



TOWN OF WASHINGTON, MAINE

WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

ADOPTED

26 MARCH 2004

AMENDED

30 MARCH 2007

This is to certify that this ordinance was adopted by majority vote at the Annual Town Election held March 26, 2004 at the Bryant Community Room and amended by majority vote at the Annual Town Election held March 30, 2007 at the Bryant Community Room

Cyndie Bourgeois, Town Clerk

**TOWN OF WASHINGTON, MAINE
WIRELESS TELECOMMUNICATIONS FACILITIES (WTF)
ORDINANCE**

ARTICLE I – TITLE AND PURPOSE

§ 1. TITLE

This ordinance shall be known and cited as the “Town of Washington, Maine Wireless Telecommunications Facilities (WTF) Ordinance”, hereinafter referred to as “this Ordinance.”

§ 2. PURPOSE

The purpose of this Ordinance is to establish predictable and balanced regulations and to provide a process and a set of standards for the construction of wireless telecommunication facilities within the Town of Washington in order to:

- A. Implement a municipal policy concerning the provision of wireless telecommunications services, and the appropriate siting of their facilities;
- B. Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunication facilities in order to avoid potential damage to adjacent properties;
- C. Encourage the provision of advanced wireless telecommunication facilities to the largest number of businesses, institutions and residents of Washington;
- D. Encourage competition in wireless telecommunications services;
- E. Permit and manage reasonable access for wireless telecommunications on a competitively neutral basis;
- F. Ensure that all wireless telecommunication carriers providing facilities or services within Washington comply with the ordinances of the Town;
- G. Ensure that Washington can continue to fairly and responsibly protect the public health, safety and welfare;
- H. Encourage the co-location of wireless telecommunication facilities in order to maximize the use of approved or pre-existing sites within the coverage area;
- I. Minimize adverse impact on the Town’s aesthetic resources and to protect the scenic, historic, environmental, natural resources, and visual character of the community;
- J. Enable Washington to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development; and
- K. Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the Town with minimal impacts on existing uses.

ARTICLE II – ACTIVITIES EXEMPT FROM THIS ORDINANCE

The following are exempt from the provisions of this Ordinance:

- A. Amateur (Ham) radio stations licensed by the FCC or wireless telecommunication facilities used for the transmission and receipt of wireless computer networks, with a maximum tower height, including antenna, of seventy-five (75) feet above ground level. Amateur (Ham) radio facilities shall be exempt from all fees listed in this Ordinance when co-locating on a tower of any height.
- B. Parabolic antennas and residential antennas or towers that are an accessory to a residential dwelling unit for personal or non-commercial use.
- C. Maintenance, upgrade, or repair of an existing WTF and its equipment, provided that there is no change in the height or any other dimension of the facility.
- D. Temporary wireless telecommunications facilities for emergency communications by public officials.
- E. Facilities completely enclosed in existing structures at the time of enactment of this Ordinance.
- G. Governmental services are exempt from all fees contained herein, but are subject to the rest of this ordinance.

ARTICLE III – DEFINITIONS & REFERENCES

§ 1. CONSTRUCTION OF LANGUAGE

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

§ 2. REFERENCES TO THE TOWN

All references in this Ordinance to “Town,” “the Town,” “the Town of Washington,” and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to The Town of Washington, Maine, an incorporated municipality in the County of Knox, State of Maine and its municipal boards, officials and officers.

§ 3. REFERENCES TO OTHER DOCUMENTS

All references in this Ordinance to any document, chapter, handbook, or other external reference, shall be construed to be references to said documents and their successor documents, as they may be amended or replaced from time to time by other materials.

§ 4. DEFINITIONS

Terms used in this Ordinance shall have the following meaning:

Abandonment means a WTF that is not listed as having a license in the FCC Database or is out of operation for a continuous period of twelve (12) months or more.

Accessory Use means uses clearly incidental and subordinate to a principal use and located on the same lot as the principal use. Such uses are not implied by this Ordinance and must be permitted when necessary under the Town’s other ordinances.

Amateur (Ham) radio stations means radio telecommunications services and facilities licensed by the FCC as such.

Antenna means any system of poles, panels, rods, reflecting discs or similar devices used for transmission or reception of radio or electromagnetic frequency signals.

Average tree canopy height is the average height of trees with dominate or co-dominate crown positions.

Camouflaged wireless telecommunication facilities are disguised, hidden, or part of a proposed structure or placed within an existing structure.

Co-location means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial use means a for-profit operation, even if that operation loses money.

Designated Scenic Resource means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Dwelling:* any building or structure or portion thereof designed or used for residential purposes.

- A. **SINGLE-FAMILY DETACHED DWELLING:** a structure containing only one dwelling unit for occupation by not more than one family. The term shall include multi-sectional modular homes, but shall not be deemed to include manufactured housing units or older mobile homes.
- B. **SINGLE-FAMILY ATTACHED DWELLING:** a building containing single family dwelling units each with two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached units; which have no dwelling units above or below them; and which have no common hallways. Single family attached dwellings are permitted as part of clustered residential developments or in any district which allows multifamily dwellings.
- C. **TWO-FAMILY DWELLING:** a building used for residential occupancy by two families living independently of each other.

* Amended 3/30/2007.

- D. **MULTI-FAMILY DWELLING:** a building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units. The term also includes commercial space as the principal use.

Dwelling Unit:* a room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, sleeping, cooking, and eating. The term shall include seasonal dwellings (designed for occupancy for less than three months), but shall not include motor homes or recreational vehicles, nor shall it include hotel or motel rooms or suites, rooming house rooms, or similar accommodations. Living areas shall mean actual enclosed space suitable for year-round occupancy and shall not include porches, patios and similar areas whether or not enclosed.

Ecologically Sensitive Areas means wetlands, swamps, wildlife habitat areas delineated by the Dept. of Inland Fisheries and Wildlife (IF&W), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and flood plain areas (subject to a 100 year flood). Also to include Protected Natural Resources. Ecologically sensitive areas shall specifically include all areas within the Conservation District, as defined in Article VII, Section 1 of the *Town of Washington Land Use Ordinance*.

