

**TOWN OF ARROWSIC
WIRELESS TELECOMMUNICATIONS FACILITIES SITING ORDINANCE**

As Amended July 7, 2003

1.0 TITLE

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of the Town of Arrowsic, Maine, (hereinafter referred to as the "Ordinance").

2.0 AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulations Act, Title 30-A M.R.S.A. Section 4312 *et seq.*

The procedures outlined in Article 4.2. Conditional Use Permits of the Zoning Ordinance of the Town of Arrowsic, Maine, shall govern in addition to this ordinance.

3.0 PURPOSE

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities. These standards are designed and intended to balance the interests of the residents of the Town of Arrowsic, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town.

3.1 Wireless Communication Facilities standards are also intended to:

- 3.1.1 Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;
- 3.1.2 Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities.
- 3.1.3 Ensure that all entities providing wireless communications facilities to the Town of Arrowsic comply with the ordinances of the Town of Arrowsic.
- 3.1.4 Permit the Town of Arrowsic to fairly and responsibly protect public health, safety and welfare;
- 3.1.5 Support the goals and policies of the Comprehensive Plan, especially the orderly development of the Town with minimal impacts on existing

uses:

- 3.1.6 Protect the Town of Arrowsic's environmental resources and scenic and visual character consistent with the goals and objectives of the Arrowsic Comprehensive Plan.
- 3.1.7 Encourage the siting of wireless communications facilities to co-locate, thus minimizing adverse visual impacts on the community.
- 3.1.8 Encourage providers of wireless communications facilities to configure them in a way that minimizes adverse impact through careful design, siting, landscape screening and innovative camouflaging techniques.
- 3.1.9 Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes; and
- 3.2.0 Minimize any potential adverse effect of Wireless Communication Facilities on property values.

4.0 APPLICABILITY

This Ordinance shall apply to all construction and expansion of wireless telecommunications facilities, except as provided in Section 4.1.

4.1 Exemptions

The following are exempt from the provisions of this ordinance:

- a. Amateur (Ham) Radio Stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- b. Parabolic Antennae. Parabolic Antennae less than seven (7) feet in diameter, that are an accessory use of the property.
- c. Temporary Wireless Telecommunications Facility. Temporary Wireless Telecommunications Facility, in operation for one maximum period of one hundred eighty (180) days. Such temporary facilities shall be removed prior to 30 days following the maximum period.
- d. Antennae as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit, provided that the WCF is not used for commercial purposes.

5.0 REVIEW AND APPROVAL AUTHORITY

Construction, alteration, repair or change on any Wireless Communication Facility shall require written approval from the Arrowsic Code Enforcement Officer (CEO) and/or Planning Board as outlined below:

- a. Normal Maintenance, as defined in the Definitions accompanying this ordinance, is allowed without approval from the Planning Board.
- b. No construction, alteration, repair or change shall occur on any Wireless Communication Facility unless all required permits are obtained including but not limited to any federal or state permits.

5.1 Planning Board review and approval is required for the following:

- a. Any WCF that does not exist as of the effective date of this Ordinance.
- b. Any additional antenna or antenna array(s) or increase in broadcast capacity in excess of the exemption standards contained in FCC OETC Bulletin #65 on the WCF not previously and specifically approved by the Planning Board.
- c. Any increase to the tower height not previously and specifically approved by the Planning Board.

5.2 A building permit, in accordance with the standards established in the Town of Arrowsic Zoning Ordinance must be obtained from the CEO for the following:

- a. Construction of a new WCF or a co-location on an existing WCF.
- b. Any WCF application approved by the Planning Board.

5.3 In accordance with Section 7 above, the CEO or Planning Board shall review applications for wireless communications facilities and make written findings on whether the proposed facility complies with this Ordinance.

6.0 APPROVAL PROCESS

The Planning Board shall have the authority to engage an independent radio frequency engineer or other expert to review any documentation, guidelines, performance standards or testimony provided by the applicant to the Planning Board to ensure that the requirements of this ordinance are met. The qualified third party shall, at the request of the Planning Board, verify the accuracy of the information presented by the applicant to the Board. The costs for any consultants or experts engaged by the Planning Board shall be borne by the applicant.

