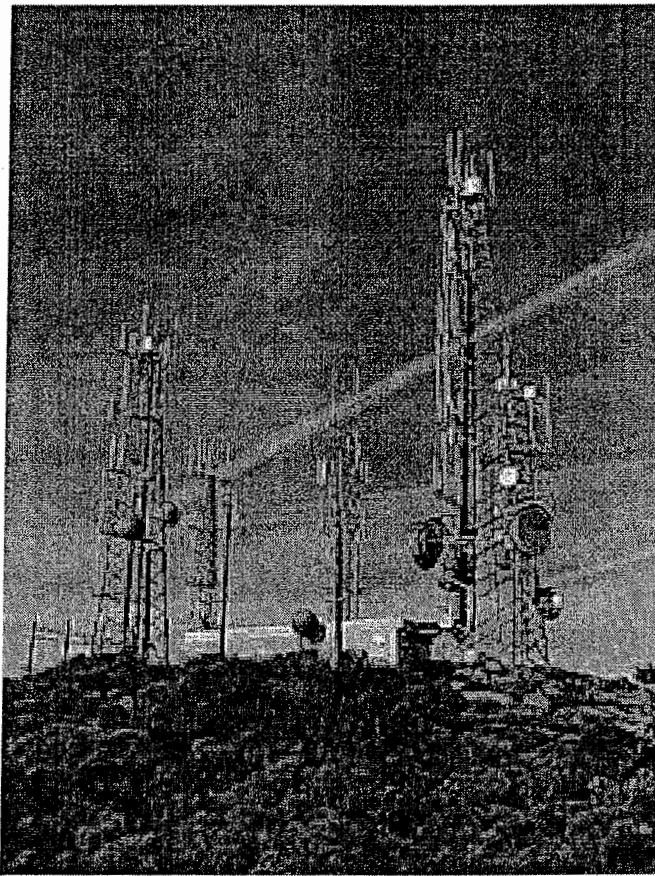


TOWN OF MONTVILLE

PERSONAL WIRELESS SERVICE FACILITIES SITING ORDINANCE



Approved
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- a. "Antenna" means the surface from which electromagnetic frequency signals are sent or received by a personal wireless service facility.
- b. "Camouflaged" personal wireless service facilities are disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.
- c. "Co-Location" means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.
- d. "Equipment Shelter" is an enclosed structure, shed, or box at or near the base of the mount within which are housed equipment for personal wireless service facilities, such as batteries and electrical equipment. Equipment shelters sometimes are referred to as base receiver stations.
- e. "FAA" means the Federal Aviation Administration, or its lawful successor.
- f. "FCC" means the Federal Communications Commission, or its lawful successor.
- g. "Fall Zone" is the area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a radius equal to the height of the facility, including any antennas or other appurtenances. The fall zone is an area within which there is a potential hazard from falling debris, such as ice or collapsing material.
- h. "Guyed Tower" is a tower that is tied to the ground or other surface by diagonal cables for lateral support.
- i. "Height" means, 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.
- j. "Lattice Tower" refers to a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- k. "Licensed Carrier" is a company authorized by the FCC to construct and operate a commercial mobile radio services system.
- l. "Mast" is a pole that resembles a street light standard or telephone pole.

- m. "Monopole" is a type of mount, normally thicker than a mast, that is self-supporting with a single shaft of concrete, steel, or wood, which is designed for the placement of antennas or arrays along the shaft.
- n. "Mount" is the structure or surface upon which antennas are mounted. Antennas may be mounted on the roof of a building (roof-mounted), on the side of a building (side-mounted), mounted on the ground (ground-mounted), or mounted on a structure other than a building (structure-mounted.)
- o. "Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.
- p. "Personal Wireless Service Facility" is a facility for the provision of personal wireless services.
- q. "Personal Wireless Services" includes any personal wireless service 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 unlicensed wireless services, and common carrier wireless exchange access services.
- r. "Propagation Studies" are computer generated estimates prepared by a professional radio frequency engineer of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific personal wireless service facility or structure.
- s. "Tower" means any structure, whether free standing or in association with a building or other permanent structure, primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

7. Exemptions

The following are exempt from the provisions of this Ordinance:

- a. Amateur (Ham) radio stations licensed by the FCC.

- b. Parabolic antennas less than 7 (seven) feet in diameter, that are an accessory use of the property.
- c. Maintenance or repair of a personal wireless service facility and existing equipment, provided that there is no change in the height or any other dimension of the facility.
- d. Temporary personal wireless service facility in operation for a maximum period of 30 (thirty) days.
- e. Residential antennas that are an accessory to a residential dwelling unit, such as a television or radio antenna.

8. Permit Required

No person shall place, construct, erect, or modify a personal wireless service facility unless a permit first has been obtained from the Town of Montville Planning Board.

9. General Filing Requirements

An application for a Personal Wireless Service Facility siting permit must include the name, address, and telephone number of the applicant and any co-applicants, as well as agents for same.

