

TOWN OF PERU



ZONING BY-LAWS

The Table of Contents is for informational purposes only and is not an approved section of the Town of Peru Zoning By-Law.

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ZONING BY-LAWS – TOWN OF PERU

Section 1 Purposes

Among the purposes of this zoning By-Law are: To promote the health, safety, convenience and general welfare of the present and future inhabitants of the Town of Peru: to protect and conserve the value of property within the Town: to conserve, insofar as possible, natural conditions, and to secure safety from fire, congestion, or confusion, by encouraging the most appropriate uses of land within the Town in accordance with the provisions of M.G.L., Chapter 40A.

Section 2 Zoning Districts

The entire town shall constitute a single residential-agricultural zoning district.

Section 3 Definitions

For the purpose of this By-Law, the following words and terms as used herein shall have the meanings or limitations of meaning hereunder defined, explained, or assigned.

- 3.1 **ACCESSORY USE OR STRUCTURE**: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 3.2 **BUILDING**: A structure having a roof supported by columns, or walls, resting on its own foundations, and designed for the shelter, housing or enclosure of persons, animals, chattels or property of any kind.
- 3.3 **BUILDING LOT**: That area of land described in an application for a building permit or an application to the Board of Appeals for a permit or a variance or otherwise defined as the area on which a building or structure is to be constructed or a certain use is to be carried on. A building lot shall not include:
 - (a) Any part of a public way.
 - (b) A private way which is relied upon to qualify the lot as to frontage.
 - (c) An area under water more than six months per year.
- 3.4 **DWELLING UNIT - ONE FAMILY**: One or more rooms constituting a separate independent housekeeping establishment with cooking, living, and separate sleeping and sanitary facilities for the use of one family.
- 3.5 **DWELLING UNIT - TWO FAMILY**: A residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.
- 3.6 **FAMILY**: One or more persons occupying a single dwelling provided that if there be more than five (5) persons, the majority must be related to one another by blood, marriage, adoption, or are foster children.
- 3.7 **HOME OCCUPATION**: A business within a dwelling unit or accessory building carried on by a resident thereof as an accessory use, involving no undue traffic, noise or visible evidence of the business other than permitted signs and employing no help outside of the

family, including but not limited to such uses as a professional office for a real estate broker, insurance broker or use for home food preparation, dressmaking and crafts, hairdressing or taking in boarders.

- 3.8 HOTEL, MOTEL, LODGING OR INN: A building or portion thereof, intended to be used for the temporary occupancy of persons who are lodged for a fee, with or without meals.
- 3.9 LOT: A clearly defined parcel of land of at least sufficient Size to meet the minimum zoning requirements for area, frontage, set-backs and other requirements under the By-Law.
- 3.10 LOT FRONTAGE: The distance along the street line (for corner lots to be measured along one street only), which provides direct access to the lot. Such distance must be contiguous along direct access to the lot. Such distance must be contiguous along the street for the frontage to qualify as access to the lot. The depth of any lot created after the effective date of this By-Law shall not be less than forty (40) feet at any one point along its frontage in order to qualify for frontage under this By-Law. A private street approved by the Planning Board under the Subdivision Control Law may provide frontage only for the lots which are contained within the approved subdivision.
- 3.11 MOBILE HOME: A movable or portable, completely enclosed structure designed for occupancy as a dwelling unit and built on a permanent chassis.
- 3.12 MUNICIPAL USE: Any use of land in accordance with the general laws governing municipal powers and functions including participation in regional uses.
- 3.13 SIGN: Any structure, part of a structure or device on a lot used for the purposes of visual communication which identifies or calls attention to any premises, person, product, activity, business, or use.
- 3.14 SMALL BUSINESS: A business use conducted on the same lot as the residence by the resident owner thereof employing only members of the owners immediate family and not more than four (4) persons outside the family.
- 3.15 STREET: A public way, or a way which is maintained and used as a public way, or a way approved by the Planning Board under the Subdivision Control Law.
- 3.16 STRUCTURE: Anything constructed or erected, including but not limited to underground pipelines and dams, at a fixed location to give support, provide shelter or satisfy other purposes.
- 3.17 TRAVEL TRAILERS: A moveable structure designed and intended for temporary living or recreation.

Section 4 Use Regulations

Except as provided by law, or in this By-Law, no Building, Structure, or land or part thereof shall be used for any purpose or in any manner other than one or more of the uses hereinafter set forth as permitted by right or as permissible by special permit and so authorized.