Equipment Shelter or base receiver station, is an enclosed structure, shed, or box at or near the base of the mount within which equipment for wireless telecommunication facilities are housed.

Expansion means the addition of antennas, towers, or other devices to an existing structure or any enlargement of that structure.

FAA means the Federal Aviation Administration, or its lawful successor.

FCC means the Federal Communications Commission, or its lawful successor.

Fall Zone is the area on the ground from the base of a WTF that forms a circle with a radius equal to 125% of the height of the facility, including any antennas or other appurtenances.

Guyed Tower is a tower that is tied to the ground or other surface by diagonal cables for lateral support.

Height means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation.

Historic or Archaeological Resources means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register; or
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; or
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Lattice Tower refers to a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Licensed Carrier is a company authorized by the FCC to construct and operate a commercial mobile radio services system.

Mast is a pole that resembles a street light standard or telephone pole.

Mean Finished Grade is calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the tower, building, or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other accessory building features usually erected at a height greater than the main roofs of buildings.

Monopole is a type of mount, normally thicker than a mast, that is self-supporting with a single shaft of concrete, steel, or wood, which is designed for the placement of antennas or arrays along the shaft.

*Amended 3/30/2007.

Mount is the structure or surface upon which antennas are mounted. Antennas may be mounted on the roof of a building (roof-mounted), on the side of a building (side-mounted), mounted on the ground (ground-mounted), or mounted on a structure other than a building (structure-mounted.)

Parabolic Antenna (also known as a **satellite dish antenna**) means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.

Principal Use means the use other than one which is wholly incidental or accessory to another use on the same premises.

Residential Dwelling Unit:* a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Site Search Ring Analysis Report means the standard industry report of an analysis of the potential sites within an identified circular broadcast area of service.

Temporary Wireless Telecommunications Facility means any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a limited-time special event or conference for a maximum of 90 days per year use.

Tower means any structure, whether free standing or in association with a permanent structure, used primarily for the support of one or more antennas. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

Tower height means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the mean finished grade of the facility site. If the support structure is on a sloped grade, then the average height between the highest and lowest grades shall be used in calculating the antenna height.

Wireless Telecommunications includes any personal wireless service defined in the Federal Telecommunications Act of 1996. This Act includes, but is not limited to, FCC licensed commercial wireless telecommunications services, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, common carrier wireless exchange access services, and wireless computer networking or internet access.

Wireless Telecommunications Facility (WTF) includes all equipment (including any repeaters and towers) with which wireless services telecommunications are broadcast and/or received.

ARTICLE IV – AUTHORITY, APPLICABILITY & ADMINISTRATION

§ 1. AUTHORITY

This ordinance is adopted pursuant to Home Rule provisions of the Maine Revised Statutes, 30-A M.R.S.A. Section 3001, *et. seq.*

§ 2. ADMINISTRATION

- A. The Planning Board shall administer all requests under this Ordinance except for co-location and temporary permits.
- B. The Code Enforcement Officer shall administer requests for co-location and temporary permits and enforce this Ordinance.

§ 3. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of adoption by voters at a Town Meeting scheduled for this purpose.

§ 4. PERMIT REQUIRED

No person shall place, construct, erect, expand, co-locate, or modify a WTF without an approved permit from the Town of Washington.

- A. Any conditional use and building permits required by Washington's Land Use Ordinance must be obtained prior to making an application for a new WTF under this Ordinance.
 1. The Planning Board may accept application and fee separately for both Conditional Use and WTF approval and schedule consideration of both for the same date, taking up Conditional Use first.

*Amended 3/30/2007.

2. If the Planning Board finds the wireless telecommunications use does not meet the standards for Conditional Use, the application and fee submitted for WTF approval shall be returned to the applicant.
- B. New facilities must meet all of the requirements of this Ordinance as specified; the burden of proof shall rest with the applicant.
- C. Expansion or co-location permits may be obtained from the Code Enforcement Officer following the standards of Article V, Section 4 (B) and Section 8 (B); the burden of proof shall rest with the applicant.
- D. A temporary WTF that will be in operation for a maximum period of ninety (90) days annually may operate under a permit obtained from and signed by the Code Enforcement Officer provided the information required in Article V, Section 4 (A) (1), (2), and (3) and any other information required by the Code Enforcement Officer is supplied in writing prior to seeking a Temporary Wireless Service Facility Permit.

§ 5. ACCESSORY USES NOT INCLUDED

A permit granted under this Ordinance does not imply permission for any accessory uses.

ARTICLE V – APPLICATION REVIEW

§ 1. PREAPPLICATION MEETINGS

An application form shall be secured from the Code Enforcement Officer who shall explain the ordinance provisions, and detail the exact submissions and requirements for application.

§ 2. APPLICATION APPROVAL PROCESS

Applicants seeking approval for facilities under this Ordinance shall file an application with the Code Enforcement Officer.

§ 3. APPLICATION FEE

A nonrefundable initial application fee payable to the *Town of Washington, Maine* must be submitted with the application. No application review may begin without the payment of this fee. Any additional fees for reviews and plans required by the Planning Board are the responsibility of the applicant.

- A. For new facilities, a fee of five dollars (\$5.00) per foot or fraction thereof of height from the ground for each proposed tower.
- B. For expansion or co-location on existing facilities, a fee of \$50 for each additional application.

§ 4. SPECIFIC SUBMISSION REQUIREMENTS

Applications for WTF permits must be made on the form provided herein attached to the Washington Basic Application Form and include the following, at the applicant's expense:

A. NEW FACILITIES

1. The name, address, and telephone number of the applicant and any co-applicants, as well as their agents. Corporations must list any local as well as national offices, addresses and telephone numbers and the names of contact persons.
2. Documentation of the applicant's right, title or interest in the property where the facility is to be sited.
- 2A.* No WTF tower shall be constructed within 1,000 feet of any dwelling, dwelling unit, or residential dwelling unit unless a waiver, signed and notarized, from each and every owner of such dwelling, dwelling unit, or residential dwelling unit within 1,000 feet of the proposed WTF tower location stating there is no objection to the construction of the proposed WTF tower is obtained and submitted with the application.
3. The Tax Map and Lot Number and the Washington 911 Address of the parcel.
4. A copy of the FCC license for the facility or a signed statement from the owner of the facility attesting that the facility complies with current FCC regulations.
5. A site plan:
 - a. Prepared and certified by a professional engineer registered in Maine indicating
 - i. the location, type, and height of the proposed facility;
 - ii. loading/antenna capacity;

*Amended 3/30/2007.