10. Specific Submission Requirements

Applications for Personal Wireless Service Facility siting permits must include the following, at the cost of the applicant:

- a. A site plan prepared and reviewed by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, loading/antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility meets industry standards and satisfies all Federal, state, and local building code requirements. The Board also may require an independent review of the site plan by a professional engineer or independent consultant at the applicant's expense;
- b. A United States Geological Survey 7.5 minute topographic map showing the current location of all structures and personal wireless service facilities above 100 feet in height from ground level, except antennas located on roof tops, within a 5 (five) mile radius of the proposed facility;

- c. Any site search ring analysis reports documenting the applicant's search for existing structures or property owners in designated land use areas and the rationale for selecting the site under consideration;
- d. Verification of contact with all other owners of facilities for commercial mobile radio or wireless transmission operating within a 15 mile radius, inquiring as to the feasibility of co-locating at a pre-existing tower or structure;
- e. Proof of the need for a new structure and that co-location on an existing structure is not available;
- f. Any information of relevance to a determination whether co-location is feasible under the design configuration most accommodating to co-location;
- g. Propagation studies for the proposed location as well as any existing or approved personal wireless service facility within a 15 mile radius;
- h. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board. Each photo should be labeled with line of sight, elevation, and the date taken. Photos must demonstrate the color of the proposed facility and method of screening;
- i. Elevation drawings of the proposed facility, showing height above ground level;
- j. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting if any;
- k. A certification from a professional forester licensed in Maine confirming the average tree canopy height within a one hundred fifty (150) foot perimeter of the proposed mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
- l. A balloon test, illustrating the proposed height and location of a personal wireless service facility, may be required at applicant expense. Adequate notice to the public of the test shall be given by the applicant.

11. Coverage

Applicants seeking approval for siting of personal wireless service facilities shall demonstrate that the proposed facility is necessary for the applicant to provide coverage within the targeted market area. To this end, propagation studies must be obtained at the applicant's expense for the proposed location as well as any existing or approved personal wireless service facilities within a 15 mile radius.

12. Location

- a. Co-Location Opportunities: Applicants seeking approval for siting of personal wireless service facilities shall first evaluate the suitability of existing structures or approved sites. Only after finding that there are no suitable existing structures or approved sites for co-location, shall a provider propose a new ground mounted facility.
- b. Existing Structures: Personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, flag poles, telecommunication facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- c. Burden of Proof: The applicant shall have the burden of proving that there are no co-location opportunities which are suitable to locate its personal wireless service facility.

13. Dimensional Requirements

- a. Personal wireless service facilities must comply with the following height requirements:
 1. The height of the personal wireless service facility shall not exceed one hundred (100) feet;
 2. New personal wireless service facilities that are located on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet but in no event to a height of more than one hundred (100) feet. The twenty (20) foot increase in height shall be permitted only once per structure;

3. Personal wireless service facilities sited on other existing structures shall not increase the height of that structure by more than ten (10) feet, unless the facility is completely camouflaged (i.e. within a flagpole, steeple, or chimney);
4. Ground-mounted personal wireless service facilities shall not project higher than forty (40) feet above the average tree canopy height within a one hundred fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The average tree canopy height is the average height of trees with dominate or co-dominate crown positions.

14. Camouflage & Markings

- a. Personal wireless service facilities must be constructed with materials and colored with muted or earth tones that blend with the surrounding natural environment;
- b. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth to create a year-round visual buffer that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The buffer must screen the facility in all directions. The required trees or shrubs may be existing on the property or installed as part of the proposed facility, or a combination of both. The Planning Board has authority to decrease, relocate, or alter the required buffer based on site conditions. The vegetative buffer area must be protected by a landscape easement or be within the area of the owner's lease. The easement or lease shall specify that the trees within the buffer cannot be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.
- c. Personal wireless service facilities shall not be located in blueberry barrens or other distinctive open landscapes, such as agricultural fields, as an adequate visual buffer cannot be provided.
- d. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways.

- e. Personal wireless service facilities incorporating guy wires for support must have daytime visual markers, such as aerial marker spheres, on the wires to prevent collisions by birds.
15. Lighting, Signage, Security, Setbacks & Access Roads
- a. Facilities covered by this Ordinance may not be artificially lighted, except for manually operated emergency lights for use when operating personnel are on site.
 - b. No facility that would be classified as a hazard to air navigation, as defined by FAA regulations, is permitted.
 - c. Unless it is demonstrated that the tower or structure is access secure and not a safety hazard, a security fence or wall not less than 8 (eight) feet in height from the finished grade, equipped with an anti-climbing device, shall be provided around the tower. Use of razor wire is not permitted. Access to the tower shall be through a locked gate; however emergency personnel must be provided with the means to enter the area.
 - d. Road access and fencing shall be designed to mitigate or prevent habitat fragmentation and disturbance, and to reduce above-ground obstacles to birds in flight.
 - e. A single access roadway is permitted, which must be designed to harmonize with the topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and soil erosion. The access roadway must follow the natural contour of the land and should not involve excessive grading or tree removal. Curvilinear roads shall be used as access roads to prevent direct line of site from the town road access point to the tower site. Existing vegetation should be maintained to the extent practical. All practical steps must be taken to prevent a visible scar up or across a ridgeline.
 - f. In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business, institution, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in section 6, above.
 - g. Signs shall be limited to those needed to identify the property and the owner and to warn of potential hazards.

