

**TELECOMMUNICATION TOWER ORDINANCE**  
**Town of Readfield**

(adopted June 11, 1998, revised May 15, 2008)

**Article 1 - Title**

This Ordinance shall be known and cited as the Telecommunication Tower Ordinance of Readfield, Maine and shall hereinafter be referred to as this “Ordinance”.

**Article 2 - 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 Regulation Act, Title 30-A M.R.S.A. Section 4312 *et seq.*

**Article 3 - Purpose**

A. This Ordinance is designed and intended to balance the interests of the residents of the Town of Readfield, telecommunication providers, and telecommunication customers in the siting of telecommunication facilities within the Town. These standards are also intended:

1. To implement a municipal policy concerning the provision of wireless telecommunication services, and the siting of these facilities;
2. To establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunication facilities;
3. To minimize the adverse impacts of such facilities including: visual impacts, environmental impacts, impacts to historically significant areas, and health, safety and welfare impacts,
4. To encourage co-location of carriers and to minimize the total number of towers located within the Town;
5. To permit the construction of new towers only where all other reasonable opportunities have been exhausted; and
6. To provide for the removal of towers and other structures no longer being used for telecommunication purposes.

#### **Article 4 - Applicability**

Any tower or telecommunication facility existing as of April 7, 1998, the date of the first public hearing on this Ordinance, shall be exempt from review under this Ordinance. Future expansions of such tower/telecommunication facilities beyond the threshold height shall be subject to review under this Ordinance. An antenna, tower or telecommunication facility for residential use and which is located on the site of the residence shall be exempt from review under this Ordinance if the antenna, tower or telecommunication facility are below the threshold height and meets the setback requirement contained herein. Temporary wireless communication facilities for emergency communications by public officials shall be exempt from review under this Ordinance. All other new or to be expanded antennas, towers, or telecommunication facilities are subject to review under this Ordinance.

#### **Article 5 - Definitions**

A. Alternative Tower Structure - shall mean clock towers, bell steeples, light poles, water towers and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

B. Antenna - shall mean any exterior apparatus designed for telephonic, radio, television or similar communications through the sending and/or receiving of electromagnetic waves.

C. Co-Location - shall mean the location of more than one telecommunication facility (use) on a tower or alternative tower structure.

D. FAA - shall mean the Federal Aviation Administration.

E. FCC - shall mean the Federal Communication Commission.

F. Height - shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna. If the tower and/or telecommunication facility is designed to operate above the threshold height, then it shall be subject to review under this Ordinance.

G. Telecommunication Facility or Facilities - shall mean a facility that transmits, receives, distributes, provides or offers telecommunication services, radio or television signals, or any other spectrum-based transmission/reception, together with the facility's associated antennas, 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 telecommunication 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.

H. Threshold Height - shall mean the height above which a telecommunication facility must, in all cases, be reviewed by the Planning Board under this Ordinance. The threshold height shall be fifty (50) feet. All facilities less than fifty (50) feet in height are exempt from Planning Board review under this Ordinance.

I. Tower - shall mean any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and similar structures.

J. Vegetated Buffer – shall mean a vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established.

\* Facilities less than the threshold height are still subject to all applicable standards and permits that may be required under the Land Use Ordinance.

#### **Article 6 - Level of Review and Permits Required**

A. All residential telecommunication facilities above the threshold height shall be subject to Planning Board review and the standards contained within this Ordinance.

B. All new or proposed expansions of non-residential telecommunication facilities or alternative tower structures shall be subject to Planning Board review and the standards contained in this Ordinance.

#### **Article 7 - Review Process and Hearing Requirements**

A. All activities which require a land use permit in accordance with this Ordinance shall submit an application to the Code Enforcement Officer for review by the Code Enforcement Officer and/or the Planning Board.

B. When a Planning Board review is required, the Planning Board shall schedule a public hearing within thirty (30) days of determining that the application is complete. Notification of the hearing shall be provided as follows:

1. In writing, at least ten (10) days prior to the hearing, to all owners of property that directly abuts or are located within one thousand (1,000) feet of any property line of the property for which the application is made. (Notice shall be by certified mail.) Notice shall also be given to any other municipality whose boundary with the Town of Readfield is located within one thousand (1,000) feet of the proposed telecommunication facility. The applicant shall provide such notification and shall present proof of such notification to the Code Enforcement Officer. The notification shall include: the name of the applicant, location of the property, a brief description of the project, and a plot plan identifying the proposed site layout in relation to nearby streets and properties. The wording and plot plan of the notice shall be in a form

approved by the Code Enforcement Officer or the Planning Board. No other enclosures other than this notice shall be in the mailing.

