

**WIRELESS COMMUNICATIONS FACILITY ORDINANCE**

**Town of Edgecomb, ME**

Enacted by the Town May 8, 1998

**Section 1.**

**PURPOSE**

To provide an environment in which the citizens want to live and work which takes into account aesthetics and the community character of Edgecomb. To ensure that service providers minimize the impact of their equipment as much as possible without overly restricting, and therefore discriminating against, any business.

**Section 2.**

**AUTHORITY**

This Ordinance is enacted pursuant to the authority given the town in MRSA 30-A, Section 3001.

**Section 3**

**APPLICABILITY**

Except for non-business use, no building permit shall be issued for a new or significantly altered Wireless Communication Facility (WCF) until the provisions of Section 4 have been satisfied. The term “significantly altered” shall mean any change in the overall height or footprint of the WCF.

**Section 4.**

**CRITERIA AND STANDARDS**

**A. Setbacks**

1. Antenna arrays for attached WCFs are exempt from the setback standards of this section. An attached WCF antenna array may extend up to ten (10) feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
2. The center of the base of any WCF Support Structure shall be set back from all property lines the minimum required by existing ordinances or one foot for every foot of total tower height plus 15 feet, whichever produces the greater setback.
3. No part of the structure including anchors, guy wires, overhead lines, masts, etc. shall be located in the required setback.
4. Any equipment facilities are required to meet all applicable building code ordinances including setbacks.

## B. Construction

1. All WCF support structures shall comply with the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision E Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.
2. At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety, to be approved by the Town Selectmen, in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities as described in Section 7.G.1 below. Such cost to be determined by an independent Registered Professional Engineer in the State of Maine and the amount shall be acceptable to the Town. The bond or other financial surety shall be in effect for as long as the tower is in place.
3. The construction of any WCF support structure or equipment facility shall require a conforming building lot as defined by the appropriate Ordinance.

## C. Screening

1. Antenna arrays located on an existing structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array and supporting structure and mechanical equipment shall be placed and colored to blend into the architectural detail and coloring of the host structure so as to make the antenna and related equipment as visually unobtrusive as possible.
2. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower Compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

## D. Noise Standards

1. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL) at the boundary line of the WCF lot.
2. Operation of a back-up power generator in the event of power failure or the testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from this standard. No testing of back-up power generators shall occur between the hours of 9 p.m. and 8 a.m.

## E. Lighting

1. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the Town of Edgecomb may

review the available lighting alternatives and approve the design that would cause the least disturbance in the surrounding area.

2. The Tower Compound may use lighting for security reasons that is compatible with the surrounding neighborhood.

F. Co-location: It is the policy of the Town of Edgecomb to minimize the number of wireless communication support towers and to encourage the co-location of antenna arrays of more than one wireless communication service provider on a single support tower.

1. Any entity proposing a new WCF with a support structure shall provide documentation demonstrating that no existing or proposed site will practically or economically meet the required engineering standards for the proposed antenna array.
2. Any new WCF Support Structure shall be designed to accommodate co-location, even if only one user will locate on the tower at the time of site plan review and approval.

G. Abandonment and Obsolescence

1. Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such WCF shall remove the WCF within ninety (90) days of receipt of notice from the Town of Edgecomb notifying the owner of such abandonment. If such WCF is not removed within said ninety (90) days, the Town of Edgecomb may remove the WCF at the owner's expense.
2. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.
3. Removal of the WCF shall include dismantling of any support structures, anchors, guy wires, overhead lines or masts and the removal of all debris created as a result thereof. The Town may require the removal of any equipment facilities, fencing and access roads and the land returned to a condition as near to the original, pre-construction condition as possible.

H. Height

1. The maximum height of any WCF shall be limited to 200 feet above the mean level of the ground in a 10-foot radius of the Support Structure base.

I. Fencing

1. Tower Compounds shall be secured by fencing or other suitable materials capable of preventing access to the compound by children or other unauthorized persons.

J. Temporary WCF

1. In the event of an emergency or to provide temporary services an FCC Licensed Wireless Communications provider may set up a temporary WCF for a period of 90 days with the approval of the Town Selectmen.

K. Licensing

1. The entity proposing and accepting the responsibility for the operation of any WCF as defined in this Ordinance shall be licensed by the FCC to operate the proposed facility
2. Any entity operating a WCF in the Town of Edgecomb shall submit to the Town a copy of all applicable FCC licenses on an annual basis to verify activity for the purpose of determining abandonment.

L. Radio Frequency Emissions

1. The entity proposing and accepting the responsibility for the operation of any WCF shall certify, in writing, that its proposed facility will comply with the radio frequency (RF) emissions guidelines as outlined by Federal Communications Commission (FCC) rules located in Title 47 of the Code of Federal Regulations as amended by FCC Guidelines FCC 96-326.

**Section 5**

**ADMINISTRATION**

It is the intent of the permit processes to use the incentive of obtaining a building permit quickly to strongly encourage providers to locate WCFs on existing buildings and structures rather than on new support (tower) structures. By using these, both the community and the wireless industry can meet the common goal of siting WCFs in a manner which is consistent with community character and local concerns.