16. Additional Standards for Permit

The Board shall issue a permit for the siting of a personal wireless service facility when the applicant demonstrates that, in addition to compliance with the standards of sections 9 through 15 and section 20 of this Ordinance, the proposal meets the following standards:

- a. The surrounding topography of the proposed site and any topographical features have been employed to the extent practicable to screen the view of the proposed facility;
- b. The design of the proposed facility has the effect of reducing or eliminating visual obtrusiveness;
- c. The proposed facility fits harmoniously into the existing natural environment and avoids unreasonable adverse impacts on the existing scenic character of the surrounding area;
- d. Visual buffering of the proposed facility substantially eliminates view of the facility by abutting property owners;
- e. The proposed facility will be constructed to avoid needless height, mass, and guy-wire supports. A monopole design is preferred.

17. Application Procedure

Applicants must follow the procedures set forth in Article VII, Section 4 of the Site Plan Review Ordinance of the Town of Montville, and as supplemented by this Ordinance.

18. Application Fee

A non-refundable application fee of \$2500 per proposed tower, payable to the Town of Montville, must be submitted with the application.

19. Notice to Abutters

Applicants must follow the procedures set forth in Article VII, Section 4A of the Site Plan Review Ordinance of the Town of Montville.

20. Equipment Shelters

Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following standards:

- a. Equipment shelters shall be located in underground vaults; or
- b. Equipment shelters shall be designed so that they are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
- c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- d. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

21. Hazardous Waste

No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten (110) percent of the volume of the hazardous materials stored or used on site. In the event of leakage, the owner is responsible for all costs related to cleanup of the site.

22. Noise

Personal wireless service facilities shall not generate noise in excess of that permitted under Article 10, Section 21 of the Montville Site Plan Review Ordinance.

23. Maintenance

The owner of the personal wireless service facility shall maintain the structure in good condition. Such maintenance shall include, but is not limited to, painting, structural integrity of the mount and security barrier, buffer areas, and landscaping.

24. Monitoring

- a. The personal wireless service facility owner shall provide the Town of Montville with evidence of compliance with Federally mandated safety levels for radiofrequency electromagnetic fields and radiofrequency radiation exposure levels, to include copies of any reports filed with the FCC on an ongoing basis.

- b. The personal wireless service facility owner shall arrange for a licensed professional structural engineer to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be submitted to the First Selectman and the Planning Board. Modification of existing facilities which include changes to dimension or antenna number or type may require a new structural inspection at the Board's discretion.
- c. As part of the approval process for issuance of a permit, the property owner shall agree that representatives acting on behalf of the Town of Montville may enter the subject property to verify proper maintenance of the structure, and/or to obtain radio frequency radiation and noise measurements at the expense of the personal wireless service facility owner. The Town shall provide written notice to the facility owner and landowner and also afford them the opportunity to accompany the Town representatives when the inspection is conducted.

25. Abandonment or Discontinuation of Use

At least thirty (30) days prior to the time that the owner plans to abandon or discontinue use of a personal wireless service facility, said owner must notify the town by certified mail.

26. Removal

Any personal wireless service facility, or upper portion thereof, that ceases to operate must be removed at the expense of the applicant within six (6) months. Removal shall include, but not be limited to, antennas, mounts, equipment shelters, and security barriers. Waste materials must be properly disposed of at an off-site location. The location of the personal wireless service facility must be restored to its pre-construction condition.

If the owner fails to remove a personal wireless service facility in accordance with the provisions of this section, the Board of Selectmen of the town of Montville and/or their representatives shall have the authority to enter the subject property and dismantle the facility.

27. Bond For Removal

At the time of approval of a permit application, and prior to initiating construction of any personal wireless service facility within the Town of Montville, the applicant must post a bond to

cover costs for the removal of the personal wireless service facility. The amount of the bond shall be based on the removal cost plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase.

28. Enforcement & Violations

This Ordinance may be enforced in accordance with the procedures set forth in Article XII of the Site Plan Review Ordinance of the Town of Montville.

29. Appeals

Any person aggrieved by the action of the Planning Board concerning a matter that falls within the parameters of this Ordinance may appeal the decision to the Board of Appeals within forty-five (45) days after receipt of the notification. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Montville.

30. Amendments

An amendment to this Ordinance may be initiated in accordance with the procedures set forth in Article XIV of the Site Plan Review Ordinance of the Town of Montville.