

Protective Bylaws of the Town of Conway, Massachusetts

As adopted at a special town meeting on 19 November 1979 and amended (with approval of the Attorney General of the Commonwealth of Massachusetts) at town meetings held on 8 December 1980, 16 November 1981, 21 December 1981, 8 April 1985, 14 April 1986, 11 March 1993, 23 October 2000, 12 April 2004 and 11 April 2005.

Article 1: Purpose

The purpose of this Bylaw is to promote the general welfare of the Town of Conway, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land within the Town, to increase the amenities of the Town, to reduce the hazard from fire by regulating the location and use of buildings and the area of open spaces about them, to minimize congestion and overcrowding of land, and to protect and conserve the value of land and buildings including the conservation of natural resources and the prevention of pollution of the environment.

For the purpose of this Bylaw, the Town of Conway, under the authority granted by the Zoning Enabling Act, General Laws, Chapter 40A, does hereby make this Bylaw to be hereafter known and designated as the ZONING BYLAW OF THE TOWN OF CONWAY.

Article 2: District And Use Regulations (Amended 14 April 1986)

The entire Town of Conway is hereby designated as a primarily Rural/Residential and Agricultural District: except the portion of the Town which is bounded northerly by Delabarre Avenue, westerly by Ives Road, southerly by Route 116, and easterly by the South River, which is hereby designated as a Light Industrial District.

SECTION 22: Permitted Uses – Rural/Residential and Agricultural District

Any otherwise lawful activity meeting all requirements of this Bylaw shall be permitted except the following:

22.1: Restricted Uses

- (a) No use or combination of uses of buildings or premises is permitted except by Special Permit which during ordinary use allows more than 15 persons upon that premises simultaneously, except that for a commercial establishment up to 50 customers shall be permitted on the premises at any one time during ordinary business hours.
- (b) Moreover, no use of any premises is permitted that would cause unreasonable traffic, noise, light, odor, electromagnetic radiation or pollution levels incompatible with the character of the neighborhood. **Uses as stated under 23.1 are also prohibited.** However, Section 22.1 shall not apply to any educational, religious, agricultural, horticultural, floricultural, or other uses exempted by statute. Section 22.1 shall not be construed to restrict the use of any premises for

occasional large gatherings of people for social or other non-commercial purposes. (Amended 12 April 2004)

22.2: Multi-Family Dwellings (Added December 1980)

One or two dwelling units within a single structure are permitted. (Amended 12 April 2004)
Multi-Family dwellings are prohibited, (Amended 16 November 1981) **except as permitted in Section 22.3.** (Amended 12 April 2004)

22.3 Accessory Apartments (Added 12 April 2004)

(a) Purpose

1. For the purpose of providing an additional small dwelling unit to rent, enabling owners of two-family dwellings that are larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Planning Board may grant a Special Permit in accordance with the following requirements;

(b) Conditions and Requirements

1. Not more than one (1) accessory apartment shall be located within any existing two-family residential structure. (Note: one-family residences, by right, can be made into two-family units [see Article 5] and then have an accessory apartment added.) This means that the total dwelling units allowed per structure is three;
2. The accessory apartment shall be located within the existing residential structure (hereafter referred to as the primary residence);
3. The external appearance of the existing structure shall not be significantly altered from the original and shall maintain the character of the neighborhood. Any stairways, access, or egress alterations serving the accessory apartment shall be enclosed, screened, or located so that visibility from public ways is minimized;
4. Such Special Permit, when granted, shall be recorded at the Registry of Deeds and issued to the owner/occupant of the primary residence and be in force for as long the owner/occupant owns and occupies the building. The Special Permit shall lapse upon transfer of said property or when the owner no longer occupies the property. If the Special Permit lapses, the new owner may apply for a new special permit within 6 months of taking ownership of the property. The owner of the building shall occupy one of the dwelling units, except that the owner/occupant can be absent for up to 6 (six) months per calendar year;
5. For the purposes of this by-law, the "owner" shall be defined as one or more individuals residing in a dwelling, who hold title and for whom the dwelling is the primary residence for voting and tax purposes. Said owner may designate a legal relative as a "life tenant" who may occupy the house in the owner's stead. Certification by affidavit shall be provided by the owner;
6. The accessory apartment shall meet the standards of the State Building Code and State Environmental Code, 780CMR 6th edition MA Building Code, chapter 36 3603.41, Title V. Prior to issuing a Special Permit the owner of the property or his or her agent must submit an approved building permit, with floor plans, elevations, or other drawings sufficient to demonstrate compliance with the conditions and requirements of the Special Permit. Prior to occupancy of the accessory apartment the owner must obtain and submit a copy of the Certificate of Occupancy issued by the building inspection department;

(c) Parking

1. Refer to Section 34: Off Street Parking for parking requirements.

(d) Violations and Enforcement

This by-law shall be enforced by the Planning Board and shall be consistent with MGL Chapter 40A Section 7.