- iii. on-site and abutting off-site land uses;
 - iv. means of access;
 - v. setbacks from property lines;
 - vi. identification of sites, buildings, structures or objects significant in American history, architecture, archaeology, engineering, or culture that are listed or are eligible to be listed in the National Register of Historic Places (see 16 USC 470w(5); 36 CFR 60 and 800);
 - vii. identification of areas in the Washington Conservation or Shoreland Districts, as well as any other wetlands, or known wildlife habitat areas on the site or adjacent to site on abutting lots; and
 - viii. all applicable American National Standards Institute (ANSI) technical and structural codes.
- b. The Board also may require an independent review of the site plan by a professional engineer or independent consultant at the applicant's expense.
6. Location map and elevation drawings of the proposed facility and any other proposed structures showing height above ground level, color, and identifying structural materials.
 7. Photo simulations of the proposed facility. Each photo should be labeled with line of sight, elevation, and the date taken. Photos must demonstrate the color and method of screening of the proposed facility.
 8. A United States Geological Survey 7.5 minute topographic map showing the current location of all structures and wireless telecommunication facilities above 100 feet in height from ground level, except antennas located on roof tops, within a 5 (five) mile radius of the proposed facility. This requirement may be met by submitting information from the FCC Tower Registration Database current within thirty days prior to the date the application is filed.
 9. Certification by a professional engineer registered in Maine that the proposed facility meets industry standards and satisfies all Federal, state, and local building code requirements. Certificates of compliance with ANSI Standards included with prefabricated towers may be submitted as an alternative.
 10. A boundary survey for the project area performed by a land surveyor licensed by the State of Maine.
 11. Any site search ring analysis reports should be included.
 12. 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.
 13. Evidence demonstrating that no existing co-location, building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to 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 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 the 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.
 14. Any information of relevance to a determination whether co-location is feasible under the design configuration most accommodating to co-location.
 15. A landscaping plan indicating:
 - a. the proposed placement of the facility on the site;

- b. location of existing structures, trees, and other significant site features;
 - c. protections for any ecologically sensitive areas within the boundary of the facility;
 - d. the type and location of plants proposed to screen the facility;
 - e. the method of fencing, the color of the structure; and
 - f. the proposed lighting if any.
16. A narrative discussing any scenic resource, if applicable.
 17. A form of guarantee approved by the Planning Board to pay for the costs of removal of the facility if it is abandoned.
 18. 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.
 19. A balloon test, or other comparable test, illustrating the proposed height and location of a WTF, may be required at applicant expense. Adequate notice to the public of the test shall be given by the applicant.
 20. Contract with a wireless service assuring that any tower to be permitted is to be put to use within one year.
 21. The names and mailing addresses of all property owners within one thousand (1,000) feet of the proposed facility.
 22. The number of antennas to be located on the WTF.
 23. Copy of current liability insurance policy.
- B. EXPANSION OR CO-LOCATION ON EXISTING FACILITIES**
1. The name, address, and telephone number of the applicant and any co-applicants, as well as their agents. Corporations must list any local as well as national offices, addresses and telephone numbers and the names of contact persons.
 2. Documentation of the applicant's right, title or interest in the property where the facility is to be sited.
 3. The Tax Map and Lot Number and the Washington 911 Address of the parcel.
 4. A copy of the FCC license for the facility or a signed statement from the owner of the facility attesting that the facility complies with current FCC regulations.
 5. A copy of the signed contract with the owner of the facility guaranteeing the co-locator agrees to abide by the owner's permit conditions.
 6. The number of additional antennas to be located on the WTF.

§ 5. NOTICE OF COMPLETE APPLICATION

- A. Upon receipt of an application and initial fee, the Code Enforcement Officer (CEO) shall provide the applicant with a dated receipt.
- B. For applications for new facilities
 1. The CEO shall review the application and forward it within fourteen (14) working days along with 10 copies of the application provided by the applicant to the five members of the Planning Board and two alternates, one to be retained by the Code Enforcement Officer, one to the Selectmen, and one for public inspection together with his opinion regarding the completeness of the application.
 2. Within forty (40) working days of receipt of an application from the CEO, the Planning Board shall review the application and determine if it meets the submission requirements.
 3. Within fourteen (14) days of determination, the Planning Board shall notify the applicant in writing if the application meets the submission requirements, or, if not, shall notify the applicant in writing, specifying any additional materials or information still required.
- C. For applications for expansion or co-location on existing facilities
 1. The CEO shall review the application within fourteen (14) working days.
 2. If the application is found to be complete, the Code Enforcement Officer shall notify the applicant in writing.

3. If the application is found to be incomplete, the Code Enforcement Officer shall notify the applicant in writing, specifying the additional materials or information still required.

§ 6. PUBLIC HEARING

- A. All complete applications under this Ordinance for new facilities shall require a public hearing.
- B. A public hearing on the proposed activity shall be conducted within forty-five (45) days of the date of the determination letter from the Planning Board, as specified in Article V, Section 5(B)(3), above, in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691(3)A-F or as amended.
- C. Notice of the public hearing shall be advertised by the Planning Board at least 10 days in advance in a local newspaper and posted in other places used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the matter to be addressed.