In all cases, the burden of proof shall be on the applicant to demonstrate to the Planning Board that the required standards have been met.

6.1 Pre-Application Process

All persons seeking approval under this ordinance shall meet with the CEO no less than thirty (30) days before filing a application. At this meeting the CEO shall explain to the applicant the ordinance provisions, application forms and submissions that will

be required under this ordinance.

6.2 Application

All persons seeking approval of the Planning Board under this ordinance shall submit an application for a Conditional Use Permit and shall provide the following additional information:

- 1) Names, addresses, phone numbers and other means of contacting owner, lessee, companies, and persons that will function as contacts for the required inspections and monitoring of the WCF.
- 2) 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.
- 3) Evidence of the need for wireless telecommunications improvements within the Town of Arrowsic and/or surrounding areas.
- 4) Evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities that are contracted to locate on the tower must join as applicants.
- 5) Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
- 6) An inventory of all the provider's existing and approved towers, antennae or sites in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Sagadahoc, Lincoln and Cumberland counties.
- 7) Location map and elevation drawings of the proposed facility and any associated structures, proposed antennas, platforms, accessory equipment, fences, landscaping, showing color(s) and identifying structural materials.
- 8) Identification of any other telecommunication facilities existing or proposed on the site.
- 9) Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.
- 10) An applicant for approval under this ordinance shall pay all reasonable and customary fees incurred by the Town that are necessary to review the application, including, without limitation, independent engineering, planning,

legal or similar professional consulting services. Such review fee shall be assessed for review and shall be payable without regard to consultation results or the outcome of the application review. The review fee shall be paid in full prior to the issuance of any building permit.

6.3 Requirements for Tower

6.3.1 Submission Requirements

In addition to the Conditional Use Permit application requirements all applicants shall provide the following information:

- 6.3.1.1 Evidence that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the Town of Arrowsic utilizing existing towers and ATS's and to owners of such towers. This notice shall state the applicant's siting needs and include a request for information of the collocation capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.
- 6.3.1.2 A letter of commitment, which shall be binding upon the tower owner and all successors in interest, to lease excess space on the tower to other potential users at reasonable rates, which shall be economically viable and not unduly burdensome. The letter of commitment shall be recorded prior to the issuance of a building permit.
- 6.3.1.3 Evidence that previously approved towers and alternative tower structures within the Town of Arrowsic cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:
 - a. Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering (1) the existing and planned use of those towers and alternative tower structures, and (2) the existing and approved towers cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost;
 - b. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost;

- c. Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
 - d. Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.
- 6.3.1.4 Evidence that the proposed tower cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such tower sites could be changed to accommodate the proposed tower, and a general description of the projected cost of shared use of the existing or approved tower site.
- 6.3.1.5 A report from a Registered Professional Engineer that describes the tower, the technical reasons for the tower design, the structural integrity for the proposed use at the proposed location and the capacity of the tower, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.
- 6.3.1.6 A letter of intent that commits the tower owner and his or her successors in interest to:
- a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
 - b. Negotiate in good faith for shared use by third parties that have received an FCC license or permits; and,
 - c. Allow shared use if an applicant agrees in writing to pay reasonable charges.
- 6.3.1.7 Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

6.3.2 A Site Plan:

- 6.3.2.1 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;
- 6.3.2.2 Elevation drawings, cross sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and

volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

6.3.2.3 Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

6.3.2.4 Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions; and

6.3.2.5 A boundary survey for the project performed by a land surveyor licensed by the State of Maine.

6.3.3 A Scenic Assessment consisting of the following:

6.3.3.1 A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features such as streams, marshes, etc.; existing plant materials to be retained and trees and shrubs to be removed; land uses on the proposed parcel and on abutting properties; 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.

6.3.3.2 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.