Section 5 Uses Permitted By Right

- 5.1 One-family dwelling or two-family dwelling.
- 5.2 Use of land and structure for agricultural, horticultural, or floricultural purposes.
- 5.3 Religious or educational uses on land owned or leased by the Commonwealth of Massachusetts or any of its agencies, subdivisions, or bodies politic; or by a religious sect or denomination; or by a non-profit educational corporation.
- 5.4 Municipal or governmental use including educational facilities, parks, playgrounds, or other recreational facilities owned or operated by any agency of the Town of Peru.
- 5.5 Accessory uses and structures customarily incidental to a principal permitted use on the same premises, provided the use does not materially alter the character of the premises including but not limited to the following:
 - (a) Private garages, sheds and such other buildings accessory to residential uses.
 - (b) The display and sale by a resident of the premises at a roadside stand or otherwise, of natural products the major portion of which are produced on the premises.
 - (c) Display of sign or signs as regulated in Section 11 of this By-Law.
- 5.6 Home Occupation.

Section 6 Uses Requiring Special Permit

The following uses can be permitted in the Town with a special permit issued by the Zoning Board of Appeals under the provisions of M.G.L., Chapter 40A:

- 6.1 Small Business.
- 6.2 Gravel, loam or stone storage or removal.
- 6.3 Commercial dog kennel, veterinary hospital or riding stable.
- 6.4 Proprietary private chartered educational institutions.
- 6.5 Commercial saw mill, pallet shop, and construction contractor.

- 6.6 Any store or sales room with up to 1500 square feet of floor area.
- 6.7 Nursing Home, convalescent home, and day care facility.
- 6.8 Bowling alley, ski tow, billboard room, dance hall, roller skating rink and similar commercial places of amusement.
- 6.9 Airfield, airport, landing strip, and hangers.
- 6.10 A dam which will impound more than one (1) million gallons of water.
- 6.11 Campground or recreational vehicle park, as regulated under Section 8 of the State Sanitary Code.
- 6.12 Hotel, motel, lodging or inn.
- 6.13 Any other use determined by the said Board to be similar in character to one or more uses specifically authorized herein provided the Board finds that the proposed use is in harmony with the general purpose and intent of this By-Law and not offensive or detrimental to the neighborhood.

Section 7 Prohibited Uses

The following uses are expressly prohibited.

- 7.1 Garbage and refuse incinerators, or the dumping of refuse matter on the premises, except in areas operated for that purpose by the Town of Peru or its approved contractors.
- 7.2 Storage or treatment of ash, or other similar material resulting in the creation of dust.
- 7.3 The accumulation of assorted items in a state of disrepair.
- 7.4 Notwithstanding the provisions of this section, no use shall be permitted which would be offensive to the neighborhood because of injurious or obnoxious noise, vibration, smoke, gas fumes, odors, dust, or any other objectionable features or be hazardous to the community because of fire, explosion, traffic, or any other cause. No use shall be permitted which could prove injurious to the safety or welfare of the neighborhood, or destructive to property values, because of any excessive nuisance qualities.

Section 8 Intensity Regulations

Any Building or Structure used for dwelling purposes or housing a principal permitted use or accessory use, shall be so located as to meet the following requirements, except as specifically otherwise permitted in this By-Law.

- 8.1 The minimum lot area shall not be less than two (2) acres and the frontage not less than one-hundred fifty (150) feet.

- 8.2 The minimum set-back for any structure shall be sixty-five (65) feet from Public ways or Private ways pursuant to 3.3B of this By-Law and seventy-five (75) feet from State numbered highways to be measured from the center line of the travelled way. The minimum side-yard and rear-yard set-backs are twenty (20) feet.
- 8.3 No more than one residential structure (one or two-family dwelling unit) or principal building shall be located on a lot with the exception of structures used primarily for agriculture, horticulture or floriculture which are exempt from the provisions of this By-Law.
- 8.4 No lot, nor any Building or Structure thereon, shall be changed in size so as to violate lot area, frontage, set-back, or any other requirements of this By-Law.
- 8.5 Any Building used for residential purposes shall be located on a lot having a lot area of not less than two (2) acres for a one-family dwelling, or not less than four (4) acres for a two-family dwelling.
- 8.6 Lot frontages shall not be less than one-hundred fifty (150) feet for a one-family dwelling, or not less than three-hundred (300) feet for a two-family dwelling.

Section 9 Nonconforming Structures, Uses, and Lots

- 9.1 The provisions of this By-Law shall not apply to uses or structures lawfully in existence or lawfully begun at the effective date of this By-Law, nor to any alteration, reconstruction, extension, or structural change to a one-family or two-family dwelling as provided in M.G.L., Chapter 40A, Section 6.
- 9.2 If damaged or destroyed by fire or other catastrophe, any pre-existing nonconforming structure or uses may be rebuilt or reestablished within two (2) years from the date of such catastrophe.
- 9.3 Pre-existing nonconforming structures or uses may be extended or altered by special permit from the Zoning Board of Appeals, provided that the Board finds that such extension or alteration shall not be more detrimental to the neighborhood than the existing nonconforming use and shall not be in greater non-conformity with the area, set back, and other dimensional and intensity regulations in this By-Law.
- 9.4 A nonconforming use of land or structure which has been abandoned or not used for a consecutive period of two (2) years or more shall not be re-established, and any future use of such premises shall conform to the provisions of this By-Law.