SECTION 23: Permitted Uses – Light Industrial District

Any use permitted in the Rural/Residential and Agricultural District and the following:

23.1: Light Industrial Use

Any use which involves the fabrication, assembly, finishing, packaging or processing of products, but excluding the following uses which shall not be permitted: Asphalt manufacturing or refining, coal storage, creosote, distillation of coal, wood or bones, explosive or fireworks manufacturing, fat rendering, fertilizer or potash manufacturing or refining, glue or size manufacturing or process involving recovery from fish or animal offal, gypsum, cement plaster or plaster of paris manufacturing, incineration, junk or salvage yard or junk or salvage storage, petroleum refining, tar distillation, tar roofing manufacturing, ammonia, chlorine or bleaching power manufacturing, celluloid manufacture, iron, steel or other metal manufacturing, leather processing, paint manufacture, paper manufacture, poisonous gases (except welding gases), rubber manufacture, soap manufacture, drop forge shop, settling gas, cyanide compound or oxygen manufacture, fumigation plants, match manufacture, tire recapping or retreading or other use commonly considered hazardous or noxious.

23.2: Commercial Use

Any use which involves sales at retail or wholesale goods and merchandise.

23.3: Restrictions on Light Industrial and Commercial Uses

- (a) No light industrial or commercial use is permitted which causes continuous noise or vibrations that are normally perceptible above street noise without instrumentation at any point more than 100-feet from the premises, or which results in flashing lights being visible at any point more than 100 feet from the premises.
- (b) No light industrial or commercial use is permitted unless cinders, dust, fumes, gases, odors, and electromagnetic radiation are effectively confined to the premises.

23.4: Additional Requirements

- (a) Site plan review and approval by the Planning Board is required for expansion within this zone.
- (b) All buildings be visually screened from abutting residential property through the appropriate use of plantings, fencing, or other suitable screening means.

SECTION 24: Radioactive Waste Disposal (Added 16 November 1981)

No land within any use district in the Town of Conway may be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste. (Amended (1) 21 December 1981: Amended (2) 14 April 1986)

Article 3: General Regulations

SECTION 31: Presently Existing Uses, Structures, and Lots

31.1: Continuation and Restoration

Any use of structure, whether conforming to this Bylaw or not, may be continued if that use or structure was lawfully existing at the time it became nonconforming, and may be restored if destroyed

by fire or other accidental or natural cause or demolished, but if discontinued or abandoned for more than 24 months, subsequent use shall comply with this Bylaw. (Amended 16 November 1981)

31.2: Alteration

Legally nonconforming structures may be altered if without extension or change of use. Nonconforming structures or nonconforming uses of structures or land may be extended or changed to another nonconforming use only if granted a Special Permit by the Planning Board.

31.3: Nonconforming Lots

Any recorded or registered lot not meeting the frontage or area requirements of this Bylaw, if having an area of 5,000 square feet or more and at least 50 feet of frontage on a public way, if owned separately from an adjoining land at the time of recording, and if it conformed at that time to the then existing requirements, may be built upon for any otherwise permitted use even though not meeting frontage and area requirements.

SECTION 32: Environmental Controls

32.1 Screening

Any reasonably large accumulation of junk, trash, or debris shall be confined out of sight by plantings or other screenings.

32.2 Hazard

No use shall be allowed which would create unreasonable hazard due to explosion, fire, or other causes. Potentially hazardous conditions shall be fenced, covered or otherwise rendered safe.