6.3.3.3 A written analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, significant scenic resources, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.

The overall analysis shall assess the cumulative impacts of the

proposed facility and other existing communication facilities in the area.

6.3.4 Location

6.3.4.1 No wireless communication facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species, or to Resource Protection areas.

6.3.4.2 Wireless communication facilities shall not be sited in areas of high visibility as determined by the Planning Board unless the Planning Board finds that no other location is technically feasible.

6.3.5 Tower Height

6.3.5.1 The maximum tower height shall be no more than necessary to provide for service and public safety, and in no case higher than one hundred twenty-five (125) feet. Factors to be considered are geography of the proposed site, technology to be used, the power to be transmitted, the proposed range of reception, number of expected users, number of expected carriers and the technology each will use.

6.3.5.2 The maximum number of towers per lot shall be one (1).

6.3.6 Equipment Compound may be erected in connection with a tower provided:

6.3.6.1 It shall consist of no more than two thousand five hundred (2,500) sq. ft. in area.

6.3.6.2 It shall be situated behind any existing buildings, structures or terrain features that will help shield the compound from public view.

6.3.6.3 The maximum height of any building within the equipment compound shall be no taller than one story in height and shall be created to look like a building or facility typically found in the area

6.3.6.4 Equipment buildings, lockers, or cabinets shall be located within the equipment compound, which shall be enclosed within a solid wooden fence of at least seven (7) feet in height and no more than eight (8) feet in height as measured from the finished grade. The fence shall include a locking security gate.

6.3.6.5 Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

6.3.7 Buffer Requirements

6.3.7.1 Vegetative buffering must be provided to screen, at ground level, the tower and any accessory buildings and structures from adjacent land uses. The preservation of existing mature vegetation and natural land forms on the site shall be preserved to the greatest extent possible.

6.3.7.2 If existing vegetation at the time of application does not provide adequate buffering to minimize visual impact of the structure and if location out of public view is not possible, the Planning Board may require additional plantings in the buffer area(s) to enhance the quality and effectiveness of the buffer area to serve as a visual screen. In any case, a landscaped buffer of twenty (20) feet in width shall be provided around the compound to shield the facility from public view. The landscaped buffer shall include evergreen trees at least eight (8) feet in height at the time of planting and shall be planted in staggered double rows at fifteen (15) feet on center, or screening that will provide equivalent buffering - the size and quantity of plantings shall be subject to Planning Board approval. If any additional plantings within landscaped buffer area(s) do not survive a minimum of two (2) years, they must be replaced.

6.3.8 Finish and Color:

Facilities installed according to these provisions shall be suitably finished and/or painted so as to minimize their visual impact on the landscape. Buildings and equipment that will be visible to the public should be designed in a manner and constructed of materials consistent with their surroundings. The tower and equipment associated with the antennas shall be of such a color or finish so as to blend with their surroundings. Whenever possible, and at the discretion of the Planning Board, the tower shall be camouflaged to blend in with its surroundings or natural features.

6.3.9 Space and Bulk Requirements

Any Wireless Communication Facility not existing as of the effective date of this ordinance shall conform to the following standards:

6.3.9.1 Mounting and Dimensions : The mass and dimensions of antennae on a tower or alternative tower structure shall be governed by the following criteria:

- a. Whip Antennae - They shall not exceed twenty (20) feet in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.
- b. Panel Antennae - The horizontal centerline of all panel antennae of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed eight (8) feet in length, nor two (2) feet in width.

- c. Panel Antenna Mass Per Array - The mass of antennae, including required antenna support structures, on a tower shall not exceed five hundred (500) cubic feet per antenna array, with no one dimension exceeding fifteen (15) feet per array. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical, or pyramidal geometric shapes encompassing the perimeter of the entire array and all of its parts and attachments.

6.3.9.2 Lot Area:

A new wireless communications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district, even if such a lot is a lawful, non-conforming lot of record.

