

Zoning By-Laws Need to be Updated as Soon as Possible

THE BASIC POINTS THAT NEED TO BE ADDRESSED IN ZONING BY-LAWS UPDATES

A comment for presentation to the village/town/city board of trustees (as delivered to a local board in Columbia County NY, December 2024)

Good evening ...

Of late I've been looking at legal documents crafted by other municipalities to update their zoning by-laws. These updates are in light of small cell infrastructures, new cell towers and the increasing antennas on existing towers. More and more people are becoming sensitized to electromagnetic fields and even disabled by them; and more and more people do not want a 5G small cell outside their bedroom window and their trees to be cut – hence, these matters are urgent *property value* concerns, too.

It is time – *ASAP* – to examine our zoning by-laws, to deal with deficiencies in our legal protections. *If the village grants placement to one applicant now, it cannot discriminate and deny the same privilege to others later.* The zoning updates I've examined cover *fundamental issues* and state how they shall be handled for the protection of the public and the character of the town. To help guide us, here are the key issues:

- 1) The Applicant shall show hard data proof certified by a qualified independent engineer of a significant gap in personal cellular coverage that the new facility will fill that cannot otherwise be filled.**
- 2) New facilities shall use existing structures to the extent possible. In all cases, the height shall have limits and a 2-day balloon test is required. Set-back distances shall be required. Trees and foliage shall be preserved to the absolute extent possible.**
- 3) At the owner's expense, compliance of facilities and antennas with the FCC's radio frequency RF emissions limits shall be examined annually-and-unannounced by a qualified independent RF engineer.**
- 4) Each small cell shall be considered separately, as each site has unique impacts; if granted a permit, a sizable bond shall be posted for each as guarantee that it will not exceed FCC limits for RF radiations.**
- 5) Liability and property insurances in sizable amounts shall be carried, with the Town and its officers as additional insureds.**
- 6) Proper maintenance and if necessary, removal, shall be paid for by the owner, and a sizable bond posted against these costs.**
- 7) Annual recertification of insurances, bonds and RF emissions is required.**

These updates are from towns in Massachusetts – to see the documents go to the HilltownHealth.org homepage (scroll down to by-laws issues). But the principal legal constraints they work within *come from the federal level*, hence they are good models for us to begin with, too. Note the warning (email) from Weston MA, which *waited too long to update their by-laws*. The zoning by-laws document from Charlemont MA shows the changes they made in red. There is also a letter from the Massachusetts Attorney General in support of their drafted by-laws, with notes on the federal constraints.