Section 10 Sign Regulations

10.1 Permitted Signs

- (a) One sign, not exceeding three (3) square feet in area, and bearing only the names of residents and/or other identification of the premises.
- (b) One sign, not exceeding eight (8) square feet in area for a Home Occupation.
- (c) One sign for uses requiring special permit under Section 6 of this By-Law or other non-residential uses, not exceeding sixteen (16) square feet in area.
- (d) Commonly used warning signs (i.e., Beware of the Dog, No Trespassing), each not to exceed two (2) square feet.
- (e) Lettering on both sides shall be permitted.

10.2 Sign Restrictions

- (a) Signs shall not have any moving or flashing parts or noise-making devices.
- (b) Lighting of signs shall be by shaded white incandescent bulbs only, not to exceed one hundred watts for a one-sided sign or two hundred watts for a two-sided sign.
- (c) Signs shall not be more than eight (8) feet from ground level to the top of sign, whether attached to a building or free standing.
- (d) Free-standing signs may be located no less than forty (40) feet from the centerline of a numbered road and thirty (30) feet from the centerline of other Public ways except with a special permit from the Zoning Board of Appeals in cases where the Board finds that the requirements of that particular location dictate greater smaller setback.
- (e) No sign shall be located off the premises to which it applies, except that directional, informational, or identification signs may be permitted by the Board of Selectmen where the Board finds that such signs will serve the public convenience and not be detrimental to the neighborhood with respect to location, or design. The size of such a sign will not exceed six (6) inches high by thirty (30) inches wide and must be rectangular in shape.
- (f) Temporary signs which do not comply with this By-Law may be authorized by the Board of Selectmen for special events, such as an opening of a new business or announcing a public event sponsored by a civic, fraternal, social, or religious organization. The Board of Selectmen may at their discretion require the posting of a bond or cash deposit large enough to cover the cost of removal of temporary signs if such signs are not removed promptly after termination of the advertised event by the sponsors.

Section 11 Zoning Board of Appeals

There shall be a Zoning Board of Appeals as provided in M.G.L., Chapter 40A, Section 12. This Board shall consist of Five (5) members and two (2) associate members appointed by the Board of Selectmen as provided by M.G.L., Chapter 40A. It shall hear and decide appeals as provided in M.G.L., Chapter 40A, Section 8.

Section 12 Special Permits

The Zoning Board of Appeals may hear and decide applications for special permits upon which such board is specifically authorized to act under the By-Law and M.G.L., Chapter 40A. Sections 9 and 10, and only for uses which are in harmony with the general intent of this By-Law subject to such conditions, safeguards and limitations necessary for the protection of neighborhood uses.

- 12.1 All application for special permits shall be reviewed by the Conservation Commission and the Board of Health. If these board do not respond within 30 days their approval is deemed to be granted.
- 12.2 Special permits shall only be issued following public hearing held in accordance with M.G.L., Chapter 40A.
- 12.3 A special permit shall lapse in two (2) years if a substantial use or construction has not begun under the permit by such date except for good cause.

Section 13 Enforcement

This By-Law shall be enforced by the Inspector of Buildings appointed by the Board of Selectmen as provided in the State Building Code.

- 13.1 Construction or operation under a building or special permit shall conform to any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, such construction is continued through to completion as continuously and expeditiously as possible.
- 13.2 Whoever shall violate any provision of this By-Law or fail to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred (100) dollars for each offense and each day such violation continues shall constitute a separate offense.