32.3: Water Discharge

No building or driveway shall be constructed so as to allow water, snow, ice, or waste material to be deposited upon or discharged upon a public way **or upon a neighboring property other than along natural water channels at a speed and volume similar to that which occurred prior to construction.** (Amended 11 April 2005)

32.4: Stripping Land of Soil and Loam

No person, firm, or corporation shall strip, sever, remove, or convey away any soil, loam, clay, sand or gravel from any land in the Town of Conway not in public use, unless and until such stripping, severance, removal, or conveyance away is first authorized by a Special Permit issued by the Planning Board, except for the continued operation of an existing sand or gravel pit. **No special permit is required in conjunction with the construction of a building and/or septic system provided the contours of the land are not altered by a depth or height in excess of six (6) feet and that no change is made to the natural flow of storm water.** No such permit shall be issued until an application therefore has been filed with the Board. Said Board shall then hold a public meeting on the application and notice of the filing in relation thereto. (Amended 11 April 2005)

32.5: Unregistered Motor Vehicles

32.5-1: The keeping of more than one unregistered motor vehicle, assembled or disassembled, excepted by a person licensed under General Laws, Chapter 190, Section 50, on any premises shall not be permitted, unless said motor vehicles are stored within the enclosed building.

32.5-2: A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the Board of Selectmen if it finds that such keeping:

(1) is in harmony with the general purpose and intent of this Bylaw; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

32.5-3: All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

32.5-4: This article shall not apply to motor vehicles which are designed and used for farming purposes or to the contractor's equipment, nor shall this article apply to land owners or tenants who store motor vehicles out of sight of abutters and public ways.

SECTION 33: Signs

33.1: On-Premises Signs

Any business premises may have one on-premises sign with two surfaces in opposite directions devoted exclusively to the premises on which the sign is located of not more than fifteen (15) square feet.

33.2 Off-Premises Signs

Off-premises signs (signs with content not relative to the premises they are on) are allowed only to provide directions to premises. Off-premises signs shall not be more than three (3) square feet in size except by Special Permit from the Planning Board based upon the Board's determination that the sign will serve the informational needs of the motoring public, will not obscure the legibility of existing signs on other premises, will chiefly identify the local business rather than standard product brand names, employs minimum wording to improve legibility, and is consistent with a rustic rural character in which case a sign can be up to fifteen (15) square feet.

33.3: Lighting of Signs

- a) No sign shall flash or display movement.
- b) Signs may be illuminated only during the normal business hours.

SECTION 34: Off Street Parking

34.1: Number of Spaces

All premises shall provide off street parking sufficient for all persons who commonly use the premises.

34.2: Additional Requirements

No off street parking area shall be maintained within ten feet of a street line. For Parking areas of 10 cars or more, the following shall apply:

- (a) The use of the area shall not require backing out onto a public way.
- (b) There shall be not more than one entrance and one exit from such lots per 300 feet of street frontage or fraction thereof. If necessary to meet this requirement, users shall arrange for shared egress.
- (c) Such lots shall be screened from any abutting residential use by densely planted shrubs.

34.3: Loading Requirements

Any facility such as a car-wash or drive-in facility which from time to time has lines of vehicles waiting admission shall have sufficient on-site space for such lines without requiring cars to stand on any public way or cross any public sidewalk.

Article 4: Dimensional Requirements

SECTION 41: Lot Area and Clearances

41.1: Lot Area

No building shall be erected or mobile home placed on a lot unless the lot:

- (a) complies with state and local sanitary codes;
- (b) has a minimum of 200 feet of frontage on a public way **that currently provides suitable access for fire, police, and emergency vehicles.** *(Amended 12 April 2004)*
- (c) and has a minimum area of one acre or complies with the requirements for back lots in 41.1 (d) or as may be exempted under Section 6 of MGL Chapter 40A. *(Amended 11 March 1993).*
- (d) Back Lots – an individual lot need not have the required amount of street frontage provided that all of the following requirements are met:
 - (1) The area of the lot is a minimum of four acres;
 - (2) The lot includes a strip of land, easement, or right of way at least 20 feet in width by which it is connected with a public way. . **Legal proof of such connection SHALL be required from the landowner as part of a request for a building permit;** *(Amended 11 April 2005)*
 - (3) The width of the lot where the principal building is to be built is a minimum of 200 feet.

No more than one **residential building** *(Amended 12 April 2004)* is allowed per building lot. *(Amended 11 March 1993)* This provision shall not restrict the number of outbuildings related to a dwelling which can be placed on a lot.