6.3.9.3 Setbacks:

- a. The center of the tower base shall be set back from the property line by a distance of at least one hundred (100 %) percent of the total tower height. This provision shall apply to both leased and owned property. Equipment facilities, and other non-residential structures deemed functionally dependent by the Planning Board for the WCF, may be permitted within the required setback area if desired by the applicant. If guy wires are used, they shall meet the applicable building setback from the property line.
- b. Equipment facilities shall meet the required District setbacks.
- c. All telecommunication facilities shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road.
- d. There shall be no setback requirements for antennae mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

6.3.10 Co-Location

Co-location is strongly encouraged in order to avoid the construction of multiple towers. All wireless communication towers and equipment compounds shall be built so as to facilitate co-location with additional service providers provided that the height limits and other bulk restrictions of this ordinance are not exceeded.

7.0 PLANNING BOARD REVIEW GUIDELINES

ensure that other technically feasible sites have been investigated and the proposed facility has been located in order to minimize the effect of the location on visually sensitive areas such as residential use, historical areas, open space areas and marshes.

- 13) An inspection schedule acceptable to the Planning Board shall be established.
- 14) The Planning Board may require a performance guarantee in accordance with Section 9.1 of this ordinance. The applicant shall provide a removal guarantee as required by Section 9.2 of this ordinance.
- 15) The WCF shall not unreasonably or significantly affect or de-value neighboring property(s).

8.0 PERFORMANCE STANDARDS

All applications requiring Planning Board review shall meet and maintain the following performance standards to the maximum extent possible as determined by the Planning Board.

8.1 Structural Design Standards

- 8.1.1 Any new single-use tower shall be designed to structurally support a minimum of two (2) additional antenna arrays.
- 8.1.2 Communication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.
- 8.1.3 The applicant's engineer shall provide documentation showing that the proposed WCT meets or exceeds the most current standards of the American National Standards Institute for Sagadahoc County relative to wind and ice loads when the tower is fully loaded with antennae transmitters and other equipment as described in the submitted plan.
- 8.1.4 For towers or antennas placed on buildings or alternative tower structures, the applicant shall also provide written certification from a structural engineer that the building or ATS itself is structurally capable of safely supporting the tower, antennas, their accompanying equipment and ice and wind loads.
- 8.1.5 A proposal to construct a new co-located WCT at or below the maximum height allowable permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of two (2) antennae arrays for each anticipated co-locating entity.

The Planning Board may require that the applicant submit documentation, in writing, that the guidelines established below will be met and maintained. The Planning Board will be guided in its consideration of a WCF application by the following parameters:

- 1) In the Town of Arrowsic Zoning Ordinance, all standards contained in 4.2 Conditional Use Permits and all standards contained in 3.0 Performance Standards.
- 2) All standards contained in this Ordinance entitled Performance Standards.
- 3) The height of the proposed tower, alteration or other necessary structure does not exceed that which is essential for its intended use.
- 4) The proximity of the tower and impact to residential development shall be minimized.
- 5) The WCF shall minimize changes to the existing natural topography to the maximum extent feasible and shall take into consideration the surrounding topography.
- 6) The WCF shall utilize the surrounding tree coverage and foliage as a buffer. Removal of mature trees shall be strongly discouraged.
- 7) The design of the WCF including the tower, antenna, antenna array(s) and any functionally dependent structures shall have the effect of reducing or eliminating visual obtrusiveness.
- 8) The WCF shall minimize visual impacts on view sheds, ridge lines, and other areas of impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
- 9) The proposed facility will not be constructed in such a manner as to result in unnecessary height, mass, and guy-wire supports, with documentation having been provided and reviewed regarding the design capacity and/or the remaining co-location capacity of the tower/facility.
- 10) Based on information submitted by the applicant, the Planning Board shall ensure that mitigation measures have been utilized to screen antennae and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
- 11) Based on information submitted by the applicant, the Planning Board shall ensure that creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- 12) Based on information submitted by the applicant, the Planning Board shall

8.2 Radiation Emission Standards

The design, siting and operation of the tower and any related structures must assure that all potentially hazardous radiation is controlled or contained, and that radiation levels are at safe levels as determined by applicable State and Federal standards.