§ 7. NOTICE TO ABUTTERS

At least 10 days before the public hearing, the Planning Board shall mail a certified notice to land owners within 1,000 feet of any boundary of the property for which application is being made at the cost of the applicant. Said land owners shall be persons listed on Town tax records

§ 8 DECISION ON THE APPLICATION

- A. New facilities
 1. The Planning Board shall, within thirty days of the completion of the public hearing process or within such other time limit as may be mutually agreed to by the Planning Board and applicant, issue a decision denying, or granting approval, or granting approval on such terms or conditions as it may deem advisable to satisfy the criteria of this Ordinance.
 - a. In all instances, the burden of proof shall be upon the applicant.
 - b. The Planning Board shall make a written finding regarding the applicant's Financial and Technical ability to satisfy the criteria of this Ordinance and conditions of any permit.
 2. Upon approval of the permit a majority of the Board shall sign all copies of the final site plan.
 - a. The original shall be recorded by the applicant with the Knox County Registry of Deeds.
 - b. One copy shall be retained by or filed with:
 - i. the applicant;
 - ii. the Planning Board;
 - iii. the Tax Assessor; and
 - iv. the Code Enforcement Officer.
 - c. The Planning Board shall maintain a permanent record of their action on the wireless service facility.
 - d. Within 90 calendar days of approval, the complete application, site plan, and Planning Board Decisions shall be recorded by and at the expense of the applicant with the Knox County Registry of Deeds and a certified copy returned to the Town.
 - e. Any application, site plan, and Planning Board Decisions not recorded within 90 days after approval, with the Knox County Registry of Deeds shall be null and void.
 3. Approval by the Planning Board of a personal wireless facility activity plan shall not constitute or be evidence of any legal acceptance by the Town of any road, easement, or other open space shown on such plan.
- B. Expansion or co-location on existing facilities
 1. The Code Enforcement Officer shall, within fifteen days of accepting a complete application, issue a written decision denying or granting approval of the proposed activity.
 - a. Within 90 calendar days of approval, the complete application and Code Enforcement Officer Decisions shall be recorded by and at the expense of the applicant with the Knox County Registry of Deeds and a certified copy returned to the Town.
 - b. Any application and decisions not recorded within 90 calendar days after approval, with the Knox County Registry of Deeds shall be null and void.

§ 9. OPERATION CONDITIONS AND LIMITATIONS

- A. Before any activity begins, and as a condition of the permit, the applicant shall apply for and receive all applicable permits required by Town, state or federal regulations, laws or ordinances regulating such developments, including any Conditional Use Permit required by the Land Use Ordinance.
- B. Any violation of other permits necessary for operation that are noted in the permit granted under this ordinance shall be considered a violation.
- C. A signed statement stating that the owner of the wireless service facility agrees to the following standard conditions of approval:
 - 1. to respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - 2. to negotiate in good faith for shared use of the wireless service facility by third parties;
 - 3. to allow shared use of the wireless service facility if an applicant agrees in writing to pay reasonable charges for co-location;
 - 4. to require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of:
 - a. site selection;
 - b. planning project administration;
 - c. land costs;
 - d. site design;
 - e. construction;
 - f. financing;
 - g. return on equity;
 - h. depreciation; and
 - i. all of 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.
 - 5. to maintain the structures in good condition. Such maintenance shall include, but is not limited to, painting, structural integrity of the mount and security barrier, buffer areas, and landscaping.

§ 10. EXPIRATION OF APPROVAL

Personal Wireless Facility Activity permits shall expire two years from the date of issuance unless the tower is substantially complete. If reasonable need can be shown, the Planning Board may extend this permit for up to one additional year at no extra cost.

§ 11. PLAN REVISIONS OR EXPANSIONS AFTER APPROVAL

Plan revisions or expansions after approval shall be made as further provided for in Article VIII §5 of this Ordinance.

§ 12. EXPERT WITNESSES AND OPINIONS

- A. In the event that the Planning Board or the Code Enforcement Officer requires expert opinions, advice or testimony during the course of reviewing the application, due diligence shall be used to obtain and utilize free services from governmental or non-profit sources.
- B. Should the Planning Board or the Code Enforcement Officer be unable to obtain and utilize such services, it shall require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, and the purpose for which the expert is required, and the approximate cost of the expert.
- C. The applicant shall be provided with an opportunity to meet with the Planning Board or the Code Enforcement Officer to arrange a schedule for payment of the costs.
- D. The applicant shall have the right to request a public hearing before the Appeals Board to determine if the experts, as noticed by the Planning Board or the Code Enforcement Officer, are necessary to a determination of

any issue properly before the Planning Board or the Code Enforcement Officer, and if the approximate costs of the expert are reasonable.

- E. The applicant shall request the hearing within 10 days of the meeting establishing the costs, or such time as is agreed to by the Planning Board or the Code Enforcement Officer and the applicant.
- F. It will be the applicant's burden to prove that the requested expert is unnecessary, or that the cost is excessive.

§ 13. TRANSFER OF PERMIT.

Within thirty (30) days of the date of transfer, by sale, lease or otherwise, of a personal wireless facility or operation, the new owner or operator shall file notice of the transfer with the Town.

- A. A statement of agreement and capacity to comply with the Town Personal Wireless Facility Permit must accompany the transfer.
- B. Failure to comply with this requirement shall be a violation of this Ordinance and may subject the violator to any penalty, or combination of penalties, that may be imposed under this Ordinance as required by Article VIII, §5.
- C. The new owner or operator shall provide the Planning Board the information as required in Article V §3-A of this Ordinance.
- D. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and be processed accordingly.
- E. The Planning Board shall hold a public hearing and provide an opportunity for public comment on any changes in the terms of the permit. Notice of that hearing shall be as specified in Article V §§5 and 6.

ARTICLE VI – MINIMUM DESIGN & PERFORMANCE STANDARDS

§ 1. SITING LOCATIONS

Notwithstanding any prohibitions in the Land Use Ordinance, wireless telecommunication facilities may be sited as Conditional uses in the Farm and Forest, Rural and Rural-Commercial Districts as defined by the Washington Land Use Ordinance and prohibited in all other districts.