Driveway access to the residential building of a lot as defined under sections (b) and (c) may or may not enter through the determined frontage of said lot. Safe access shall be the first priority. *(Amended 12 April 2004)*

41.2: Clearances

No building may be located within 25 feet of any boundary or within 50 feet of a public way. However, no front yard need exceed the front yard maintained on any adjoining lot on the same street.

41.3: Agricultural Buildings

Any number of agricultural buildings may be placed or erected on a lot.

41.4 Driveways *(Added 12 April 2004)*

All driveways shall be designed according to requirements listed below. Driveways serving three or more lots have additional requirements (see Common Driveways, Section 41.5).

- (a) **at its intersection with the traveled surface of a public way, at least the first 20 feet in length constructed with a minimum curb cut of 20 feet, a maximum slope of 8 percent, and driveway should have crown or slope to direct water away from the public way, and a culvert where applicable.**
- (b) **A line-of-sight of sufficient distance to permit safe entering onto the travel portion of public way, calculated per AASHTO (American Association of State Highway and Transportation Officials) and MUTCO (Manual on Uniform Traffic Control Devices) as supplied by the Highway Superintendent, and available at the Town Office.**

- (c) **The approval and signature of the Highway Superintendent on the building permit application, indicating that the driveway meets the above standards before a building permit can be issued.**

41.5: Common Driveways (Section 41.5 COMMON DRIVEWAY BYLAW added 11 March 1993)

The purposes of this Bylaw are to provide for the safety, welfare, and convenience of town residents and to encourage appropriate land use.

41.5-1: Definitions and Exceptions

A common driveway is a driveway which begins at a public way and provides access to more than one building lot. Common driveways providing access to two building lots are permitted by right and are not subject to this Bylaw. Common driveways, which are to be constructed, extended or utilized to provide access to three or more building lots are required to conform to the Common Driveway Bylaw.

The Common Driveway Bylaw shall not apply when both the common driveways and the building lots to which they provide access existed prior to March 11, 1993. The common driveway bylaw shall not apply to common driveways shown on a plan recorded at the Franklin County Registry of Deeds prior to March 11, 1993. The specific right to use a discontinued road as a common driveway is not intended or implied by any portion of this bylaw.

41.5-2: Design and Performance Requirements

A common driveway shall have:

- (a) A minimum right-of-way width of 30 feet and a maximum gradient of 12%. For short sections, at steeper gradients, variances may be granted the Zoning Board of Appeals. This paragraph shall not apply to rights-of-way existing prior to March 11, 1993;
- (b) A stable sub-base of at least 18 inches of gravel, a minimum wear surface of crushed stone or trap rock applied to a minimum depth of 4 inches, a minimum width of 12 feet, a minimum centerline radius of 75 feet and a minimum of 3 feet of total shoulder;
- (c) If the driveway is a dead-end, a "hammerhead" or other turnaround adequate for a 30 foot vehicle;
- (d) A curb cut of at least 20 feet in width, with a minimum radius of four feet, and an approach area of at least 20 feet in length from the edge of traveled surface of the public way with a slope of not more than 4% grade. This paragraph shall not apply to rights-of-way existing prior to March 11, 1993;
- (e) A "pullout" every 500 feet for a 30 foot vehicle;
- (f) Such storm drains, swales, culverts and drainage retention areas as are necessary to permit the unimpeded flow of all natural water courses, to insure drainage of the driveway, to prevent washout and erosion and to intercept all storm water drainage created by the construction of the common driveway adequate to meet a 25 year frequency storm. All Wetlands Protection Act requirements must be met;
- (g) **A line-of-sight of sufficient distance to permit safe entering onto the travel portion of public way, calculated per AASHTO (American Association of State Highway and Transportation Officials) and MUTCO (Manual on Uniform Traffic Control Devices) as supplied by the Highway Superintendent, and available at the Town Office. (Amended 12 April 2004)**
- (h) A proposed name for the common driveway(s), subject to Planning Board approval.

41.5-3: Maintenance

Maintenance of such a driveway shall be assured through a covenant, landowner's association or similar legal agreement, approved by the Planning Board and binding upon those served by the driveway, which shall require the landowners to maintain the driveway to the standards of this Bylaw at their mutual, exclusive expense. Such covenant or association agreement shall further

state, as a condition of Planning Board approval, that the driveway in question is not a private road or public road and that it is intended to remain in perpetuity as a common private driveway. A statement to this effect shall be shown on all design plans submitted to the Planning Board and included in the language used to convey lots served by the common driveway.