2. By the Town posting a notice of such hearing at the Town Office and at the United States Post Offices in Readfield and Kents Hill a minimum of three (3) days in advance of the hearing.

3. By the Town advertising in a newspaper of general circulation a notice of the hearing a minimum of ten (10) days in advance of the hearing.

C. The Planning Board shall review the application and issue written Findings of Fact which outline the reasons it approves or denies the telecommunications facility application. The Planning Board shall use the standards in the Land Use Ordinance as well as those noted below to make its decision. The Planning Board may establish reasonable conditions to ensure conformity with the purposes of this Ordinance and the adopted Town of Readfield Comprehensive Plan.

Factors that shall be considered in making a decision:

1. Height of the proposed tower or other structure does not exceed that which is essential for its intended use and public health, safety and welfare;

2. Nature of uses on adjacent and nearby properties;

3. Surrounding topography;

4. Surrounding tree coverage and foliage;

5. Design of the tower, antenna, or facility with particular reference to design characteristics showing color and identifying structural materials that have the effect of reducing or eliminating visual obtrusiveness;

6. Proposed ingress and egress to the site;

7. Availability of suitable existing towers and other alternative tower structures;

8. Visual impacts on view sheds, ridge lines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures;

9. The proposed facility/tower/dish will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or major view corridor;

10. The proposed facility/tower/dish is not constructed in such a manner as to result in needless 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;

11. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations; and

12. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (See 16 U.S.C. 470w(5); 36 CFR 60 and 800).

D. The Planning Board may use any technical and professional services necessary to assist in its review of a telecommunication facility. Services may include but are not limited to: an analysis of shared use, an analysis of visual impact, an analysis of the structure satisfying federal and state requirements, an analysis of alternative sites, and other issues required to satisfy the requirements of this section. The applicant shall be required to pay all costs involved with these professional services.

E. The Code Enforcement Officer may use professional and technical services to inspect construction of an approved project. The applicant shall pay all costs incurred for these inspection services.

F. Within sixty (60) days of the granting of the permit, the approved permit and any lease of the property for use as an area for a telecommunication facility shall be recorded in the Kennebec County Registry of Deeds.

## **Article 8 - Zoning Districts/Performance Standards/Dimensional Requirements**

A. In the Rural and Commercial Industrial District Zones, the telecommunication facility above the threshold height shall be permitted when it conforms to the performance standards and dimensional requirements of this Ordinance. Unless otherwise exempt or unless a waiver is obtained, new or to be expanded telecommunication facility above the threshold height shall not be permitted in any zone except the Rural and Commercial Industrial District Zones.

B. Height - Telecommunication facilities shall not exceed a maximum height of one hundred and ninety (190) feet, including antennas and other devices.

### C. Setbacks

1. A roof-mounted antenna on a residential dwelling shall be setback a distance such that it cannot fall on to an adjacent property. All other telecommunication facilities below the threshold height shall be setback from the lot lines a distance equal to at least one hundred fifty (150%) percent of the tower height. All telecommunication facilities above the threshold height shall be set back from the lot lines a minimum of seven hundred and fifty (750) feet. The term "lot lines" shall mean those property boundaries of record and in existence at the time construction is completed on the proposed tower. The tower height used shall be the maximum design height approved for the site.

2. Towers, guys and accessory facilities shall meet the minimum zoning district setback requirements.

D. Aesthetics, Landscaping, Buffers and Fencing

1. Towers may be required to be painted a color to blend into the surrounding environment so as to reduce visual obstruction. Towers shall be designed to blend into the surrounding environment to the maximum extent feasible.

2. Subsequent to completion of construction, all telecommunication facilities shall thereafter maintain as a vegetated buffer a setback equal to at least one-hundred fifty percent (150%) of the maximum constructed height of the tower and no new lots may be created within the 150% vegetated buffer area. Existing uses and structures including trails and agricultural uses shall be allowed to remain and continue within vegetated buffer areas. A vegetated wooded buffer is intended to remain primarily in its natural state except that the selective cutting, clearing, or removal of trees may be permitted as follows:

- a) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown, and
- b) a well-distributed stand of trees and other vegetation is maintained. A “well-distributed stand of trees and other vegetation” shall be defined as maintaining a rating score of twenty-four (24) or more within any 25-foot by 50-foot rectangular area (1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ feet Above Ground Level (inches)

	Points
2-<4 in.	1
4-<8 in.	2
8-<12 in.	4
12 in. or greater	8

Woody saplings less than 2 inches in diameter shall not be removed until 5 saplings are recruited into any one plot.

