans shall be submitted on at least the following separate sheets:
 - ____ Existing Conditions
 - ____ Proposed Site Layout:

The following may also be requested on separate sheets by the Board

- Landscape/Lighting Detail: Location and type of external lighting; Location, type, dimensions and quantities of landscaping and screening.
- Utilities: Location and dimensions of utilities, including water, surface drainage, sewer, fire hydrants and other waste disposal,
- ____ C. Elevation/Architectural plan(s) must be submitted with this application and shall include one or more rendering(s) sufficient to establish views of the structure or structures from the public way.
- ____ D. A narrative addressing how the project meets the Special Permit Criteria as stated in Section 11.2.3 of the zoning ordinance (please see requirements listed starting on page 5 of this form.)
- ____ E. A certified list of abutters within 300 feet of the site (from the City Assessor's office)
- ____ F. One copy of the Deed, Purchase and Sales, Lease or other document that shows the applicant's relationship to the Property.
- ____ G. Filing fees as established by the Lowell Zoning Board and Lowell City Council.
- ____ H. Copy of Plans and other supporting materials in Portable Digital Format (PDF)

NOTE: If submitting drainage calculations or other backup engineering data, only two (2) copies of this information are required, as well as one (1) electronic copy in HYDROCAD file format.

*****Impact study(ies) or other documentation may also be requested by the Zoning Board**

3. Authorization (Must be Signed by the Owner of the Property)

I am the record owner of the property for which this application is being filed and as such, I am familiar with the work that is proposed for my property.

I agree to provide visual evidence of the Request for Permit Sign posted on the project property to Development Services in accordance with the City of Lowell Zoning Ordinance.

I hereby give permission for this application to be filed with the full understanding that certain restrictions may be placed on the property relative to the approval of the proposed work.

I further certify that under the penalties of perjury, I am authorized to sign this application.

Name (Please Print): _____

Title: _____

Signature: _____

Date: _____

If representing a group, corporation, or other organization please attach a copy of the vote authorizing you to act on behalf of such organization for the purposes of this application.

Submit all required materials to:

Division of Development Services, City Hall, Rm. 51, 375 Merrimack Street, Lowell, MA 01852

Phone: (978) 674-4252 or (978) 674-4144

City Website: www.lowellma.gov

SECTION 7.6 TELECOMMUNICATIONS FACILITIES

7.6.1 Purpose. This Section is enacted in order to establish general regulations for the siting of telecommunications facilities and to enhance and fulfill the following goals:

1. Preserve the authority of the City of Lowell to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities.
2. Reduce adverse impacts such facilities may create, including, but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to personal property, and prosperity through reasonable protection of property values.
3. Provide for co-location and minimal impact siting options through an assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the City of Lowell.
4. Permit the construction of new telecommunications facilities only when all other reasonable opportunities have been exhausted, and encourage the configuration of new facilities to minimize the adverse visual impact.
5. Require co-location of antennas, to the highest extent possible, in order to reduce the cumulative negative impacts upon the City of Lowell.
6. Provide for the removal of abandoned telecommunications facilities.
7. Preserve the authority of the Building Department of the City of Lowell to conduct an inventory of existing telecommunications facilities as necessary.

7.6.2 Applicability. Telecommunications facilities shall not be considered infrastructure, public services, or utilities, as defined or used elsewhere in the City's Ordinances and Regulations. Siting for telecommunication facilities is a use of land, and is regulated by this Section 7.6 and the Schedule of Principal Uses.

1. This Section shall not govern the siting or construction of any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

7.6.3 Special Permit Procedures. Telecommunications facilities shall require a special permit from the Zoning Board of Appeals. In addition, site plan approval is required for the construction of all freestanding telecommunications towers. The special permit and site plan applications must be in accordance with the following regulations as set forth by the FCC:

1. The local regulations shall not unreasonably discriminate among providers of functionally equivalent service.
2. The local regulations shall not prohibit or have the effect of prohibiting the provision of personal wireless services. This also prohibits moratoriums on accepting applications, or at least a moratorium that is of indefinite length.
3. Requests for such facilities must be acted upon within a reasonable period of time. The time taken to act on an application will be considered reasonable as long as it is no longer than the time the local government usually takes to act on the other requests of comparable magnitude that have nothing to do with telecommunications facilities.
4. Any decision to deny a request for such a facility must be in writing and supported by substantial evidence in a written record.
5. The local regulations cannot adopt regulations based on the environmental effects of radio frequency emissions where the facilities comply with FCC emissions regulations.

7.6.4 Additional Criteria. In addition to the criteria for consideration specified herein, the standards and requirements of this Section shall be considered by the Zoning Board of Appeals and Planning Board.

7.6.5 Submittal Requirements. In addition to the application materials required under Section 11.3.5, the applicant for a telecommunications facility shall provide the following with a special permit application:

1. Scaled elevation perspective of the proposed telecommunications tower and associated structures.
2. Radio frequency coverage for the proposed antenna and for existing antenna that provide coverage to the City of Lowell and vicinity and which are operated by the applicant.
3. Engineering information detailing the minimum and optimal height and coverage required for the facility.
4. For new telecommunications towers, information prepared by a qualified and licensed professional engineer documenting the capacity of the telecommunications tower, which shall include the maximum number of antennas it can support.
5. An inventory of existing telecommunications towers and tall structures that are within five miles of the proposed tower location, including specific information about the location, height, and design of each telecommunications tower or structure, as well as the economic and telecommunications towers or structures.
6. Written evidence demonstrating that none of the existing structures or telecommunications towers inventoried can accommodate the applicant's proposed antenna. This shall consist of:

A. Substantial evidence that the installation of the proposed antenna and associated equipment would exceed the structural capacity of the existing structures or telecommunications towers inventoried, as documented by a qualified and licensed professional engineer, and that the structure or telecommunications tower cannot, at a reasonable cost, be reinforced, modified, or replaced to accommodate the antenna and equipment.

B. Substantial evidence as approved by the Planning Board and documented by a qualified and licensed professional engineer, that the proposed antenna on the inventoried structures or telecommunications towers, or that the antenna already on an existing structure would cause interference with the applicant's proposed antenna.

C. Substantial evidence, as approved by the Planning Board, that the existing structures or telecommunications towers inventoried are not of sufficient height to meet the applicant's engineering requirements and that the structure or telecommunications towers cannot, at a reasonable cost, be extended or replaced to meet the required height.

D. Substantial evidence, as approved by the Planning Board, that the fees, costs, or contractual provisions required by the owner in order to share existing inventoried structures or telecommunications towers are unreasonable. One time costs exceeding the costs of a new telecommunications tower development are presumed to be unreasonable.

E. Substantial evidence, as approved by the Planning Board, that the applicant can demonstrate other limiting factors that render existing structures or telecommunications towers unsuitable.

7. For new telecommunications towers, a written commitment from the applicant that allows for the maximum allowance of co-location on the telecommunications tower. This commitment shall become a Condition of Approval. This commitment shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs

to other telecommunications providers. Failure to provide such a commitment is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the City of Lowell, and grounds for denial.

8. A visual impact analysis prepared by a qualified professional that includes photosimulations of the proposed telecommunications facility that at a minimum simulate the views of the facility from habitable structures on abutting properties and from the closest public roads.

9. A surety estimate equal to 115% for the cost of the removal of the telecommunications facility. The surety can be in the form of a passbook account or a letter of credit.

10. For new telecommunications towers, proof that the proposed tower complies with regulations administered by the Federal Aviation Administration (FAA).

7.6.6 Design and Performance Standards.

1. *Telecommunications Tower Color:* Telecommunications towers shall either maintain a galvanized steel finish, subject to any applicable standards of the Federal Aviation Administration (FAA), or to be painted a neutral color as approved by the Planning Board, so as to reduce visual obtrusiveness.

2. *Design of Accessory Structures:* The design of accessory structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facility with the natural setting and built environment. All accessory structures shall also be subject to all other Site Plan Review Regulation requirements.

3. *Telecommunications Tower Lighting:* Telecommunications towers shall not be artificially lit, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Board shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

4. *Signs:* Telecommunications towers shall not contain any permanent or temporary signs as defined in this ordinance, writing, symbols, or any graphic representation of any kind, with the exception of safety warning signs or equipment information signs. All signs must be kept to a minimum as approved by the Planning Board.

5. *Telecommunication Facility Setbacks:* The following requirements shall supersede any less stringent standards found elsewhere in City Ordinances and Regulations:

A. Telecommunications towers shall have a minimum front, side, and rear yard setback equal to the height of the tower.

B. Telecommunications tower guys and accessory structures shall satisfy the minimum setback requirements of the underlying Zoning District.

6. *Security Fencing:* The perimeter of telecommunication facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing controls, such as barb wire.

7. *Landscaping:* A minimum of 10% of the site must be landscaped with vegetation meeting the requirements listed in the Appendix of the Lowell Subdivision Ordinance. The proposed landscaping must adequately screen the site as approved by the Planning Board.

8. *Height:* The height of each tower shall be reviewed and approved by the Zoning Board of Appeals. The maximum height of a telecommunications tower shall be 199 feet. This standard shall supersede any more stringent standards found elsewhere in the City Ordinances or Regulations.

7.6.7 Co-Location.

1. *Design for Co-Location:* All telecommunications towers shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the telecommunications tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height.

2. *Review Procedure for Co-Location:* The co-location of additional antennas on an existing telecommunications tower shall require a Special Permit. With the Special Permit review process, the ZBA may limit the number of users to be located on a tower. Co-Location shall not require a site plan except if any one of the following are met:

A. An additional equipment building is proposed.

B. The additional antennas require an increase in the height or bulk of the telecommunications tower structure.

C. The additional antennas and any associated accessory structures require the removal of trees or understory vegetation.

3. *Co-Location Requirements:* A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Planning Board finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building which will meet the needs of the tower due to one or more of the following reasons:

A. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

C. Existing or approved towers and buildings within the area cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

D. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

7.6.8 Maintenance Guarantee. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is incapable or unwilling to remove the facility in accordance with Section 7.6.9.

7.6.9 Removal of Abandoned Facilities.

1. *Abandoned by Lack of Operation:* A telecommunications facility shall be considered abandoned and be removed by the owner of the facility if it is not operated for a continuous period of 12 months. If the owner of the facility does not remove the facility upon the Planning Officer's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further notice.

2. *Abandonment by Neglect:* A telecommunication facility shall be maintained in compliance with the standards contained in the Building Code adopted by the City of Lowell. If, upon inspection by the City, it is concluded that any part of a facility fails to comply with the Building Code and the facility constitutes a danger to persons or property, then upon notice provided to the owner of the facility, the owner shall bring the facility into compliance with the Building Code. If the owner fails to bring the facility into compliance within the time frame determined by the Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further action.

Relevant Regulations Governing Special Permits from the Lowell Zoning Ordinance:

11.3.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;

2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

11.3.2a Criteria For Special Permits Sought Under Article XII: Table of Uses. For special permits sought under Article XII: Table of Uses and as outlined in Section 4.2 of this document, the Special Permit Granting Authority will only grant a special permit to a project that is consistent with the goals of the City of Lowell Comprehensive Master Plan. A narrative must accompany each application and provide significant information to address how the project meets these goals. At minimum, the narrative must answer the following:

Criteria for permits being sought under Article XII: Table of Uses must also meet the following:

- A. Application to Master Plan:
 1. How does this project adhere to, apply, and promote the goals of the City of Lowell Comprehensive Master Plan? Successful projects should present specific connections between the goals of the Master Plan and the projects themselves.
- B. Neighborhood Character:
 2. How does this project protect and enhance the character of the existing neighborhood? Successful projects should reflect the density, the urban design, the setbacks, height, and landscaping elements of surrounding buildings.
 3. How does this project provide for social, economic or community needs?
 4. Is the project consistent with the character, materials and scale of buildings in the in the vicinity?
 5. Does the project minimize the visual intrusion from visible parking, storage and other outdoor service area viewed from public ways and abutting residences?
- C. Environmental Issues:
 6. Does the project have any negative impacts on the natural environment?
 7. Does the project minimize the volume of cut and fill and the extent of stormwater flow and soil erosion from the site?
 8. Does the project minimize the contamination of groundwater?
 9. Does the project provide for storm water drainage consistent with the local regulations?
 10. Does the project minimize obstruction of scenic views?
 11. Does the project minimize lighting glare on abutting properties?
- D. Traffic, Access and Safety:
 12. How does the project address traffic flow and safety, including parking and loading? Does the project provide adequate parking for visitors to the residences? Will the project impact an area with significant on-street parking demand? Will the project require the loss of on-street public parking for driveway curb cuts?
 13. Does the project provide adequate access to each structure for fire and service equipment and adequate utilities?
 14. Does the project provide adequate and safe pedestrian and vehicle access through and around the project?
- E. Additional Impacts
 15. Are there any substantial impacts on public services and utilities?
 16. Does the project have any negative fiscal impact on the city, including impact on city services, schools, tax base, and employment?
 17. Does the project comply fully with the Zoning Ordinance, including parking, signage, landscaping, open space requirements, curb cut lengths and driveway widths?

Disclaimer: This page provides information regarding some pertinent sections of the Zoning Ordinance. It is provided for informational purposes only, and should not be construed as an official zoning document. Consult a certified copy of the complete zoning ordinance for official zoning regulations of the City of Lowell