8.3 Aesthetics

8.3.1 Except where otherwise dictated by Federal or State requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted flat blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.

8.3.2 If lighting is required by State or Federal regulations, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

8.3.3 Antenna arrays and microwave dishes located on an ATS shall be placed in such a manner as to be indistinguishable as possible from the current appearance of the existing structure as viewed from the ground level adjacent to the ATS. If, however, circumstances do not permit such placement, the antenna array and dishes shall be placed and colored to blend into the architectural detail and coloring of the host structure.

8.3.4 The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

8.3.5 No advertising or signage shall be permitted on any tower or antenna except for safety or other signage that may be required by the F.C.C.

8.4 Access

The operator shall keep the access to the facility free from snow and debris to ensure emergency access if required.

9.0 **ADDITIONAL STANDARDS & CRITERIA**

Operators of wireless communications facilities and their successors and assigns shall, on an annual basis, provide to the Town of Arrowsic a letter certifying that the tower is still in use and that the tower and its component equipment have not been superseded by more modern and preferred technology, thus rendering their use obsolete.

9.1 Performance Guarantee

Any application that requires Planning Board review and approval may require the posting of a performance guarantee for the development, construction, or modification to the WCF. The Planning Board shall determine whether or not a performance guarantee is required based on the Board's assessment of the potential of the project to cause the Town to incur expenses, such as to stabilize the site if the project is not completed.

The amount of the guarantee shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. The amount of the guarantee shall be determined by the Planning Board based on estimates from independent contractors. The type and form of guarantee shall be approved by the Board of Selectmen. The guarantee shall be released only as authorized by the Planning Board.

9.2 Guarantee for Removal of Abandoned Wireless Communication Facilities

Wireless communications facilities that are not in use for wireless communications purposes for six (6) consecutive months shall be removed by the facility owner or the contractually responsible party at its expense. Removal, including the removal of all components associated with the facility, shall occur within ninety (90) days of the end of such six-month period. Upon removal, the site shall be cleaned, restored and revegetated to blend with the surrounding vegetation at the time of abandonment, or to a condition as near to the original pre-construction condition as possible as determined by the Planning Board.

Should the specific use of these wireless communication facilities be superceded by more modern and preferred technology, thus rendering their use obsolete, the tower and associated equipment and components be dismantled and the site restored as required by this Section 9.2.

The applicant for a new tower shall, prior to issuance of any building permit required for a WCF or WCT hereunder, post a performance guarantee in the form of a continuous corporate surety bond, or an escrow account, for the benefit of the Town equal to one hundred twenty-five (125%) percent of the estimated demolition and removal cost of the tower and associated facilities and components if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor, and shall not be based on services being provided by town employees and town equipment.

The amount of the guarantee shall be approved by the Planning Board, and shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. Estimated removal costs shall include all above ground structures, equipment, foundations, guy anchors, utilities, fencing, access roads or driveways specifically constructed to service the tower, structures, equipment or utilities, and the land returned to a condition as near to the original pre-construction condition as possible.

The type and form of the guarantee shall be subject to review and approval by the Town Attorney and approved by the Board of Selectmen. The Board of Selectmen shall have the authority to require either a certified check payable to the Town of Arrowsic, a savings account passbook issued in the name of the Town, an irrevocable letter of credit from a financial institution authorized to do business in Maine in favor of the Town of Arrowsic, or a faithful performance bond running to the Town of Arrowsic and issued by a surety company authorized to do business in Maine and acceptable to the Board of Selectmen.

All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty day (30) prior notice of cancellation, or renewal, be sent by certified mail to the Town of Arrowsic. The performance guarantee covering such removal shall be for a minimum term of three (3) years. It shall contain a mechanism satisfactory to the Planning Board for review of the cost of removal of the structure every three (3) years, and a mechanism for increasing the amount of the guarantee, should the revised cost estimate so necessitate. The performance guarantee shall be released by the Planning Board only upon the tower owner or operator or landowner's completion of tower and facility removal and land restoration (as required by this Section 9.2) to the satisfaction of the Code Enforcement Officer.