The Planning Board may require additional planting in the buffer area to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

3. At a telecommunication facility site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screenings and landscaping that will blend the tower facilities to the natural setting and built environment.

4. Telecommunication facility shall not be artificially lighted, unless required by the FAA or other Federal or State authority. If lighting is required, the Planning Board shall review the available lighting alternatives and approve the design that would cause the least disturbance

to the surrounding properties and views. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site. All lighting shall comply with the lighting section of the Town's Land Use Ordinance.

5. Road access to the telecommunication facility shall be the minimum size necessary to allow safe access.

6. The base of a telecommunication facility may not be located in a wetland or floodplain.

7. A security fence or wall not less than eight (8) feet in height from the finished grade shall be provided around the facility. Access to the facility shall be restricted by use of a locked gate.

#### E. Investigation of Existing Alternative Towers, Sites and Structures

Applicants shall identify all existing and proposed (on file in Town Office) towers, including their heights, located in the Town and within one (1) mile of the Town boundaries. Applicants must provide evidence of the lack of antenna space on all such towers and shall identify alternative tower structures and sites which have been investigated as an alternative to the construction of a new tower. Applicants shall address the pros and cons of utilizing co-location and other alternative tower structures with respect to its application and shall demonstrate that it cannot provide adequate communication service utilizing such existing towers or structures.

#### F. Co-Location

1. The applicant and/or owner of non-residential telecommunication facilities shall allow other future wireless service carriers, including public agencies (namely police, fire, ambulance, communications and highway if requested at the time of review by the Planning Board) using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a telecommunications tower and site, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location. Applicant and/or owner of other wireless service carriers shall provide for reasonable sharing of cost in accordance with industry standards.

2. To ensure co-location, the Planning Board may require co-location on a tower so as to prevent the need for new carriers to build new towers, may deny an application for a telecommunication facility because of inadequate provisions and/or arrangements for co-location and may require an existing tower to be extended in height (provided that a structural analysis indicates that such extension is structurally feasible and safe) but not to exceed the maximum height set forth in this Ordinance in order to provide for co-location provided, however, that the Planning Board may do so only if the co-location fee or payment required of the applicant by the owner of the existing tower is no more than ten (10%) percent above the industry average for similar co-location arrangements or the owner shall demonstrate that any fee above this amount is reasonable and justified.

## G. Other Requirements

1. Building Codes and Safety Standards - To ensure the structural integrity of telecommunication facilities, the owner shall ensure that it is designed, constructed and maintained in conformance with applicable Federal, State and Town building, electrical and safety codes.
2. Advertising - No advertising or signage is permitted on telecommunication facilities.

## **Article 9 - Plan Requirements**

Each applicant requesting a permit under this section shall submit a scaled plan and application in accordance with the following submission requirements:

1. Location of the proposed structure, including map/lot number and street address;
2. Name of owner or operator of the telecommunication facility and owner of the property;
3. Proof of right, title or interest to use the property on which the telecommunication facility is proposed;
4. Name of company(ies) and their addresses responsible for constructing and/or maintaining the telecommunication facility;
5. Date the telecommunication facility was initially constructed or is proposed to be constructed;
6. A description and construction detail of the telecommunication facility including: plot plan identifying location of the tower on the property; dimensions of the tower; structural supports, if any; lighting; color; and equipment located on the tower structure, if any. This description shall also identify any accessory structures that are essential to operation of the telecommunications facility;
7. A topographic map, drawn at a scale of 1 inch = 50 feet (or other appropriate scale as determined by the Planning Board) of the property proposed as the location for all of the structure(s). The topographic map shall identify: accurate dimensions of the property; contours at not less than five (5) foot intervals (or other appropriate scale as determined by the Planning Board); existing vegetation particularly noting height, diameter, density, quality, and type (deciduous or evergreen of existing trees; wetlands, floodplains, streams and open bodies of water; ledge outcrops, soils data, medium intensity; all existing structures on the property



including stone walls; and any right-of-ways, easements, or similar encumbrances on the property; and other significant features;

8. A locus map drawn at a scale of not less than 1 inch = 100 feet (or other appropriate scale as determined by the Planning Board) that identifies all properties, all residences, all non-residential structures, all roads, all vegetation types and the natural topography (contours at twenty (20) foot intervals) of the area located within a radius of one thousand (1,000) feet of the proposed telecommunication facility location;