§ 2. SITING PROHIBITIONS

Wireless telecommunication facilities shall not be located in

- A. wetlands, floodplains or other water sensitive areas; or
- B. historically important or archaeologically sensitive areas; or
- C. natural habitat of endangered species or critical wildlife as defined by the State of Maine.
- D. the Village, Shoreland, or Conservation Districts of the Town as defined in the Town of Washington Land Use Ordinance; or
- E. areas where the proposed wireless service facility will have an unreasonable adverse impact upon designated scenic or historic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic or historic resources, the Planning Board shall consider the following factors:
 - 1. The extent to which the proposed wireless service facility is visible above the average tree canopy height, from the viewpoint(s) of the impacted designated scenic or historic resource;
 - 2. the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
 - 3. the extent to which the proposed wireless service facility would be visible from the viewpoint(s);
 - 4. the amount of vegetative screening;
 - 5. the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
 - 6. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

§ 3. EXPANSION OR CO-LOCATION

- A. Expansion or co-location Opportunities: Applicants seeking approval for siting of wireless telecommunication facilities shall first evaluate the suitability of existing structures or approved sites. Only after finding that there are no suitable existing structures or approved sites for expansion or co-location, shall a provider propose a new facility.
- B. Existing Structures: wireless telecommunication facilities can be located on existing structures, including but not limited to buildings, water towers, flag poles, telecommunication facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- C. Burden of Proof: The applicant shall have the burden of proving that there are no expansion or co-location opportunities which are suitable for its WTF.
- D. Approval by the Code Enforcement Officer is required for any expansion or co-location on an existing wireless telecommunications facility.

§ 4. DIMENSIONAL STANDARDS

Wireless telecommunication facilities must meet the following location and height standards:

- A. The height of the WTF shall not exceed one hundred ninety (190) feet;
- B. New wireless telecommunication facilities that are located on electric transmission and distribution towers, utility poles and similar existing utility structures, lattice towers, masts, and monopoles may be permitted to expand the height of those structures no more than twenty (20) feet. The maximum height of the total structure shall not exceed one hundred ninety (190) feet above mean finished grade.
- C. The twenty (20) foot expansion in height shall be permitted only once per structure;
- D. Wireless telecommunication facilities sited on other existing structures shall not increase the height of that structure by more than ten (10) feet, unless the facility is completely camouflaged (i.e. within a flagpole, steeple, or chimney);
- E. Ground-mounted wireless telecommunication facilities shall not be located closer than two-and-a-half (2.5) miles apart.

§ 5. CAMOUFLAGE

- A. A new WTF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- B. All equipment shelters shall be surrounded by a year-round visual buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
 - 1. The buffer shall screen the facility in all directions.
 - 2. The required trees or shrubs may be existing on the property or installed as part of the proposed facility, or a combination of both.
 - 3. The Planning Board has authority to decrease, relocate or alter the required buffer based on site conditions.
 - 4. The vegetative buffer area shall be protected by a landscape easement or be within the area of the owner's lease.
 - 5. The easement or lease shall specify that trees within the buffer cannot be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

§ 6. LIGHTING, SIGNAGE, SECURITY, SETBACKS & ACCESS ROADS

- A. A new WTF must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Security lighting may be used as long as it is shielded to retain light within the boundaries of the site to the maximum extent practicable.
- B. No facility that would be classified as a hazard to air navigation, as defined by FAA regulations, is permitted.
- C. A security fence or wall not less than 8 (eight) feet in height from the finished grade, equipped with an anti-climbing device, shall be provided around the tower unless it is demonstrated that the tower or structure is access secure and not a safety hazard.
 - 1. Use of razor wire is not permitted.

2. Access to the tower shall be through a locked gate; however emergency personnel must be provided with the means to enter the area.
- D. Road access and fencing shall be designed to mitigate or prevent habitat fragmentation and disturbance.
- E. A single access roadway is permitted, which must be designed to harmonize with topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and erosion.
1. The access roadway shall follow the natural contour of the land and should not involve excessive grading or tree removal.
 2. Curvilinear roads shall be used as access roads to prevent direct line of site from the town road access point to the tower site.
 3. Existing vegetation shall be maintained to the extent practical.
 4. All practical steps shall be taken to prevent a visible scar up or across a ridgeline.
- F. To ensure public safety, the minimum distance from the base of any ground-mount of a WTF to any property line, public road, habitable dwelling, business, institution, or public recreational area shall be at least the distance equal to the fall zone, as defined in Article III, Section 4, above.
- G. Signs shall be limited to those needed to identify the property and the owner and to warn of potential hazards.

§ 7. ADDITIONAL STANDARDS FOR PERMIT

The Board shall issue a permit for the siting of a WTF when the applicant demonstrates that, in addition to compliance with the standards of this article and the submission requirements of Article V of this Ordinance, the proposal meets the following standards:

- A. The surrounding topography of the proposed site and any topographical features have been employed to the extent practicable to screen the view of the proposed facility;
- B. The design of the proposed facility has the effect of reducing or eliminating visual obtrusiveness;
- C. The proposed facility fits harmoniously into the existing natural environment and avoids unreasonable adverse impacts on the existing scenic character of the surrounding area;
- D. Visual buffering of the proposed facility substantially eliminates view of the facility by abutting property owners;

§ 8. PETROLEUM STORAGE

No petroleum product shall be discharged on the site of any WTF .

- A. Spill prevention, control, and countermeasures plan shall be required.
- B. Petroleum Products Storage
 1. If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control, and Countermeasures (SPCC) Plan shall be submitted. A SPCC Plan shall be developed in accordance with DEP regulations, *Section 5A of Chapter 378 Performance Standards for the Storage of Petroleum Products (CMR 378)*, and shall be submitted with the application and kept with the permit in the Town's records.
 2. Any petroleum products, highly flammable or explosive liquids, solids or gasses to be stored on site, shall be located in bulk, above ground, anchored tanks or containers, having a roofed, secondary containment system, adequate to contain 110% of the full contents of such container, for control of spills and leaks, and must be located at least 75 feet from any lot line, Town road or interior road.
 3. The use of underground tanks is strictly prohibited.
- C. Machinery Maintenance
 1. Crankcase oil, hydraulic fluids, and similar products shall not be changed, stored or disposed of within the excavation area, unless specifically covered in the SPCC Plan.
 2. Routine maintenance operations, such as refueling or oil changes, may be allowed for fixed equipment such as generators, provided that a secondary containment system in accordance with the SPCC Plan, adequate to contain 110% of the full contents of said equipment is installed.
- D. Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Code Enforcement Officer and a report kept with the permit in the Town's records. All discharges or leaks of any size

shall be cleaned up promptly according to the spill containment and cleanup provisions of *CMR 378*, Section 5H.