9.3 Time Schedule

The WCF must be completed for operational use by the end of a twelve (12)-month period after final approval.

9.4 Liability

The Town of Arrowsic is excluded from any liability relating to the loss of life, personal injury or property damage as a result of the use of this wireless communications facility, its equipment and component thereof.

10.0 ALTERATIONS TO EXISTING FACILITIES

10.1 Alterations to New or Existing Conforming Wireless Communication Towers.

10.1.1 Normal maintenance and repairs of any Conforming Wireless Communications Tower and its related buildings may be performed without a permit from the CEO.

10.1.2 Planning Board review and approval in accordance with the standards of this Ordinance shall be required if any of the following changes are proposed:

- a. Any increase in the number or size of antenna(s)/antenna array(s) or broadcast capacity in excess of the exemption standards contained in FCC OET Bulletin #65.

- b. Any increase in tower height.
- c. Any change to tower lighting or existing buffering.
- d. Any change to the access road or the size (square feet or volume) of any structure on site.

11.0 BUILDING PERMIT REQUIREMENTS

The CEO shall ensure that the following requirements are met prior to the issuance of a Building Permit for a WCF.

- 11.1 The CEO shall not issue a permit for the construction of a new Wireless Communication Facility, or any change to an existing Wireless Communication Facility that requires Planning Board review until the Planning Board has approved the facility and all applicable conditions have been met.
- 11.2 The CEO shall not issue a building permit for a WCF unless all required permits are obtained and filed with the Town including, but not limited to, any applicable Federal or State permits or licenses.
- 11.3 In the event that an applicant proposes to add capacity, or change component parts of the antenna the CEO may issue a permit for additional antenna(ae), antenna array (s) or broadcast capacity if the facility has been previously and specifically approved by the Planning Board for the requested changes. The Planning Board approval must specifically state that this capacity is allowed and establish a time period during which the CEO may issue a permit for the additional capacity. Any increase in broadcast capacity in excess of the exemption standards contained in FCC OET Bulletin #65 must be previously and specifically approved by the Planning Board.
- 11.4 The CEO shall have the authority to use professional and technical services to review proposed plans and to inspect the construction of an approved project. The applicant shall pay all costs incurred for these review and inspection services.
- 11.5 If inspections and/or proof of insurance are required by the Planning Board, all necessary forms and inspection schedule(s) shall be submitted.
- 11.6 If the Planning Board requires a performance guarantee and/or abandonment/removal bond for the proposed WCF, the amount and type of the bond(s) as required by the Planning Board shall be received and found acceptable by the CEO prior to the CEO taking action on any building permit application.

12.0 INSPECTIONS

- 12.1 Inspections of towers by either a Registered Professional Engineer in the State of Maine, or a qualified third party mutually agreed upon by the applicant and the CEO/Town Engineer shall be performed to assess structural integrity. Such

inspections shall be performed as follows:

- 1) Monopole towers - at least once every six years following completion of construction. The inspection shall take place between the fifth and sixth year of the repeat sequence.
- 2) Self-supporting towers - at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.
- 3) Guyed towers - at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

- 12.2 The inspection report shall be submitted to the CEO or designee within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, or upon recommendation by the CEO, the designee may require repair or demolition of the tower.
- 12.3 The cost of such inspections, reports, repairs or demolition required under this Section shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days, or less, as required by the CEO or designee for safety reasons.
- 12.4 Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

13.0 REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES

- 13.1 The owner of a WCF shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.
- 13.2 Any WCF or component thereof that is not operated for a continuous period of six (6) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the CEO of determination of abandonment.

If the owner fails to remove the abandoned WCF or component thereof as required by the town, the Town shall utilize the removal guarantee and shall cause the removal of the abandoned equipment and any required site restoration.