- A. Any entity proposing a WCF where the antenna array is co-located on an existing tower or located on an existing building or structure, including public rights of way occupied by power lines or public utility properties such as electrical substations and power generation plants, and does not increase building/structure height more than 10 feet shall require a building permit.
- B. Any entity proposing a WCF where the antenna array is to be located on an existing structure when the addition of an antenna array (including Attachment Device) would increase existing structure height by more than 10 feet and less than 20 feet shall require Planning Board review prior to the issuance of a building permit.
- C. Any entity proposing the construction of a new support structure or increasing the height of an existing WCF by more than 20 feet shall require Planning Board review with mandatory site plan review prior to the issuance of a building permit. Any proposal brought before the Planning Board for the site plan review process must meet all of the requirements of the existing Site Plan Review Ordinance and submit the following:
  1. A description of the tower with documentation establishing its structural integrity for the proposed uses;
  2. A statement describing excess space, if any, and whether it will be leased;

3. An area map identifying any existing wireless telecommunications towers; and
4. An analysis of the area containing existing topographical contours, tall buildings, and other factors influencing the tower location.

D. Review Process. As part of the review process the board should review the proposal for the following criteria:

1. Safety
  - a. Does it meet or exceed the structural standards specified in EIA/TIA 222 Revision E?
  - b. Does it meet special setbacks for support structures?
  - c. An Architectural or Engineering Design Review at the applicant's expense may be required under certain circumstances.
  - d. Has documentation certifying that the proposed facility will comply with the radio frequency (RF) emissions guidelines as described in Section 4.I.1 above been provided?
2. Other Applicable Ordinances including but not limited to:
  - a. Building Code Ordinance
  - b. Shoreland Zoning Ordinance
  - c. Site Plan Review Ordinance
3. Environmental Impact
4. Impact on the character of the community
  - a. Is screening sufficient?
  - b. Are noise standards met?
  - c. Has documentation required in Section 4.f above regarding co-location been provided?
  - d. Is the effect of tower and compound lighting minimized?
  - e. Is the proposed height within standards?
  - f. Are historical sites impacted?
5. Licensing
  - a. Is the responsible entity licensed by the FCC?
6. Is there a bond or other financial surety as required in Section 8.B.1 in place?

## **Section 6**

### **SEVERABILITY**

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

## **Section 7**

### **CONFLICTS WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation or statute, the more restrictive provision shall control.

## **Section 8**

### **AMENDMENTS**

An amendment to this Ordinance may be initiated by the Planning Board, provided that a majority of the board has so voted; by request of the Selectmen to the Planning Board; or by written petition to the Selectmen signed by 10% of the number of registered voters of the Town of Edgecomb who voted in the last gubernatorial election.

All proposed amendments shall be referred to the Planning Board for its recommendation. The Planning Board shall hold a public hearing on any proposed amendment within 21 days of its receipt and shall inform the Selectmen of its recommendation within 21 days of the public hearing. The amendment may be adopted by a majority vote of the Town at the annual Town Meeting.

## **Section 9**

### **ENFORCEMENT**

#### **PENALTY FOR VIOLATION**

Any person or persons, firm or corporation owning or having control of any WCF or premises, or other persons such as subcontractors who assist in the violation of this Ordinance or of any permit issued thereunder, shall be guilty of a civil violation, and upon conviction thereof shall be fined a minimum of \$100 and a maximum of \$2,500 for each offense. The Code Enforcement Officer, acting in accordance with his duties and responsibilities in connection with the enforcement of this Ordinance, shall serve written notice on the owner(s), or others assisting, of such violation or violations. When this action does not result in the correction or abatement of the violation(s), the Board of Selectmen are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, seeking injunctions of violations and impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Edgecomb. Each day of continuance of the violation(s) shall constitute a separate offense.

## Section 10

### DEFINITIONS

- A. **Wireless Communications**. Wireless Communications shall mean any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.
- B. **Wireless Communication Antenna Array (Antenna Array)**. A wireless communication antenna array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (dish). The Antenna Array does not include the Support Structure defined below.
- C. **Wireless Communication Facility (WCF)**. A WCF is any unstaffed facility for the transmission and/or reception of wireless communications services usually consisting of an Antenna Array, transmission cables, and Equipment Facility, and a Support Structure to achieve the necessary elevation.
- D. **Attached Wireless Communication Facility (Attached WCF)**. An Attached WCF is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, or other buildings having a primary purpose other than as a WCF.
- E. **Co-location**. Co-location shall mean the use of a common Support Structure by two or more wireless license holders or by one wireless license holder for more than one type of communications technology.
- F. **Wireless Communication Support Structure (Support Structure)**. A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device (Attachment Device), which is used to attach an Attached WCF to an existing building or structure (Attachment Structure), shall be excluded from the definition of and regulations applicable to Support Structures.
- G. **Equipment Facility**. An Equipment Facility is any structure used to contain ancillary equipment for a WCF, which includes cabinets, shelters, a building or an existing structure, pedestals and other similar structures. Equipment Facilities shall conform to existing ordinances for non-WCF structures.

- H. **Height.** For the purposes of measuring the height of any structure located on a WCF site, all antennas mounted on a structure shall be considered part of the structure and shall be included in measurements to determine overall (i.e. combined) height.
- I. **Setbacks.** When referring to a Support Structure, Setback shall mean the required distance from the Support Structure to the property line of the parcel on which the WCF is located.
- J. **Temporary Wireless Communication Facility (Temporary WCF).** Temporary Wireless Communication Facility shall mean a WCF that is to be placed in use for a limited period of time and is not deployed in a permanent manner.
- K. **Tower Compound.** A Tower Compound includes the base of the WCF Support Structure, any Equipment Facilities and any security fences.