- E. A copy of the Spill Prevention Control, and Countermeasures Plan shall be kept available on site at all times.
- F. The applicant shall demonstrate to the Planning Board's satisfaction their ability to implement the SPCC plan.
- G. In the event of leakage, the land owner is responsible for all costs related to cleanup of the site.

§ 9. NOISE

- A. Noise shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume outside of the boundaries of the project.
- B. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound shall be established by the time period and type of land use district as listed in Subsection C, below. Sound pressures shall be measured per Subsection D, below, at any lot line of the tax parcel that the project is located on, at a height of at least four feet above the ground surface. Both dB(A) and dB(C) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of this Ordinance.
- C. The Sound Pressure Limits Measured in Decibels are as follows:

	6 am to 6 pm		6 pm to 6 am	
	dB(A)	dB(C)	dB(A)	dB(C)
Rural-Commercial District	60	72	50	62
All Other Districts	55	67	45	57

- D. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the appropriate weight response scales and the meter to the slow response. Measurements shall be conducted in accordance with ANSI S1.2-1962 "American Standard Method for the Physical Measurement of Sound."
- E. A WTF is exempt from these noise standards during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 6 a.m. and 6 p.m.

§10. MONITORING

- A. The WTF owner shall provide the CEO with copies of current FCC licenses, renewals, and copies of any reports filed with the FCC when changes occur.
- B. The WTF owner shall arrange for a licensed professional structural engineer or professional tower service/installation company to conduct inspections of the tower's structural integrity and safety.
 - 1. Towers shall be inspected every five years at the owner's expense.
 - 2. A report of the inspection results shall be submitted to the CEO and the Planning Board.
 - 3. Modification of existing facilities which include changes to dimension or antenna number or type may require a new structural inspection at the Board's discretion.

§11. ABANDONMENT OR DISCONTINUATION OF USE

A WTF that is not listed as having a license in the FCC Database or is out of operation for a continuous period of twelve (12) months or more shall be considered abandoned.

- A. At least thirty (30) days prior to the time that the tower owner plans to abandon or discontinue use of a WTF, said owner must notify the CEO by certified mail.
- B. If the CEO considers a WTF abandoned, the CEO shall notify the owner of an abandoned WTF by certified mail in writing and order the removal of the WTF within one hundred eighty (180) days of receipt of the written notice. The owner of the WTF shall have forty (40) days from the date of the written notice to demonstrate to the CEO that the WTF has not been abandoned.
- C. If the Owner fails to show that the WTF is actively being operated, the WTF owner shall have one hundred eighty (180) days from the date of the notice required by §13-B, above, to remove the WTF.

§14. REMOVAL

- A. Any WTF, or upper portion thereof, that ceases to operate must be removed at the expense of the permit holder within one hundred eighty (180) days from the date of the notice required by §11-B, above.

- B. Removal shall include, but not be limited to, antennas, mounts, equipment shelters, and security barriers. Waste materials must be properly disposed of at an offsite location.
- C. The site of the WTF must be restored to its pre-construction condition. The owner of the WTF shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and re-establishment of vegetation.
- D. The permit holder or land owner may apply for a change of use permit that will allow the existing facilities, not including towers, to be retained for future use.
- E. If the permit holder fails to remove a WTF in accordance with the provisions of this section, the Board of Selectmen of the Town of Washington and/or their representatives shall have the authority to enter the property and dismantle the WTF at the permit holder's expense.

ARTICLE VII – PERFORMANCE GUARANTEES

§ 1. GUARANTEE FOR REMOVAL

At the time of approval of a permit application, and prior to initiating construction of any WTF within the Town of Washington, the applicant must guarantee the costs for the removal of the WTF .

- A. The amount of the guarantee shall be equal to the estimated removal cost, provided by the applicant and certified by a professional civil engineer licensed in Maine or a professional tower construction company.
- B. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine or a professional tower construction company every five (5) years from the date of the Planning Board's approval of the site plan.
- C. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase. The applicant may also request adjustments in the guarantee.

§ 2. TYPES AND CONTENTS OF GUARANTEE

One of the following performance guarantees chosen by the applicant shall be provided with submittal of the application.

A. Interest-Bearing Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, direct deposit into a savings account, or purchase of a certificate of deposit.

- 1. For any account opened by the permit holder, the Town shall be named as owner or co-owner, and consent of the Town shall be required for a withdrawal.
- 2. Any interest earned on the escrow account shall be returned to the WTF owner unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required work.

B. Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town, and the procedures for collection by the municipality. The bond documents shall specifically reference the wireless service facility for which approval is sought.

C. Irrevocable Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the removal of the wireless service facility and may not be used for any other project or loan.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Town Selectmen, and/or Town Attorney, expenses paid for by the applicant.

§ 3. RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, that the removal meets or exceeds the design requirements for which the release is requested.

§ 4. DEFAULT

If upon inspection, the CEO or other inspecting official finds that any of the required removal has not been performed in accordance with the approved plans and specifications, he shall report in writing to the Municipal Officers, the Planning Board, and the permit holder and guarantor. The permit holder shall have 30 days, unless otherwise specified by the CEO, to

remedy any insufficiency noted. Thereafter, the Municipal Officers shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

ARTICLE VIII – SITE PLAN AMENDMENTS, APPEALS AND ENFORCEMENT

§ 1. SITE PLAN AMENDMENTS AFTER APPROVAL

No changes, erasures, or modifications shall be made in a Final Site Plan after approval has been given by the Planning Board unless the plan is first resubmitted and any modifications are approved.

- A. The applicant is not required to go through the complete review process of an amendment to an existing WTF, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original activity, or unless the change constitutes a new or additional facility.
- B. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void.
- C. The Planning Board shall record a revocation of a previous recorded document in the Knox County Registry of Deeds.