Section 14 Administration

- 14.1 The Inspector of Buildings shall issue no permit unless applications for permits required under this By-Law for Buildings or Structures of any kind for which plans and specifications and intended use are not in all ways in conformity with this By-Law.
- 14.2 No construction on a Building or Structure shall be commenced, or Building or Structure moved, altered, or changed until a building permit for the proposed construction, moving alteration, or change shall be properly applied for and granted, except that permits shall not be required for repair or alteration which does not alter the exterior shape or dimensions of a Building and which does not change the use of the Building.
- 14.3 No building permit shall be granted for the construction, alteration, or relocation of any building or structure of a new or altered use of land in violation of this By-Law. When ever any building permit is refused the reason therefore shall be clearly stated in writing.
- 14.4 An application for a building permit shall be made by the landowner or his agent in the name(s) of the landowner in writing, on a form approved by the Board of Selectmen and shall be accompanied by two copies of a sketch showing the site and size and shape of the lot, the names of the landowners of record, and the location of existing streets and building or structures, the location and size of the septic tank and drainage field, and of the proposed Buildings, Structures, or additions thereto. Complete building and site plans shall be required for all Building and Structures. The Inspector of Buildings shall send one copy of the plot plan to the Board of Assessors.
- 14.5 A building permit shall become void unless construction, alteration or relocation is commenced within six (6) months of date of issue, and completed within three (3) years of the date of issue, unless such time shall have been extended by the Inspector of Buildings in writing. A condition of such extension of the three (3) year period may be by payment of an additional fee where the Inspector of Buildings is of the opinion that additional on-site inspections will be required by the Inspector of Buildings or other Town Officials.
- 14.6 A permanent record of applications herein referred to, and the action taken thereon shall be kept on file in the Town Offices.
- 14.7 The Inspector of Buildings shall issue the building permit only after he/she has viewed the premises and determined that the contemplated use, change, construction or alteration would not be in violation of the Peru By-Laws, and that the Inspector of Buildings has concurred with all code inspectors and the Conservation Commission, that all appropriate laws and regulations have been met. After issuance of the building permit, the Inspector of Buildings may make inspections while the work is in progress to ascertain that there is no violation of the said By-Laws as a result of any changes or deviations from the original permit. Occupancy by the owner, his agents, servants, tenants, leases or assigns shall not be permitted until the Inspector of Buildings has made final inspection to

determine if the completed construction, alteration or changes in use conforms to the permit and is not in violation of the said By-Laws.

- 14.8 The fee required for a building permit and fee for the extension of time for which the construction is to be completed under the terms of the building permit shall be that established by the Selectmen.
- 14.9 Any person, officer, official, or board aggrieved by reason of his inability to obtain a permit, or by any order or decision of the Inspector of Buildings shall file his written appeal with the Town Clerk of Peru together with an appeal fee as after the order or decision causing the grievance or the refusal to issue such permit in accordance with M.G.L., Chapter 40A, Sections 8 and 15.

Section 15 Occupancy Permits

No Building or Structure hereafter erected, altered, or relocated, shall be used, and no change shall be made of any Building or Structure or of any premises and no water shall be impounded behind any dam designed to impound more than one million (1,000,000) gallons of water unless an occupancy permit has been granted by the Inspector of Buildings to the owner for occupancy of such premises, Building or Structure. Such permit shall not be granted unless the proposed use of the land or building complies in all respects with this By-Law and no use shall be made except the use authorized by such occupancy permit.

Section 16 Amendment and Validity

- 16.1 This By-Law may be amended from time to time at a town meeting in accordance with M. G. L., Chapter 40A.
- 16.2 The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

(Adopted at the Annual Town Meeting on March 9, 2005)
(Approved by the Attorney General on April 11, 2010)

Section 9 Wireless Communication Facilities

9.1 Purpose

The purpose of this by-law is to outline the special permitting process to site a wireless communication facility anywhere in the town of Peru while minimizing potential damage and adverse 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 to reduce the need for new facilities.

9.2 Definitions

ALTERNATIVE TOWER STRUCTURE shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ACT: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934 and 1996.

ANTENNA: Any structure or device used to collect or radiate electromagnetic waves.

CAMOUFLAGED ANTENNA: An antenna and support structure that is manufactured as to be modeled after and mimic a tree. The support pole would look like "bark" and the antennas would be concealed as "branches".

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.

LATTICE TOWER: A guyed or self-supporting three or four sided, open, and steel frame structure used to support telecommunications equipment.

MONOPOLE TOWER: A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

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

ROOF STRUCTURE shall mean a wireless communication structure mounted on a roof of a building or the top of a water tower.

WIRELESS COMMUNICATION BUILDING shall mean any building or shelter used to house equipment primarily for the installation and operation of equipment 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.

9.3 Exemptions from this Bylaw

9.3.1 The following shall be exempt from this Bylaw:

- A. Wireless communication facilities used for Town or State emergency services
- B. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communication Commission and used solely for that purpose.
- C. Wireless communication structures and devices used expressly for home television reception.

9.4 Application Process

- A. Application for a special permit for siting wireless communication facilities shall be filed in accordance with M.G .L. Chapter 40 A.
- B. Copies of the Special Permit Application shall be submitted along with the regular application form to the following: 1 copy to the Building Inspector, 1 copy to the Fire Chief, 2 copies to the Planning Board, and 5 copies to the Zoning Board of Appeals.
- C. Third Party Review: In certain instances, there may be need for expert review by a third party of the technical data submitted by an applicant. The Z.B.A. may require such technical review, to be paid for by the applicant. Review is intended to report on technical aspects of the proposed location but not to provide a

Subjective review of the site requested. Review will address accuracy, completeness, applicability, and validity of the data submitted.

