

TOWN OF PITTSTON

WIRELESS TELECOMMUNICATION FACILITY SITING ORDINANCE

Section 1. General

- A. Title: This Ordinance shall be known as the Town of Pittston Wireless Telecommunications Facility Siting Ordinance and will be referred to as “this Ordinance.
- B. 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 MRSA Section 3001, and the provisions of the Planning and Land Use Regulation Act, Title 30-A MRSA Section 4312 et seq.
- C. Purpose: The purposes of the Ordinance are:
1. Implement a municipal policy concerning the provision of wireless telecommunication services, and the siting of their facilities.
 2. Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunication facilities.
 3. Ensure that all telecommunication carriers providing facilities or services within the Town comply with this Ordinance.
 4. Ensure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.
 5. Encourage the colocation of wireless telecommunication facilities, thus helping to minimize adverse visual impacts on the community.
 6. Further the goals and policies of the comprehensive plan.
 7. Protect the scenic and visual character of the community.
- D. Applicability: The provisions of this Ordinance apply to all construction and expansion of wireless telecommunication facilities. The following are exempt from the provisions of this Ordinance:
1. Temporary wireless telecommunication facilities for emergency communications by public officials.
 2. Amateur ham radio stations licensed by the Federal Communication Commission.
 3. Parabolic antennas less than 7 feet in diameter, that are an accessory use of the property.
 4. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

5. Temporary wireless telecommunication facility, in operation for a maximum period of 180 days.
 6. An antenna that is an accessory use to a residential dwelling unit.
- E. Effective Date: The effective date of this Ordinance shall be the date of the adoption by the Town of Pittston: March 19, 2005.
- F. Validity and 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 this Ordinance.
- G. Availability: A certified copy of this Ordinance shall be filed with the Town Clerk and shall be assessable to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town Office.
- H. Conflicts with other Ordinances: Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply.
- I. Application Fee: All applications shall be accompanied by the following non-refundable fee made payable to the Town of Pittston:
1. Code Enforcement Officer Application Fee is \$100.00
 2. Planning Board Application Fee is \$500.00
- J. Amendments: Amendment to this Ordinance may be initiated by a majority vote by the Board of Selectmen, Planning Board, or by written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election. This Ordinance may be amended by a majority vote of the legally constituted municipal governing body at a regular or special Town Meeting or by referendum ballot.
- K. Appeals: An aggrieved party may appeal the final decision of the Code Enforcement Officer or the Planning Board under this Ordinance to Superior Court, within 30 days of the date the Code Enforcement Officer or the Planning Board issues a written order of its decision.
- L. Administration and Enforcement: The Code Enforcement Officer shall enforce this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance has been violated, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Code Enforcement Officer shall order correction of the violation and may take any other legal action to ensure compliance

with the Ordinance. The Selectmen may permit the Code Enforcement Officer to enter into administrative consent agreements for the purpose of eliminating violations of the Ordinance and recovering fines without court action. Such agreements shall be approved by the Selectmen and shall not allow a violation to continue unless; there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

- M. Penalties: Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A MRSA Section 4452. Each day such violation continues after notification by the Code Enforcement Officer shall constitute a separate offense.

Section 2. Review and Approval Authority

- A. No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer or the Planning Board as follows:
1. Approval by the Code Enforcement Officer is required for any expansion of an existing wireless telecommunication facility that increases the height of the facility by no more than 20 feet; accessory use of an existing wireless telecommunication facility; or colocation on an existing wireless telecommunication facility.
 2. Approval of the Planning Board is required for construction of a new wireless telecommunication facility; and any expansion of an existing wireless telecommunication facility that increases the height of the facility by more than 20 feet.
- B. The Code Enforcement Officer or the Planning Board shall review the application for wireless telecommunication facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 3. Approval Process

- A. Pre-Application Meeting: All persons seeking approval of the Planning Board under this Ordinance shall meet with the Planning Board prior to submitting a formal application. At this meeting, the Planning Board, shall explain to the applicant the Ordinance provisions, as well as submissions that will be required under this Ordinance.
- B. Applications: All persons seeking a Code Enforcement or Planning Board Approval shall submit an application on the forms provided by the Town of Pittston. The applicant shall have the burden of proof to show that the application meets all the provisions of this Ordinance.

C. Planning Board Approval Standards:

1. An application for approval by the Planning Board shall meet all of the following standards.
 - a. The wireless telecommunication facility shall not be located within the following shoreland districts; Resource Protection and Stream Protection as designated in the Town of Pittston Shoreland Zoning Ordinance.
 - b. A wireless telecommunication facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunication facilities or providers subject to the height limitation posed by the tower design.
 - c. A new or expanded wireless telecommunication facility must be setback 105% of its height from all property lines. The setback may be satisfied by including the areas outside of the property boundary if secured by an easement.
 - d. A new wireless telecommunication facility and related equipment must be screened with plants from view by abutting properties to the maximum practicable extent.
 - e. A new wireless telecommunication facility must be fenced to discourage trespass.
 - f. A new wireless telecommunication facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Security lighting may be installed as long as it is shielded to retain light within the boundaries of the site to the maximum extent possible.
 - g. A new wireless telecommunication facility must be constructed with material that blend with the surrounding natural or built environment to the maximum extent possible.
 - h. A new wireless telecommunication facility must comply with the current Electronic Industries Association Telecommunication Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".
 - i. The proposed facility to the greatest degree practicable will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic places.
 - j. A new or expanded tower shall not be constructed to a height that would require lighting and marking as per FCC and FAA Regulations.
2. The Planning Board may establish conditions for approval as necessary in order to ensure that the application conforms to the above listed review standards.

D. Amendment to an Approved Application: Any changes to an approved application must be approved by the Code Enforcement Officer or the Planning Board in accordance with the application procedure established in this Ordinance.

I hereby certify that the forgoing is a true copy of the Town of Pittston Wireless Telecommunication Facility Siting Ordinance relating to the licensing and regulations of wireless communication facilities as enacted at the Annual Pittston Town Meeting on March 19, 2005.

Attest: _____
Ann Chadwick, Town Clerk
Town of Pittston, Maine

Date: _____

SEAL/STAMP