§ 2. APPEALS AND VARIANCES

A. Administrative Appeals

1. Any person aggrieved by an action of the Planning Board or Code Enforcement Officer pursuant to this Ordinance may file a request for appeal in writing within 30 days of the granting or denial of approval from the Planning Board or Code Enforcement Officer.
 - a. The request of appeal shall state the exact portions of the decision that are being appealed, and the legal grounds for appeal.
 - b. The appellant shall file this request for appeal with the Town Clerk, who shall issue a dated receipt and forward the Appeal to the Chairman of the Board of Appeals. After receiving the appeal from the Clerk, the Chairman of the Board of Appeals shall, within 14 days notify the applicant in writing that either the request for appeal is complete or, if the request for appeal is incomplete, the specific additional material needed to make a complete request for appeal, and the time frame in which to make it complete, which shall not be less than fourteen (14) days.
 - c. The fee to accompany a completed request for administrative appeals shall be twenty-five dollars (\$25.00) cash, checks, money orders or bank drafts which shall be made payable to the *Town of Washington, Maine*. The applicant shall be required to cover the costs of advertising, postal notification and dissemination of information for the appeals hearing.
 - d. No activity may be started under a permit granted herein that is the subject of an appeal.
2. The Board of Appeals shall, upon determination that the Request for Appeal by an aggrieved party is complete and after public notice, hear appeals from determinations of the Planning Board in the administration of this Ordinance within 30 days of such request.
 - a. The Appeals Board shall cause notice of the date, time and place of said hearing, the location of the proposed wireless service facility and the issues raised in the appeal, to be given in writing to the appellant, permit holder and/or applicant and published in a newspaper of general circulation in the Town at least two times. The date of the first such publication shall be at least 10 days prior to the hearing.
 - b. The Board of Appeals shall also cause written notice by mail or hand delivery of the hearing be given to the appellant, permit holder and/or applicant, the Selectmen, the Planning Board, the Code Enforcement Officer, and all property owners within 1,000 feet of the boundaries of the proposed wireless service facility at least 14 days prior to the date of the hearing at the cost of the appellant.
 - c. Notice shall be posted in such public places as a notice of a Town Meeting.
 - d. Upon request, the applicant at their expense must supply a copy of the request for appeal to any of the owners of properties so mentioned.
 - e. The applicant shall be required to cover the costs of advertising, postal notification and dissemination of information for the appeals hearing.
3. If such appeal is not made within the stated time, the decision of the Planning Board shall be final.

4. Following such hearing, the Board of Appeals shall have the power to interpret this Ordinance and may affirm, modify, vacate or remand the decision of the Planning Board.
 - a. The Board of Appeals shall review the Planning Board's conclusions of law, including findings of fact, for support by competent evidence in the record, and other legal issues relevant to the appeal.
 - b. The appeal shall not be a de novo hearing, except in the case of an appeal from a *Stop Work Order* or other action by the Code Enforcement Officer.
 - c. The Board of Appeals shall render a decision in writing to the appellant and/or applicant, Planning Board Chairman, Code Enforcement Officer, and the Selectmen within 30 days of the appeal hearing.
 - d. The Appeals Board decision shall be registered at the Knox County Registry of Deeds and a certified copy returned to the Town at the applicants expense within 30 days of the date the decision becomes final.

B. Variances

1. The Board of Appeals may, upon written application and hearing as outlined in Article V §§5 and 6 of this Ordinance grant a variance from the strict application of the dimensional requirements of this Ordinance, including lot sizes, setbacks, site distances, lot coverage by structures, sign requirements, and parking requirements only if the requirement of this Ordinance would result in undue hardship to the applicant, as defined below.
2. The fee to accompany request for variance shall be twenty-five dollars (\$25.00) cash, checks, money orders or bank drafts which shall be made payable to the *Town of Washington, Maine*. The applicant shall be required to cover the costs of advertising, postal notification and dissemination of information for the appeals hearing.
3. In order to find an undue hardship the Board of Appeals must find all of the following to grant a variance:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted; and
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
 - c. That the granting of the variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
4. Following the public hearing, as outlined in Article V §§5 and 6 of this Ordinance, the Board of Appeals shall render a decision to grant or deny a variance in writing to the applicant, the Planning Board, and selectmen, within 30 days of the appeal hearing.

C. Appeal to Superior Court

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Knox County, within 45 days of a written decision in accordance with Maine State Law.

§ 3. VIOLATIONS

Any operation that is in violation of other approvals covering the same operation shall be deemed in violation of approvals granted under this Ordinance. All other approvals are necessary for approvals under this Ordinance to be valid.

§ 4. ENFORCEMENT

- A. The Code Enforcement Officer of the Town, shall enforce this Ordinance and the Selectmen of the Town are authorized to institute legal proceedings to enjoin violations of this Ordinance.
- B. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he shall notify by certified mail, return receipt requested, the property owner and such other person as may be responsible for the violations, indicating the nature of the violations, ordering the action necessary to correct it, the date by which it must be corrected, and their rights of appeal. The Board of Selectmen, shall institute, in the name of the Town, any and all actions, legal and equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance.
- C. If the Code Enforcement Officer finds violation of any provision of this Ordinance or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board that constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property or environment of the Town, the Town may initiate immediate injunction proceedings to abate or correct such violations.

- D. In any action to enforce any provision of this Ordinance where the Town prevails, the Town shall be awarded reasonable attorney fees, expert witness fees, and costs unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees, and costs provided by court rule.

§ 5. PENALTIES

- A. Any person, firm or corporation, being the owner or having control or use of any personal wireless facility in violation of any of the provisions of this Ordinance or terms or conditions of any order, permit or approval or final decision of the Planning Board shall be subject to a civil penalty due and payable to the *Town of Washington, Maine* of not less than one hundred dollars (\$100.00) for each day said violation exists and not more than twenty-five hundred dollars (\$2,500.00) for each day said violation exists. If the same person has been convicted of a violation of this Ordinance within the previous two years, the maximum penalty is five thousand dollars (\$5,000.00) for each day said violation exists.
- B. In setting the penalties, the Court shall consider but is not limited to the following:
 - 1. Prior violations by the same person;
 - 2. The degree of environmental damage that can not be abated or corrected;
 - 3. The extent to which the violation continued following an order to stop;
 - 4. The extent to which the Town contributed to the violation by providing incorrect information or failing to take timely action; and
 - 5. Whether penalties have been imposed by another governmental agency for the same incident(s).
- C. Payment of any penalty shall be made within thirty (30) days of notice of decision in cash or by certified check drawn on a recognized financial institution, made payable to the *Town of Washington, Maine* in an amount equal to the full amount of the penalty.
- D. If the maximum penalty amount of Article VIII §3-A of this Ordinance is held void or invalid it is the intent of the Town that provisions of Title 30-A, M.R.S.A. Section 4452 be given full force and effect and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval or final decision of the Planning Board, or any provision of this Ordinance.