9.5 General Guidelines

- A. No wireless communication facility shall be erected, constructed or installed without a special permit.
- B. Alternative Town Structures and Camouflage Antennas shall be preferred over all other types of wireless communication structure and antennas as to minimize adverse impacts on abutting properties, residential neighborhoods, village centers, traveled ways and areas of historic or scenic value.
- C. Wherever feasible, wireless communication devices shall be located on existing towers or other non-residential structures, minimizing proliferation of new towers.
- D. Wireless communication devices 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.
- E. Wireless communication buildings shall be no larger than 500 square feet and 12 feet high, and shall be designed to match other accessory buildings on the site, and shall be used only for the housing of equipment related to this particular site.

9.6 Siting and Height Requirements

- A. 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 1.5 times the height of the structure to ensure an adequate fall zone.
 - 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 times the height from school buildings, playgrounds, athletic fields, and abutting residences to prevent the structure from appearing to "tower" over, adversely affecting property values.
- B. The height of a Wireless Communication Structure shall be the minimum height necessary to accommodate anticipated and future use. No Tower shall exceed two-hundred (200) feet in height; provided, however, that the ZBA may increase

that maximum if necessary to consolidate the siting of additional necessary Devices on an existing Structure, and if otherwise consistent with the other purposes of this section.

- C. The wireless communication structure shall, when possible, be sited off ridge lines and where their visual impact is the least detrimental to valuable historic and scenic areas.
- D. No new wireless communication structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the ZBA that no existing wireless communication structure can accommodate the applicant's proposed wireless communication device. Evidence submitted to demonstrate that no existing structure can 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 applicant's engineering requirements.
 - 2. Existing wireless communication structures or non-residential structures are not of 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 structure for use are unreasonable as determined by the SPGA.

9.7 Design Requirements

- A. Wireless communication structures shall be designed to accommodate the maximum number of users as technologically possible.
- B. 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.
- C. All wireless communication devices shall be colored, molded and/or installed to blend into the structure and/or the landscape.

- D. The facility shall be fenced to control access to the tower structure, and accessory buildings. Fencing shall be between six (6') and eight feet (8') high. Fencing may be protective in nature, but shall not include a spun barbed wire design. A landscape buffer of evergreen shrubs or tree planting shall be provided on the outside of the fenced area. The shrub or tree planting shall mature to a minimum height equivalent to the fence height and be planted at a height of at least four feet (4').
- E. 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 the lighting should be submitted with the application.
- F. There shall be a maximum of one parking space for each facility to be used in connection with maintenance of the site and not to be used for the storage of vehicles or other equipment.
- G. The project proponent shall be liable for the cost of maintaining the access road (unless accepted as a public way), the project sites, and the facility and for restoration of any damage occurring during construction or as a result of operation of the facility.
- H. Existing on-site vegetation shall be preserved to the maximum extent possible.
- I. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.
- J. No Tower or Personal Wireless Service Facility' or Repeater shall be located within any of the following areas:
 - 1. Massachusetts or federally regulated wetland;
 - 2. A Massachusetts Certified Vernal pool;
 - 3. The habitat of any State listed Rare or Endangered Wildlife or Rare Plant Species;
 - 4. Within 100' horizontally from any Massachusetts regulated wetland;
 - 5. Within 200' horizontally of the Outer Riparian Zone measured horizontally from any river or perennial stream;
 - 6. Within 500' horizontally from any Historic District or property listed or eligible to be listed on the state or federal Register of Historic Places; and,
 - 7. Within 500' horizontally from any archaeological site.

9.8 Items for Submittal

A. TO SITE A NEW WIRELESS COMMUNICATION STRUCTURE, the Applicant shall submit:

1. Site plans and engineering plans prepared by a professional engineer, 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, seals) of the professional(s) who prepared plans and space for reviewing engineer's seal.
 - (b) Name and address of landowner and name and address of abutters. Property lines and location of permanent structures or buildings, within 500 foot radius of proposed wireless communication structure.
 - (c) Existing (from a topographical survey completed within two (2) years of application submittal date by a professional surveyor) and proposed contour lines at maximum of two-foot intervals and spot elevations at base of all the proposed and existing structures.
 - (d) Vegetation to be removed or altered
 - (e) Plans for drainage or surface water and plans to control erosion and sedimentation both during construction and as a permanent measure.
 - (f) Delineation of wetlands, if any.
 - (g) Location of wireless communication structure, including supports or guy wires, if any.
 - (h) Plans for anchoring and supporting the structure, including specifications of hardware and all other building material.
 - (i) Plans for accessory buildings.
 - (j) Layout and details of surfacing for access road and parking.
 - (k) Amenities such as lighting, fencing and landscaping.
 - (l) Plans for a well or other water source, if any.
 - (m) Plans for septic system, if any.
 - (n) Plans for maintenance of roads necessary to access and maintain the property.

