

ARTICLE 10. WIRELESS TELECOMMUNICATIONS FACILITY (WTF) ORDINANCE

A. PURPOSE

In order to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities: to encourage the co-location of wireless telecommunications facilities thus helping to minimize adverse visual impacts on the community, and to further the goals and policies of the comprehensive plan, the following Wireless Telecommunications Facilities (WTF) regulations and procedures are adopted pursuant to 30-A M.R.S.A. Sections 3001 and 4312 et. Seq.

B. APPLICABILITY

This ordinance applies to any construction, expansion and co-location of any WTC except as provided in section 1.

1. The following are exempt from the provisions of this ordinance:
 - a. Temporary WTF's erected for emergency communications by public officials.
 - b. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
 - c. Parabolic antennas less than seven (7) feet in diameter that are an accessory use of the property.
 - d. Maintenance, repair or reconstruction of a WTF and related equipment, provided that there is no change in the height or any other dimension of the facility.
 - e. Temporary WTF's in operation for a maximum period of ninety (90) days and promptly removed.
 - f. An antenna that is an accessory use to a residential dwelling unit.
2. Any tower constructed shall be designed to collapse upon itself and no habitable structure shall be located within the height of the tower plus 75 feet.

C. APPLICATION PROCESS

All persons seeking approval of the Planning Board under this ordinance shall meet with the CEO no more than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

The application must include the following information:

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.

2. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. A USGS 7.5 minute topographic map or maps showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
4. A site plan including:
 - a. A plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
 - b. A boundary survey performed by a land surveyor by the State of Maine.
5. A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility and any other proposed structures showing height above ground level;
 - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
 - c. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - d. A narrative discussing:
 - i. The extent to which the proposed facility would be visible from or within a designated scenic resource;
 - ii. The tree line elevation of vegetation within 100 feet of the facility; and
 - iii. The distance to the proposed facility from the designated scenic resource's noted viewpoints.
6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7. Evidence demonstrating that no existing building site or structure can accommodate the applicant's proposed facility. The evidence may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area that meet the applicant's engineering requirements;
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost so as to meet the applicant's engineering requirements;
 - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - i. Planned, necessary equipment would exceed the structural capacity of existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d. For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
 - e. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access;
8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places.
9. To encourage co-location, a signed statement binding the owner of the WTF and his or her successors and assigns to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the WTF by third parties;
 - c. Allow shared use of the WTF if an applicant agrees in writing to pay reasonable charges for co-location;

- d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principals. This charge may include, but not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- 10. A bond or other form of surety approved by the Planning Board in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities. Such cost is to be determined by an independent Registered Professional Engineer in the State of Maine. The bond or other financial surety shall be in effect for as long as the tower is in place.
- 11. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community, at the applicant's expense.
- 12. The names and mailing addresses of all property owners within five hundred (500) feet of the proposed facility.

(END ARTICLE X)

DRAFT LAND USE ORDINANCE CHANGES