41.5-4: Compliance

No building permit shall be issued for any lot(s) to be served by a common driveway providing access to three or more building lots until an as-built plan, prepared by a Registered Massachusetts Civil Engineer, Landscape Architect, Architect, and/or Land Surveyor, and demonstrating compliance with 41.4 for the lot(s) for which building permits are sought, has been submitted to and approved by the Planning Board or its agent. All as-built plans shall show a statement certifying that the common driveway meets the requirements of the common driveway bylaw. A turnaround meeting the requirements of **41.5-2(c)** shall be provided at a temporary terminus of any common driveway providing access to three or more building lots.

Article 5: Definitions

In this Bylaw, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

BUILDING – A combination of any materials, whether portable or fixed, having a roof and/or exterior walls built to form a structure for the shelter, support, or enclosure of person, animals, chattels, or property of any kind.

BUILDING LOT – Any lot which complies with the frontage and dimensional requirements of 41.1[b,c] or the area and access requirements of 41.1[d] or 41.4 or 41.5. *(Added 11 March 1993)*

COMON DRIVEWAY – A driveway which begins at a public way and provides access to more than one building lot. *(Added 11 March 1993)*

DRIVEWAY – That area of land which provides access to a building lot from a public way. *(Added 11 March 1993)*

DWELLING, MULTI-FAMILY – A permanent or temporary building containing more than two dwelling units.

DWELLING, ONE OR TWO FAMILY - A permanent or temporary building containing either one or two dwelling units. *(Amended 11 March 1993)*

DWELLING UNIT – One or more living or sleeping rooms constituting a separate housekeeping establishment and containing independent cooking and sleeping facilities arranged for the use of one or more individuals or a family living together as one housekeeping unit.

LOT – A parcel of land laid out by metes, bounds or boundary lines in the last recorded deed or plan in the Franklin County Registry of Deeds.

PUBLIC WAY – A state highway, a county road or a road which has been accepted by the Town of Conway as a town road.

Article 6: Administration

SECTION 61: Enforcement

This Bylaw shall be enforced by the building inspector who shall be appointed by the Board of Selectmen. Any person violating any of the provisions of this Bylaw may be fined not more than \$50 for each offense. Each day that such violation continues shall constitute a separate offense.

SECTION 62: Zoning Board of Appeals

There is hereby established a Zoning Board of Appeals of three members and two associate members, to be appointed by the Selectmen, which Board of Appeals shall act on all matters within its jurisdiction under this Bylaw and Chapter 40A of the General Laws in the manner prescribed by the said law and by this Bylaw.

SECTION 63: Special Permit Guidelines

Application for Special Permits shall be accompanied by a written report detailing the effects of the development in relation to the criteria of Section 63. In granting a Special Permit the Planning Board has the power to impose any conditions, safeguards, and/or limitations on time or use of premises.

1. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
2. All other special permits otherwise in compliance with the provisions of this Bylaw and of Chapter 40A, shall be issued only upon written determination by the Planning Board that there be no significant adverse effects (to the neighborhood and/or town) in any of the following categories:
 - (a) **Traffic Flow and Safety:** for example, to what degree will the service level of abutting streets be reduced because of added traffic volume? Will hazardous egress conditions result? Is traffic generation in relation to street frontage unusually high or low relative to nearby uses? Have such efforts been made as spacing egresses more widely than required, or sharing of egresses? Is the town capable of servicing the premises considering existing roads and town equipment?
 - (b) **Adequacy of Utilities and other Public Services:** for example, will pressures on the highway department, school system, or other public services mount more rapidly than the town is reasonably able to relieve these pressures?
 - (c) **Qualities of the Natural Environment:** for example, what will the consequences for wildlife, vegetation, hydrology, water quality, and air quality be? Does the proposal take into account the effects of large topographic change, tree removal, or increased storm water flow from the site?
 - (d) **Impact on Other Properties:** for example, will the use or value of abutting or otherwise related properties be affected? What will be consequences for other property of sound, light, odor, traffic, and other disturbances?
 - (e) **Community Health:** for example, will the development tend to increase unemployment, decrease public revenues, destroy neighborhoods, or otherwise on balance take more from the town than it returns?