- (o) Four view lines in a one to three mile radius of the site beginning at True North and continuing clockwise at ninety degree intervals plus additional view lines from any historic, scenic, or other prominent areas of town as determined by the ZBA.
 - (p) A draft of the contract between the structure/building owner (if applicable) and the applicant.
 - (q) Demonstrate that the wireless communication structure or non-residential structure (if applicable) to which the device will be mounted has the structural integrity to support such device.
2. A map showing the 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 of 1" = 1 000' (or whatever is necessary to show where in town the proposed tower is sited) which shall show streets 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 professional 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 type of additional facilities it can accommodate.
 - (d) Describe actions to be taken if electromagnetic radiation from the facility exceeds levels as designated by the Federal Communications Commission.
 - (e) Describe the projected future needs of the carrier, and how the proposed wireless communication facilities fit with the future projections to serve the Town and adjacent towns.
 - (f) Describe leasing agreements should another carrier desire to co-locate.
 - (g) Describe special design features to minimize the visual impact of the proposed wireless communication facility.

6. Proof of approval of all other necessary permits needed for construction and operation.
 7. After the application is submitted, and not less than 14 days or more than 21 days before the public hearing, the applicant shall arrange to fly a four-foot-diameter balloon at the site of the proposed wireless communication structure at the maximum height of the proposed installation, to photograph from various locations the balloon and then superimpose a tower at that height for visualization purposes. The date and location of the flight shall be advertised at least 14 days, but not more than 21 days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town.
- B. To site a wireless communication device on existing wireless communication structures, or non-residential structures, such as buildings, grain silos, steeples, water towers or other non-residential structures, including on-location with another carrier, provided that the new use does not add to the height of the structure, the Applicant shall submit:
1. Site plans and engineering plans, prepared by a professional engineer, on 24" x 36" sheets at a scale of 1" = 40' or 1"=200' on as many sheets as necessary which shows the following:
 - (a) North arrow, date, scale, the seals) of the professionals 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 interference with adjacent service areas.
 3. A locus map at a scale 1"= 1 000' or larger if necessary, to show where in town the proposed device is sited, which shall show streets, buildings, and landscape features.
 4. A narrative report written by the carrier and professional engineer which shall:
 - (a) Include a copy 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 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.
- 5. Proof of approval of all other necessary permits needed for construction and operation.
 - 6. If the proposed facility adds more than five feet to the height of the structure at the effective date of this Bylaw, the ZBA may require a balloon test as describe above in 9.8.A.7.

9.9 Approval

- A. 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 ZBA shall find:
 - 1. That the applicant has demonstrated to the satisfaction of the SPGA that the requirements of the by-law have been met.
 - 2. That the size and height of the structure is the minimum necessary.
 - 3. That the proposed wireless communication facilities will not adversely impact historic structures or scenic views.
 - 4. 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.
 - 5. When considering an application for a wireless communication facility, the ZBA shall place great emphasis on the proximity of the facility to residential dwellings, its impact on these residences and will encourage the use of existing structures.
 - 6. Any extension, or construction of new or replacement towers or transmitters shall be subject to an amendment to the special permit, following the same procedures as siting a new wireless communication device on an existing structure.

7. Any special permit for wireless communication facilities will be reviewed every five (5) years. If after review, all conditions regulating said permit are in compliance, then the Special Permit will be renewed for an additional five (5) years.

9.10 Conditions of Use

A. The applicant shall post an initial bond to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site and structure (s) and to cover the removal of facility in the event of non-operation in an amount approved by the SPGA. An access road may include existing town roads not designed for heavy traffic.

B. Regulatory Compliance:

1. Inspections will be conducted at least every 24 months or earlier if a more stringent compliance schedule is mandated by another agency, to assure continuing compliance.
2. If the FCC or 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.
3. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, devices at the owner's expense.
4. If the device is moved lower on the structure and the top of the structure is no longer needed, then the non-operational part of the structure shall be removed within 120 days.

C. Removal and Repair

1. An applicant must execute a covenant with the SPGA agreeing to remove within 180 days of notice from the town, the wireless communication facility not in operation for a period of 12 months, unless the reason for non-operation is the result of major damage.
2. If the facility is not removed within 180 days, the town will remove said facility at the owner's expense.
3. In the event of major damage, repair must begin within six months of damage. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

9.11 Fee Structure

- A. The fee for filing an application with the Special Permit Granting Authority is \$150.00. The applicant is responsible for the cost of mailing notification to all abutters and for the cost of the legal advertising.