9. A landscape plan prepared at a scale of 1 inch = 50 feet (or other appropriate scale as determined by the Planning Board) that identifies how the applicant shall satisfy landscape, screening, and buffering requirements;

10. A visual impact analysis prepared by a landscape architect or other qualified professional that quantifies the amount of visual impact on properties located within five hundred (500) feet, within two thousand five hundred (2,500) feet and within two (2) miles of the proposed telecommunication facility. This analysis shall include recommendations to mitigate adverse visual impacts on such properties;

11. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or its designee. 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 telecommunication facility and method of screening;

12. An analysis prepared by a qualified professional that describes why this site and structure is critical to the operation for which it is proposed. The analysis shall address, at a minimum: existing and proposed service area maps; how the structure is integrated with other company operations, particularly other structures in Readfield and surrounding communities; future expansion needs in the area; the effect on company operations if this structure is not constructed in this location; other sites evaluated for location of this structure and how such sites compare to the proposed site; other options, if any, which could be used to deliver similar services, particularly if the proposed equipment can be co-located (shared use) on an existing structure; and an analysis to the projected life cycle of this structure and location;

13. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and conformance with all applicable American National Standards Institute (ANSI) technical and structural codes and that construction of the structure shall satisfy all Federal, State and Town building code requirements as well as be able to satisfy the needs of maximum permitted co-location at the site (as approved by the Planning Board) per the height limits of the applicable zoning district;

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

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

16. A signed statement stating that the owner of the telecommunications facility and his or her successors and assigns agree to:

a. 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,

b. negotiate in good faith for shared use of the telecommunications facility by third parties,

c. allow shared use of the telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location, and

d. 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 site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and 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;

17. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned;

The performance guarantee covering such removal shall be for an initial minimum term of fifteen (15) years. It must contain a mechanism, satisfactory to the Town, for review of the cost of removal of the structure every five (5) years thereafter, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate.

The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

18. Payment of all required performance guarantees as a condition of plan approval, with a note on the plan so stating;.

19. Payment of the permit application fees; and

20. A notarized statement that the plan conforms to all applicable Federal, State and Town requirements.

**Article 10 - Performance Guarantees and Removal of Abandoned/Unused Facilities**  
**General Guarantee**

A. New or to be expanded telecommunication facilities, above the threshold height, shall meet the following conditions:

1. No building permit may be issued until the applicant has filed a performance guarantee with the Town Manager equal to one hundred (100%) percent of the cost of completing the following improvements:

a. The construction of any drainage systems involving piping, culverts or retention or detention facilities,

b. The construction of erosion and sedimentation control measures or landscaping required to meet the standards of this Ordinance,

c. Other site improvements required by the Planning Board to meet the standards of this Ordinance.

B. **Removal of Abandoned/Unused Facilities**

The owner of a telecommunication facility shall be required to remove the facility should it not be used for the use or uses approved for a period of twelve (12) consecutive months. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town may remove the facility at the owner's expense. The owner of the facility 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 reestablishment of vegetation. An applicant shall post a performance guarantee with the Town of Readfield prior to obtaining a permit that is equal to one hundred and twenty five percent (125%) of the cost of removing the facility.

**Article 11 - Waiver Provision**

A. The Planning Board, in its sole discretion, may modify or waive any of the submission requirements or application procedures or, in the case of alternative tower structures, may waive or modify performance standards where deemed appropriate or inapplicable. All waiver requests must be based upon a written request of the applicant submitted at the time of the application and when the Planning Board determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards and that such modification or

waiver would not adversely affect properties in the vicinity or the general health, safety, and welfare of the Town. Such a waiver, if granted by the Planning Board, shall be in writing.

B. In the case of telecommunication facilities which: 1) exceed the threshold height; 2) are located at a residence and 3) are used solely for residential use, the Planning Board, in its sole discretion, may modify or waive any of the Performance Standards or Dimensional Requirements performance standards contained in this Ordinance, except a minimum setback of one hundred fifty (150%) percent of the telecommunications facility's height, if due to the design, construction and location of the telecommunication facility the Planning Board determines that the facility will not have any significant adverse impact upon the surrounding property based on the standards and criteria described in this Ordinance.

### **Article 12 - Administration and Enforcement**

A. 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 this Ordinance.

B. The Board of Selectmen, or its authorized agent, is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow a violation of this Ordinance 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; and that the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

### **Article 13 - Penalties**

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

## **Article 14 - Conflict and Severability**

### **A. 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 apply.

### **B. Severability**

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