- 13.3 If the operator or owner goes out of business or bankrupt the WCF shall be

considered abandoned. The operator or owner shall meet the removal and restoration requirements in Section 13.1 and 13.2 above.

- 13.3 The applicant shall be required to post a performance guarantee in accordance with standards established in Section 9 Additional Standards & Criteria.
- 13.4 If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.
- 13.5 If all antennae above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within three (3) months.
- 13.6 The replacement of all or portions of a WCF previously removed requires a new application and site plan approval as established in this Ordinance.

14.0 WAIVER PROVISION

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Article. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with Federal and State law and with the purpose of this Ordinance.

15.0 APPEALS

Appeals shall be in accordance with the standards established in the Town of Arrowsic Zoning Ordinance, Section 4.4.

16.0 CONFLICT AND SEVERABILITY

16.1 Conflict 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 apply.

16.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

17.0 EFFECTIVE DATE

This Ordinance becomes effective upon Town Meeting approval.

DEFINITIONS ACCOMPANYING TOWN OF ARROWSIC WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

In addition to those terms defined in the Town of Arrowsic Zoning and Subdivision Ordinances, the following terms are applicable for reviewing an application for a wireless communication facility and for ensuring that applicable standards are met.

ATS (Alternative Tower Structure): Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, and similar alternative mounting structures that camouflage or conceal the presence of antennae or towers associated with a Wireless Communication Facility.

Antenna/Antenna Array:

- 1) A device used in communication that transmits or receives radio or electromagnetic frequency signals.
- 2) A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy.

These include, but are not limited to, omnidirectional antennae (whip or rod), directional antennae (panel) and parabolic antennae (dish or disc).

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or other structure that attaches to a tower and supports one or more antenna(e).

Co-location: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Equipment Facility: Any structure used to contain ancillary equipment for a wireless communication facility, including cabinets, shelters, a build-out of an existing structure, pedestals and other similar structures.

FAA: Federal Aviation Administration, or its lawful successor.

FCC: Federal Communication Commission, or its lawful successor.

Normal Maintenance: The regular, routine maintenance of a WCF including but

not limited to changing light bulbs, plowing and maintaining the existing access road and gate, fence repair and maintenance, maintenance of the buffer, replacing an existing antenna with a functionally equivalent antenna, and changing or repairing electronic components that do not increase the broadcast capacity of the WCF in excess of the exemption standards contained in FCC Office of Engineering and Technology (OET) Bulletin #65. This definition specifically includes painting provided that the painting is done in accordance with the standards established in this ordinance. This definition specifically excludes widening an access road, increasing tower height, replacing light fixtures, and increasing the broadcast capacity of a WCF within the exemption standards contained in FCC OETC Bulletin #65.

Parabolic Antenna: (Also known as a satellite dish antenna) means an antenna which is bowl shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

Tower Height: The vertical distance measured from the mean elevation of a 25' radius of a circle whose center is the base of the tower to the highest point of the tower or ATS, including the base pad, all antennae and other attachments. When towers are mounted upon buildings or other structures, the total vertical height is measured from the ground level as stated above.

Wireless Communications: Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including but not limited to telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, radio, television and similar services that currently exist or that may be developed in the future.

WCF (Wireless Communication Facility) or Facility: A facility that transmits, receives, distributes, provides or offers wireless communications. This includes the facility's associated antennae, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.

Wireless Communication Towers - Co-Located: A Wireless Telecommunications Tower or ATS supporting one or more antennae/antenna array(s) and owned or used by more than one public or private entity. A Co-Located Tower may include two (2) or more antenna array(s) serving the same company provided that the applicant can demonstrate to the Planning Board that separate levels are a practical necessity.

WCT (Wireless Communication Tower) or Tower: A structure designed and constructed specifically to support an antenna array that provides Wireless Communication. A tower may be a monopole, self-supporting (lattice) tower, guy-wire support tower or other similar structure, and includes all supporting lines, cables, wires, and braces.