(Adopted at the Annual Town Meeting on March 9, 2005)

(Approved by the Attorney General on April 11, 2010)

(Amended July 8, 2013)

Section 10 WIND ENERGY CONVERSION SYSTEMS

10.1 Introduction.

The purpose of this by-law is to outline the special permitting process to site a wind energy conversion system, hereinafter referred to as facility, anywhere in the town of Peru while minimizing potential damage and adverse impacts of facility on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of wind energy conversion systems in an orderly way.

10.2 Definitions.

ABANDONMENT shall mean the unexcused failure to operate the facility, except for repair, refurbishment, replacement or upgrading, for a consecutive period of six months or more.

WIND ENERGY CONVERSION SYSTEMS, GENERATING FACILITIES OR WINDMILLS

(hereinafter referred to as "FACILITY": Erection, construction or alteration of facilities necessary for the provision of energy conversion or generation, including related transmission, distribution, collection, storage or supply systems whether underground, on the surface or overhead, and other equipment or byproducts in connection therewith and the sale of the energy produced thereby.

WIND TURBINE is typically the main structure of the facility and that, which captures the wind and converts it to electricity; the turbine includes the primary components of the foundation, tower, nacelle or hub, and blades.

INHABITED STRUCTURE shall mean any residential structure existing on the date that an application for a special permit hereunder is filed. Whether a residential structure existed on the date that a special permit application was filed may be proven by a valid occupancy permit, valid building permit, local tax record demonstrating the existence of a residential structure, or similar document evidencing a residential structure or take any other action relative thereto. *(Adopted 7/8/2013)*

10.3 Application Process.

- a. Application for a special permit for a wind energy conversion system shall be filed in accordance with Town of Peru By-Laws.
- b. The above information shall be submitted along with the regular application form to the following: 1 copy to the Building Inspector, 1 copy to the Fire Chief, 2 copies to the Planning Board, and 5 copies to the Zoning Board.
- c. Third Party Review: In certain instances, there may be need for expert review by a third party of the technical data submitted by an applicant. The ZBA may require such technical review, to be paid for by the applicant. Review is intended to report on technical aspects of the proposed location but not to provide a subjective review of the site requested. Review will address accuracy, completeness, applicability, and validity of the data submitted.

10.4 Siting and Height Requirements.

**Note 10.4 (a) was amended and adopted on June 6, 2015 at the Annual Town Meeting, Warrant Article #41 and was approved by the Attorney General August 5, 2015 – Case #7702*

- a. The hub height of the facility shall be less than 110' to the hub and have a blade clearance of Twenty Feet (20') from the ground. *(Amended June 6, 2015)*
- b. The Peru Zoning Board of Appeals shall require that any such facility be located at a distance of at least 1.5 times the height of the facility from any structure occupied by Humans and from all property lines. The Peru Zoning Board of Appeals shall waive the setback restriction from the property lines when the abutters of those affected properties so grant their permission. Said permission shall be in writing and recorded in the Registry of Deeds.
- c. The facilities shall be sited, where possible, so as to minimize visual impact consistent with economic viability.

10.5 Additional Design Requirements.

- a. Operational noise, as measured by the latest standards of the American National Standards Institute, shall not exceed 60 decibels for more than 15 minutes in anyone day when measured from an unobstructed distance from the inhabited structure, except for temporary construction or maintenance work, and shall not likewise exceed 40 decibels from 1,000 feet.
- b. 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.
- c. All wind energy conversion systems shall be colored, molded and/or installed to blend into the structure and/or the landscape.
- d. The SPGA shall be provided with an official determination by the Federal Aviation

Administration (*FAA*) as to its lighting requirements and or markings.

- e. The project proponent shall be liable for the cost of maintaining the access road (unless accepted as a public way), the project sites, and the facility and for restoration of any damage occurring during construction or as a result of operation of the facility.
- f. Existing on-site vegetation shall be preserved to the maximum extent possible.
- g. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.
- h. The Project proponent may be required as a condition of the Special Permit to provide adequate evidence of financial ability, by security instrument or other mechanism reasonably satisfactory to the SPGA to insure compliance with all conditions in the special permits and to: remove the facility at the end of its useful life or earlier abandonment or to permit the Town to remove such facility at no cost to the Town in the event of the proponents failure to do so as set forth above.

10.6 Items for Submittal.

Wind energy conversion systems or generating facilities, or windmills (hereinafter referred to as facility) may be authorized by special permit issued by the Zoning Board of Appeals. Application for a facility shall be filed in accordance with the rules and regulations already established in the Town's Bylaws and with the Zoning Board of Appeals.

In the case of a proposal for siting a new facility structure, the ZBA shall hold a public hearing within sixty-five days of filing of an application and shall issue a decision within ninety days following the close of the public hearing.

A. TO SITE WIND CONVERSION SYSTEM OR GENERATING FACILITIES, OR WINDMILLS, the Applicant shall submit:

- 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 sheet as necessary which shows the following:
 - a. North arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for reviewing licensed engineer's seal.
 - b. Name and address of landowner and name and address of abutters.
 - c. Property lines and location of permanent structures or buildings, within 600-foot radius of proposed facility or generating facilities, or windmills 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 contour lines at a maximum of 2-foot intervals and spot elevations at 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 wetland resource areas, if any.

- h. Location of facility structure, including supports 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 and parking.
 - l. Amenities such as lighting, fencing, and landscaping.
 - m. Four view lines in a one to three-mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals, plus additional view lines from any historic, scenic, or other prominent area of Town determined by the Z.B.A.
 - n. Plans for a well or other water source, if any.
 - o. Plans for septic system, if any.
 - p. Plans for maintenance of roads necessary to access and maintain the property.
 - q. Location of rare species or communities.
2. A locus map at a scale 1"=1000' or larger if necessary, to show where in town the proposed facility is sited, which shall show streets, buildings, and landscape features.
3. A description of the soil and surficial geology at the proposed site.
4. 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 and location.
 - c. Describe the capacity of the structure, including the number and type of additional facilities it can accommodate.
 - d. Describe the projected future needs of the operator, and how the proposed facilities fit with future projections to serve the Town and adjacent towns.

- e. Describe special design features to minimize the visual impact of the proposed facility.
 - f. Describe how project will comply with Massachusetts Stormwater Policies.
5. Proof of approval of all other necessary permits needed for construction and operation, other than the building permit, is required before the issue of the building permit.
 6. Written authorization or copy of contract from property owner of the proposed tower site.
 7. After the application is submitted, and not less than 14 days or more than 21 days before the public hearing, the applicant shall arrange to fly a 9-1/2 ft. balloon at the highest point and at each end of the array of the facility at the maximum blade tip height of the proposed structures. Photograph the balloons from sites determined appropriate by the ZBA. The date and location of the flight shall be advertised at least 14 days, but not more than 21 days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town at least five days prior to such flight.

10.7 Conditions of Use

- a. The applicant shall post an initial bond or other security to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site, and structure(s) and to cover the removal of facility in the event of non-operation in an amount approved by the ZBA. An access road may include existing town roads not designed for heavy traffic.
- b. The project proponent shall be required to provide evidence of liability insurance against loss or damage to persons, including personal injury or death, and structures occasioned by failure of the facility.
- c. Regulatory Compliance: All energy conversion systems must meet or exceed current standards and regulations of the FAA, the FCC, the Environmental Protection Agency, the American National Standards Institute, and any other agency of the federal government with the authority to regulate the facility.
 - i. Inspections will be conducted at least every 24 months or earlier if a more stringent compliance schedule is mandated by another agency, to assure continuing compliance.

1. the facility shall be inspected by a licensed structural engineer who is regularly involved in the maintenance, inspection and/or erection of wind mills, demonstrating structural integrity and continuing compliance with current standards.
 2. a copy of such inspection records shall be filed with the Building Inspector and the Planning Board by the Special Permit Holder, and may be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder.
- ii. If the FAA or other agency 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.
 - iii. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, and devices at the owner's expense.
- d. The SPGA may impose such safety-related conditions, including but not limited to fences, gates, or signs as it deems reasonably necessary in the circumstances
 - e. The SPGA may impose such conditions as it deems reasonably necessary to minimize or mitigate detrimental effects to the environment and community character;
 - f. The SPGA may impose as a condition of any Facility special permit that the project proponent be required to mitigate any radio or television interference demonstrated to have resulted from the operation of the facility.
 - g. Removal and Repair
 - i. An applicant must execute a covenant with the ZBA agreeing to remove, within 90 days of notice from the town, the energy conversion facility not in operation for a period of twelve months, unless the reason for non-operation is the result of major damage.
 - ii. If the facility is not removed within 90 days, the Town will remove said facility at the owner's expense.
 - iii. In the event of major damage, repair must begin within 30 days of damage. Major damage shall mean damage to the facility caused by no fault of the owner operator.

10.8 Fee Structure

- a. An application fee of \$150.00 (used for legal publishing and notification requirements).

- b. Any additional fees as needed pertaining to special consultants specific to the Governing Authority or ZBA's need in reviewing information provided by the applicant.