63.1: Time to Begin Construction

Construction must begin within one year after a Special Permit or building permit is issued, except for good cause. (*Amended 8 April 1985*)

63.2: Time to Use Special Permit

A Special Permit shall lapse within two years, including such time as may be required to pursue or wait the determination of an appeal from the grant of the permit, if a substantial use of the permit has not begun within that two years, except for good cause. *(Amended 8 April 1985)*

63.3: Subsequent Amendments

A Special Permit or building permit shall conform to any subsequent amendments to this Bylaw unless the use or construction has commenced, within six (6) months, and if construction is involved, unless such construction is continued through to completion at reasonable speed.

SECTION 64: Amendment

This Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Section 6 of Chapter 40A.

SECTION 65: Validity

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

SECTION 66: Applicability

Where the application of this Bylaw imposes greater restriction than those imposed by other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

Article 7: Flood Plain District

SECTION 71: Flood Plain District

The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Conway Flood Insurance Rate Maps (FIRM), dated June 4, 1980, on file with the Town Clerk, Planning Board, and Building Commissioner. These maps as well as the accompanying Town of Conway Flood Insurance Study are incorporated herein by reference. *(Amended 8 December 1980)*

SECTION 72: Development Regulations

The following requirements apply in the Flood Plain District:

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
- (b) In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.

- (2) Any encroachment meeting the above standard shall comply with the flood plain requirements of the State Building Code.

ARTICLE: 8 WIRELESS COMMUNICATION FACILITIES

Purpose. The purpose of this Wireless Communications Facilities Bylaw is to protect the scenic, historic and natural resources of the Town of Conway while accommodating the wireless telecommunications needs of town residents and businesses. (Amended 11 April 2005)

This **Bylaw** does not apply to satellite dishes and antennas for residential use. *(Amended 11 April 2005)*

The Conway Planning Board shall issue Special Permit to duly licensed wireless carriers, as defined in the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7)(ii), in Conway, providing the following:

Applicants shall:

- (a) Recognize the Conway Planning Board as the sole permit authority, for the town of Conway.
- (b) Demonstrate that existing facilities cannot accommodate applicant's needs.
- (c) Be responsible for the cost of designing the entire wireless communication infrastructure for the entire Town of Conway.
- (d) Contact all other wireless carriers, currently licensed in Massachusetts, and demonstrate having made sufficient provisions for their shared and cooperative use of facilities.
- (e) Demonstrate that proposed new facilities will:
 - (1) maximize use for all currently licensed carriers,
 - (2) protect the town's esthetic concerns **by addressing** color or camouflage, backdrop to protect ridge line, preservation of on site vegetation, **and** illumination, to minimize visual impact, *(Amended 11 April 2005)*
 - (3) use existing structures where possible. (i.e., high tension tower, inside steeples, disguised on water towers, on public buildings), and where free-standing antenna are proposed, that only monopoles shall be used.
 - (4) yield to the Conway Planning Board concerns of monopole height and number of monopoles. **New towers shall be the minimum height necessary to comply with the purpose of this Bylaw, and not exceed 120 feet.** *(Amended 11 April 2005)*
 - (5) comply with existing building codes **and the Conway Protective Bylaws.**
- (f) **Meet requests by the Town for access and antenna space to serve the needs of the Town's emergency service providers.** *(Amended 11 April 2005)*
- (g) **Comply with requirements set forth by the Planning Board to demonstrate the visibility of any proposed new tower(s), e.g., by a balloon or mast raised at the location of the proposed Wireless Communication Facility.** *(Amended 11 April 2005)*
- (h) Not post any advertising on proposed facilities.
- (i) Pay for the cost of the Planning Board's communications consultants and attorneys to evaluate the application and provide any information requested by these agents.
- (j) Post bond sufficient to cover the cost of seizing and dismantling the proposed facilities, if not in continuous active use, for said purpose, for a period of six months and recognize the Conway Planning Board's authority to order such.
- (k) Provide, if applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- (l) Provide annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Department of Public Health and the National Standards Institute and required maintenance shall be filed with the Building Inspector by the Special Permit Holder.
- (m) Severability – if any portion of this Bylaw is determined to be invalid, it shall not render the rest of the bylaw invalid.

*Original adopted 23 October 2000; Approved by Attorney General 26 February 2001
Amended 11 April 2005*