ARTICLE IX – SEVERABILITY & CONFLICT

§ 1. SEVERABILITY

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

§ 2. CONFLICT WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with any other Town of Washington ordinance or standard, the more restrictive provision shall apply.

ARTICLE X – AMENDMENT OF THIS ORDINANCE

All proposed amendments to this Ordinance shall be voted on by the voters of the Town at a Town Meeting, a majority vote being required for adoption.

ARTICLE XI – OTHER PROVISIONS

§ 1. PUBLIC ACCESS TO INFORMATION

Except as expressly made confidential by law, the Planning Board shall make all documents and records available to the public in accordance with the Maine Freedom of Access Law (1 MRSA §401 et seq.).

- A. The Planning Board shall also keep confidential those documents which may remain confidential pursuant to the Maine Freedom of Access Law.
- B. The Planning Board shall make determinations on confidentiality and any person aggrieved by such determination may appeal to a court in accordance with State Law.
- C. The Planning Board shall withhold disclosure of such information pending a final judicial determination on any claim of confidentiality.

- D. A policy for inspecting and copying documents may be established by the Planning Board, including, but not limited to, a reasonable charge for copying costs.

§ 2 RIGHT OF ENTRY ONTO LAND

The CEO shall have the right of entry onto any WTF site for inspection at reasonable times and with reasonable written advance notice to the WTF owner clearly stating the reason(s) entry is requested.

T O W N O F W A S H I N G T O N

W I R E L E S S T E L E C O M M U N I C A T I O N F A C I L I T Y A T T A C H M E N T

Applicant Name: _____ Phone: _____

Applicant Address: _____

This form must be attached to a completed BASIC BUILDING AND/OR USE PERMIT APPLICATION form for establishment, co-location or expansion of wireless telecommunications facilities.

No Permit Application may be considered until the appropriate fee is paid.

Additional fees may be required to cover the costs of review, public notices, expert opinions, etc.

Type of Facility	<input type="checkbox"/> New	<input type="checkbox"/> Co-location on Existing Facility	<input type="checkbox"/> Expansion of Existing Facility	<input type="checkbox"/> Temporary (less than 90 days)
Height of	<input type="checkbox"/> New	<input type="checkbox"/> Existing	Tower: _____ feet	If existing, number of Antennas located on Facility: _____
If expansion, additional Height proposed: _____ feet		Number of new Antennas to be located on Facility: _____		

→ ALL APPLICATIONS MUST HAVE THE FOLLOWING ATTACHED

Right, Title & Interest Proof:	<input type="checkbox"/> Deed(s)	<input type="checkbox"/> Covenant(s)	<input type="checkbox"/> Easement(s)	<input type="checkbox"/> Right(s) of Way	<input type="checkbox"/> Mortgage(s)	<input type="checkbox"/> Lien(s)
<input type="checkbox"/> List of Co-Applicants, Agents and Corporate Contacts with Names, Addresses and Telephone Numbers						

→ ALL APPLICATIONS FOR NEW, CO-LOCATION, EXPANSION or TRANSFER MUST HAVE THE FOLLOWING ATTACHED (in addition to above)

<input type="checkbox"/> Copy of FCC License or	<input type="checkbox"/> Signed Statement of FCC Compliance	<input type="checkbox"/> Co-Locator Contract agreeing to abide by permit conditions, if applicable.
---	---	---

→ ALL APPLICATIONS FOR NEW FACILITIES MUST HAVE THE FOLLOWING ATTACHED (in addition to above)

Have you attached the required Site Plan?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	→ Attached: <input type="checkbox"/> Site Plan	<i>See check list for required features of Site Plan</i>
Copies of All Other Applicable Federal, State, or Town Permits or Pending Applications <input type="checkbox"/> Other: _____				
<input type="checkbox"/> Town Conditional Use Permit	<input type="checkbox"/> Other:	<input type="checkbox"/> Other:		
<input type="checkbox"/> Performance Guarantee Documents Attached → Type: <input type="checkbox"/> Escrow Account <input type="checkbox"/> Performance Bond <input type="checkbox"/> Irrevocable Letter of Credit				
Other Required Attachments → <input type="checkbox"/> Landscaping Plan <input type="checkbox"/> Evidence of co-location efforts or non-existence <input type="checkbox"/> Photo Simulations				
<input type="checkbox"/> Standards Compliance Certification <input type="checkbox"/> Published Notice of Application <input type="checkbox"/> Network Description <input type="checkbox"/> Scenic Resources Narrative				
<input type="checkbox"/> Signed Statement of Co-location Policy <input type="checkbox"/> Contract for Service use <input type="checkbox"/> List of Property Owners within 1,000'				
<input type="checkbox"/> Location of Facilities within 5 miles <input type="checkbox"/> Signed and Notarized Waivers of All Property Owners of Dwelling Units within 1,000'				
<i>The Planning Board may require additional information</i>				

Required Maps →	<input type="checkbox"/> Location Map	<input type="checkbox"/> Boundary Survey
-----------------	---------------------------------------	--

Additional Submissions that may be required →	<input type="checkbox"/> Site Search Ring Analysis	<input type="checkbox"/> Balloon Test
---	--	---------------------------------------

I certify that I have read the WTF Ordinance and to the best of my knowledge, all of the information on this application is true and correct and that all uses and development permitted by the Town shall be in compliance with all Town of Washington Ordinances.

APPLICANT SIGNATURE: _____ DATE: _____
Please sign in blue ink

You may appeal any action to the Washington Board of Appeals within 30 days of the decision.

OFFICIAL USE ONLY	Date Received:	Fee Paid: <input type="checkbox"/> No <input type="checkbox"/> Yes	Amount:	Received by:
<input type="checkbox"/> Reviewed by CEO	<input type="checkbox"/> Approved by WPB	<input type="checkbox"/> Denied by WPB		
→ Permit#:		→ Reason:		
WPB CHAIR SIGNATURE:				DATE: