

SECTION 6.0 SPECIAL REGULATIONS

6.1 REMOVAL OF EARTH PRODUCTS

6.1.1 Applicability. Except when incidental to and in connection with the construction of a structure or incidental to the grading and developing of contiguous property, the removal of sod, loam, clay, sand, gravel, stone or other earth materials shall be permitted only after issuance of a Special Permit by the Planning Board after a public hearing in accordance with Subsection 9.3 of the Zoning By-Law. The Board shall impose such conditions as will protect the neighborhood and Town against temporary and permanent hazards because of conditions which may be left after operations are completed or because of the methods of handling such materials at the site or of transporting such materials throughout the Town.

6.1.2 Application Procedure. The application to the Planning Board for a Special Permit for the removal of earth products shall include the following information:

1. The location of the proposed excavation(s).
2. The legal name(s) and address(es) of the property owner(s).
3. The legal name(s) and address(es) of the petitioner(s).
4. Names and addresses, including mailing addresses, of all abutting property owners located within three hundred (300) feet of the applicant's property line including those on the opposite side of any public or private way.
5. A plan of the land involved plus a strip one hundred (100) feet wide surrounding said land, prepared by a Registered Land Surveyor or Professional Engineer, showing all man-made features, property lines, vegetation cover, water courses, water bodies, drainage swales, and soil characteristics. Existing topography shall be shown at ten-foot contours, plus proposed contours at ten-foot intervals showing the finish grade of the site after completion of the proposed excavation project.
6. The estimated quantity of material to be removed or added and topsoil to be stripped, stockpiled and replaced.
7. Depth of excavation.
8. Steepness of slopes to be excavated.
9. Temporary or permanent drainage.
10. An erosion and sediment control plan.

6.1.3 Performance Bond. An irrevocable performance bond, or other form of surety satisfactory to the Planning Board, in the amount determined by the Planning Board, shall be posted to ensure the satisfactory compliance with this Section. The bond shall not be released until the applicant has certified in writing and the Planning Board has determined that the restoration has been completed in compliance with the permit and plan.

6.1.4 Standards for Extractive Operations. The following standards shall apply to removal of earth products.

1. A minimum lot size of fifty (50) acres is required. Any lakes, ponds, streams, wetlands plus a minimum buffer strip of one hundred (100) feet is excluded from the computation to meet the minimum lot size requirements.
2. Topsoil and subsoil stripped from the operating area shall be stockpiled at the site, seeded with an erosion-control seed mixture and used in restoring the area.
3. No removal or extraction shall take place within three hundred (300) feet of any existing public or private way.
4. No removal or extraction shall take place within three hundred (300) feet of an adjacent property line or within one hundred (100) feet of any wetlands or within two hundred (200) feet of any river as defined in G. L. c. 131 § 40 as amended (Wetlands/Rivers Act).
5. No area shall be excavated or filled so as to cause the accumulation of standing water unless the Planning Board shall permit the creation of a pond by Special Permit in accordance with Subsection 9.3 of the Zoning By-Laws and upon the approval by the Conservation Commission.
6. Excavation for removal of earth, sand, gravel, and other soils shall not extend closer than eight (8) feet above the annual high groundwater table. Monitoring wells shall be installed by the property owner or applicant to verify groundwater elevations.
7. The actively disturbed area shall not exceed a total twelve (12) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction.
8. Operating hours, including the transportation of materials, shall be between 7:00 a.m. and 4:00 p.m., Monday thru Friday, Saturday 7:00 a.m. thru noon. No operation shall be allowed on Sundays and Federal and State Holidays.
9. The operator shall be responsible for cleaning spillage on public or private ways or properties.
10. Security and fencing: The plan shall provide for security to avoid any hazards such as erosion, falling rock, or unauthorized trespass.
11. The noise level at the property line shall not exceed these maximum permitted sound pressure levels. Measurements to determine compliance with these standards shall be provided by the applicant upon request of the Building Inspector. Such measurements, taken at property lines of subject property and at adjoining properties as directed, may be made by any public or private agency, or person licensed or certified to perform such measurements and using competency standards, procedures and equipment approved by the Town of Becket. Acoustical terminology is that most recently approved by the American National Standards Institute (ANSI):

a. Noise level at the property line shall not exceed 57.5 dB(A). The term dB(A) shall mean A-weighted sound pressure level in decibels as measured on a general purpose sound level meter complying with the provisions of American Standard for General Purpose Sound Level Meters (sl.4-1971, ANSI, or OSI (1999), properly calibrated and operated on the A weighting network..

b. Reference pressure shall be 0.0002 microbars (background noise/level).

12. Impact on town ways. The use of town ways to transport loads shall be in conformance with Massachusetts General Laws and Town Betterment By-Laws. For Town ways which are used exclusively for the transport of the applicant's products or equipment, the Planning Board shall/may require that the applicant post financial security in an amount sufficient to assure proper maintenance and restoration. The Planning Board may require that a qualified consultant, to be paid for by the applicant, give an estimate of the dollar amount of the bond or surety to be posted.

6.1.5 Decision. The Planning Board may impose conditions, not specifically provided for herein, on any Special Permit relating to earth removal. Any and all conditions imposed by this or other Boards shall be attached to and made part of the Special Permit. The Special Permit shall be issued for no more than a maximum of five years and may be renewed. Renewal, extension or modification of a Special Permit for removal of earth materials shall be treated as a new application.

6.1.6 Reclamation Standards for Extractive Operations. Reclamation, for the purpose of this Section, shall mean that all land and/or affected areas are to be rehabilitated to a condition at least fully capable of supporting all practical uses which the area was capable of supporting prior to such operations. The Planning Board shall regulate the conversion of an ongoing or abandoned excavation site and its continuing use or reuse according to, but not limited to, the following conditions:

1. Reclamation shall be carried on simultaneously with excavation so that, for excavation only, when a five (5) acre operation area has been excavated, at least two (2) of those acres must be restored before work commences on the next two (2) contiguous acres. Final reclamation work shall be completed at least ninety (90) days prior to the expiration of the Performance Bond.

2. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow as well as the area of drainage to any point is not increased (per Mass. Department of Environmental Protection storm management criteria).

3. All soil slopes created shall be finished at a grade of two (2) horizontal feet per one (1) vertical foot or less. Rock faces generated are to be finished without projections or overhangs.

4. Should the operation become inactive for a period of two (2) years, the site is to be reconstructed to resemble its original appearance and shall have not less than six (6) inches of soil restored over the area removed and be seeded with an erosion-control seed mixture. All machinery and temporary structures are to be removed. A bond or some form of surety shall be posted to ensure the reconstruction within one year of the expiration of the two year inactivity period.

5. In the case of continuing operations in one general locus, recovering the finished cut banks with a minimum of four (4) inches of soil and seeding with an erosion control seed mixture is required.

6.1.7 Special Provisions. The removal of topsoil and/or loamy subsoil from the Town of Becket is prohibited. No Special Permit shall be required for the following:

1. Removal of earth products on an operating farm, plant nursery or cemetery to the extent that such removal is necessary to the operation.
2. The occasional moving and removal of earth products for the maintenance, repair, or improvements of any existing roads.
3. Any operation that will remove less than twenty-five (25) cubic yards in a twelve month period.
4. Activities under Title V shall be exempt.

6.2 MOBILE HOME REGULATIONS

6.2.1 General. No mobile home shall be located in the Town except under the following conditions.

6.2.2 Catastrophe. A mobile home may be occupied as a temporary dwelling for a period not to exceed twelve (12) months by the owner and occupier of a residence which has been destroyed by fire or other natural disaster while the residence is being rebuilt on the same lot, subject to the approval by the Board of Health prior to its occupancy.

6.2.3 Special Permit Required. No mobile home shall hereafter be parked or relocated within the limits of the Town except by Special Permit from the Zoning Board of Appeals for an extended period not to exceed twelve (12) months. Any mobile home being parked or relocated in accord with the foregoing cannot be occupied as a habitation without approval by the Board of Health prior to its occupancy.

6.2.4 Replacement. In the case of a mobile home located within the limits of the Town on or before February 28, 1970, on a lot owned by the owner of said mobile home, said mobile home may be replaced by another, of similar size but no greater than the length of the existing mobile home in the same location on the lot with a certificate of occupancy from the Building Inspector, provided such replacement takes place within one year of the removal or demolition of the original mobile home.

6.2.5 Recreational Trailers. Travel or camping trailers or self-contained motor homes, not being used for living purposes, may be parked on the owner's premises and be exempt from the provisions of this Section, provided that mobility is maintained and certified by valid attached registration plates as issued by the state of origin.

6.2.6 Use of Recreational Trailers. Travel or camping trailers and self-contained motor homes may be located and occupied for a period not to exceed thirty (30) days, in a trailer camping area located, licensed and operating in the Town of Becket prior to December 6, 1976. In addition, travel or camping trailers and self-contained motor homes may be parked or stored in said camping area, provided mobility is maintained and certified by valid attached registration plates as issued by the state

of origin and further provided that such parking or storage area be suitably screened from view from either public road or abutters' property.

6.3 INDUSTRIAL USES

All operations shall be such as to confine disturbing smoke, fumes, dust, and noise to the premises and further, no operations shall be hazardous by reasons of potential fire, explosion, radiation or other contamination.

6.4 WIRELESS COMMUNICATIONS

6.4.1 Purpose. The purpose is to outline the special permitting process to site a wireless communication facility within the Town of Becket, while minimizing potential damage and adverse visual impacts of wireless communication facilities on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of necessary wireless communication services in an orderly way; and to promote shared use of existing facilities which reduce the need for new facilities.

6.4.2 Definitions.

DISTANCE shall be measured on a horizontal plane.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

HEIGHT shall be the distance measured from ground level to the highest point on the structure.

NON-RESIDENTIAL STRUCTURE shall mean such structures as but not limited to buildings, grain silos, and water towers, but does not include houses or apartments.

WIRELESS COMMUNICATION BUILDING shall mean any building or shelter used to house equipment primarily for generating and detecting electromagnetic radiation and is an accessory to a wireless communication structure.

WIRELESS COMMUNICATION DEVICE shall mean any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

WIRELESS COMMUNICATION FACILITY shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

WIRELESS COMMUNICATION STRUCTURE shall mean any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

6.4.3 Exemptions. The following shall be exempt from this by-law:

1. Wireless communication facilities used for Town or State emergency services.

2. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communications Commission and used solely for that purpose.
3. Wireless communication structures and devices used expressly for home television and radio reception.

6.4.4 General Guidelines.

1. No wireless communication facility shall be erected, constructed, or installed without a Special Permit from the Planning Board.
2. Wherever feasible, wireless communication devices shall be located on existing towers or other non-residential structures, minimizing proliferation of new towers.
3. Wireless communication structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.
4. Wireless communication buildings shall be no larger than five hundred (500) square feet and twelve (12) feet high, shall be designed to match other accessory buildings on site, and shall be used only for the housing of equipment related to this particular site.
5. Any change in use of the structure must be pre-approved by the Planning Board.

6.4.5 Setbacks.

1. The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least 1.25 times the height of the structure.
2. The minimum distance from any guy wire, anchor or brace to any property line or road right-of-way shall be equal to the length of the guy wire.
3. The setbacks for the wireless communication building shall comply with the setback requirements for the zoning district.
4. The wireless communication structure shall be a minimum distance of three (3) times the height from school buildings, including playgrounds and athletic fields, and abutting residences to prevent the structure from appearing to “tower” over, adversely affecting property values.

6.4.6 Siting and Height Requirements.

1. The height shall be the minimum height necessary to accommodate anticipated and future use.
2. Wireless communication structures are encouraged on State lands, provided that said lands are not subject to the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts. If facilities predating this by-law exist on such lands, the shared use of such facilities is encouraged.

3. The wireless communication structure shall, when possible, be sited off ridge lines and where their visible impact is the least detrimental to valuable historic and scenic areas. “Valuable” should be determined by any appropriate Town Board(s) and can include views that the Town has identified as scenic or views listed in the Massachusetts Landscape Inventory. G.L. c. 131, §39A, conducted by Massachusetts Dept. of Environmental Management, 1982.

6.4.7 New Structures. No new wireless communication structure shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing wireless communication structure can accommodate the applicant’s proposed wireless communication device. Evidence submitted to demonstrate that an existing structure can not accommodate the applicant’s proposed device may consist of any of the following:

1. No existing wireless communication structures or non-residential structures are located within the geographic area required to meet the Town of Becket’s and applicant’s engineering requirements.
2. Existing wireless communication structures or non-residential structures are not sufficient height to meet the applicant’s requirements.
3. Existing wireless communication structures or non-residential structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed wireless communication device.
4. The proposed wireless communication device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed wireless communication device.
5. The fee, costs, or contractual provisions required by the owner in order to share an existing wireless communication structure or to adapt an existing structure for use are unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.

6.4.8 Design Requirements.

1. Wireless communication structures shall be designed to accommodate the maximum number of users as technologically possible.
2. There shall be no signs or advertisements, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
3. All wireless communication devices shall be colored, molded, and/or installed to blend into structure and/or the landscape.
4. The facility shall be fenced to control access.
5. Night lighting of the facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting should be submitted with the application.

6. There shall be a maximum of one parking space at each facility to be used in connection with maintenance of the site and shall not be used for the storage of vehicles or other equipment.
7. Existing on-site vegetation shall be preserved to the maximum extent possible.
8. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.

6.4.9 Application Process; New Structure. Applications for a Special Permit for siting wireless communication facilities shall be filed in accordance with rules and regulations already established in the Zoning By-Law. To site a new wireless communication structure, the Applicant shall submit 12 copies of the information set forth below along with the application form to the Planning Board.

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40' or 1" = 200', where appropriate, on as many sheets as necessary to show the following:
 - a. north arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for the reviewing licensed engineer's seal;
 - b. name and address of landowner and names and addresses of abutters;
 - c. property lines and location of permanent structures or buildings within a five hundred (500) foot radius of proposed wireless communication structure;
 - d. existing (from a topographical survey completed within 2 years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contours at a maximum of two (2) foot intervals and spot elevations at the base of all the proposed and existing structures;
 - e. vegetation to be removed or altered;
 - f. plans for drainage of surface water and plans to control erosion and sedimentation, both during construction and as a permanent measure;
 - g. delineation of wetlands, if any;
 - h. location of wireless communication structure, including supports or guy wires, if any;
 - i. plans for anchoring and supporting the structure, including specifications of hardware and all other building material;
 - j. plans for accessory buildings;
 - k. layout and details of surfacing for access road(s) and parking;

- l. amenities such as lighting, fencing and landscaping;
 - m. four (4) view lines in a one to three-mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals and additional view lines from any historic, scenic, or other prominent areas of Town determined by the Planning Board;
 - n. plans for a well or other water source, if any;
 - o. plans for any septic system, if any;
 - p. plans for maintenance of roads necessary to access and maintain the property.
2. A map showing areas covered/served by the proposed wireless communication structure and device of different signal strengths, and the interface with adjacent service areas.
 3. A locus map at a scale 1"=1000' which shall show streets, buildings, and landscape features.
 4. A description of the soil and surficial geology at the proposed site.
 5. A narrative report written by the carrier and licensed professional engineer which shall:
 - a. Describe the justification of proposed site.
 - b. Describe the structure and the technical, economic, and other reasons for the facility design.
 - c. Describe the capacity of the structure, including the number and the type of additional facilities it can accommodate.
 - d. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
 - e. Describe the projected future needs of the carrier, and how the proposed wireless communications facilities fit with the future projections to serve the Town and adjacent towns.
 - f. Describe leasing agreement should another carrier desire to co-locate.
 - g. Describe special design features to minimize the visual impact of the proposed facility.
 - h. Describe in detail the steps which the carrier will follow in the event of an emergency, such as fire or collapse of the tower. In particular, what are the responsibilities of the carrier and how are the town officials to be notified for the safety of personnel, town and personal properties?
 6. Proof of approval of all other necessary permits needed for construction and operation.
 7. If the proposed facility is taller than zone height restrictions, after the application is

submitted, and not more than fourteen (14) days before the public hearing, the applicant shall arrange to fly a two-foot-diameter balloon at the site of the proposed wireless communication structure at the maximum height of the proposed installation. The date and location of the flight shall be advertised at least fourteen (14) days, but not more than twenty one (21) days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town.

6.4.10 Application Process; Existing Nonresidential Structure. Applications for a Special Permit for siting wireless communication facilities shall be filed in accordance with rules and regulations already established in the Zoning By-Law. To site on an existing nonresidential structure, such as buildings, grain silos, steeples, water towers or other non-residential structures, the Applicant shall submit 12 copies of the information set forth below along with the application form to the Planning Board.

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40' or 1" = 200', where appropriate, on as many sheets as necessary to show the following:
 - a. north arrow, date, scale, the seal(s) of the licensed professional(s) who prepared the plans and a space for the reviewing licensed engineer's seal.
 - b. plans for supporting and attaching the device, including specifications of hardware and all other building material.
 - c. building plans for accessory buildings, if any.
 - d. layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
2. A map showing the areas covered by proposed device(s) of different signal strengths and the interface with adjacent service areas.
3. A narrative report written by the carrier and licensed professional engineer which shall:
 - a. include a draft of the contract between the structure/building owner (whichever appropriate) and the Applicant.
 - b. demonstrate that the wireless communication structure or non-residential structure to which the device will be mounted has the structural integrity to support such a device.
 - c. describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
 - d. describe the projected future needs of the carrier and how the proposed facility fits with future projections.
 - e. describe in detail the steps which the carrier will follow in the event of an emergency, such as fire or collapse of the tower. In particular, what are the responsibilities of the carrier and how are the town officials to be notified for the safety

of personnel, town and personal properties?

4. Proof of approval of all other permits needed for construction and operation.
5. If the proposed facility adds more than five (5) feet to the height of the structure at the effective date of this by-law and will exceed zone height restrictions, the Planning Board may require a balloon test as described herein.

6.4.11 Approval.

1. In granting a Special Permit for wireless communication facilities, in addition to the findings required by the Town's Zoning By-Law for Special Permits, the Town of Becket Planning Board shall find:
 - a. That the Applicant has demonstrated to the satisfaction of the Planning Board that the requirements of this by-law have been met.
 - b. That the size and height of the structure is the minimum necessary.
 - c. That the proposed wireless communication facilities will not adversely impact historic structures or scenic views.
 - d. That there are no feasible alternatives to the location of the proposed wireless communication facilities, including co-location that would minimize their impact, and the applicant has exercised good faith in permitting future co-location of facilities at the site.
2. When considering an application for wireless communication facility, the Planning Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences, and the Board will encourage the use of existing structures.
3. Any extension or construction of new or replacement towers or transmitters shall be subject to the Special Permit, following the same procedure as siting a new wireless communication device.

6.4.12 Conditions of Use.

1. An initial bond shall be posted by the applicant to cover construction costs and removal cost of a facility in the event of non use and an annual maintenance bond for the access road, site, and structure(s) in an amount approved by the Planning Board. An access road may include existing town roads not designed for heavy traffic and which are not paved.
2. Regulatory Compliance.
 - a. Annual certification demonstrating structural integrity and continuing compliance with current standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector by the Special Permit Holder, and shall be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder.

b. If the FCC or the FAA regulations are changed, the owner or operator shall bring the facilities into compliance within six months or earlier if a more stringent compliance schedule is included in the regulation.

c. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, and devices at the owner's expense.

3. Removal and Repair.

a. An applicant must either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of removal with the Town of Becket Planning Board agreeing to remove, within 180 days of notice from the town, the wireless communication facility not in operation for a period of twelve months, unless the reason for non-operation is the result of major damage. The Board may hire professional consultants to determine the amount of bond or security required. Such bond or security, if filed and deposited, shall be approved as to form and manner of execution by Town Counsel, and shall be contingent on the completion of repairs or removal.

b. If the facility is not removed within 180 days, the Town will remove said facility at the owner's expense.

c. In the event of major damage, repair must begin immediately or as soon as possible. Major damage shall mean damage to the facility caused by no fault of the owner or operator.