Cell Tower Ordinance
Town of Morrill

Section 1. Title

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

Section 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.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
- Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;
- Allow competition in telecommunications service;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Town of Morrill;
- Permit and manage reasonable access to the public rights of way of Town of Morrill for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within Town of Morrill comply with the ordinances of Town of Morrill;
- Ensure that Town of Morrill can continue to fairly and responsibly protect the public health, safety and welfare;
- Encourage the colocation of wireless telecommunications facilities , thus helping to minimize adverse visual impacts on the community;
- Enable Town of Morrill to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses; and
- Protect the scenic and visual character of the community.

Section 4. Applicability

This ordinance applies 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.) Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.

B.) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

C.) Parabolic antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.

D.) Maintenance or repair. 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.

E.) Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

F.) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

Section 5. Review and Approval Authority

5.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

A.) Expansion of an Existing Facility and Colocation. Approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by less than 20 feet; or an accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility.

B.) New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than 20 feet.

5.2 Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1. Pre-Application Conference

All persons seeking approval of the CEO or the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2. Application

All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A.) Application for CEO Approval. Applications for permit approval by the CEO must include the following materials and information:

1.) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.

2.) 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.

3.) 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 4.) Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.

5.) For proposed expansion of a facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:

a.) respond in a timely, comprehensive manner to a request for information from a potential colocation 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 by third parties;

c.) allow shared use if an applicant agrees in writing to pay reasonable charges for colocation;

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 and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B.) Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

1.) 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.

2.) 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.

3.) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.

4.) A site plan:

- a.) 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;
- b.) certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
- c.) a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

5.) A scenic assessment, consisting of the following:

- a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
- b.) 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 method.
- c.) 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.
- d.) A narrative discussing:
  - i.) the extent to which the proposed facility would be visible from or within a designated scenic resource,
  - ii.) the tree line elevation of vegetation within 100 feet of the facility, and
  - iii.) the distance to the proposed facility from the designated scenic resource's noted viewpoints.

6.) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7.) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
   a.) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
   b.) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,
   c.) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
      i.) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
      ii.) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
      iii.) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
   d.) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
   e.) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;
8.) 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 9.) A signed statement stating that the owner of the wireless 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 colocation 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 wireless telecommunications facility by third parties;
   c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
   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.

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

11.) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3. Submission Waiver

The CEO or Planning Board, as appropriate, 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 CEO or 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 Ordinance.

6.4. Fees

A.) CEO Application Fee

An application for CEO approval shall include payment of an application fee of $100. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of Morrill to review the application.

B.) Planning Board Application Fee

An application for Planning Board approval shall include payment of an application .fee of $300. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the [municipality] to review the application.

C. Planning Board Review Fee

Any cost for the professional service (attorney) or consultant review of one or more aspects of the application that the Planning Board may require to determine compliance or non-compliance of the Wireless Telecommunication Ordinance Town of Morrill, or to advise and assist the Board in making its decision. The attorney or consultant first, prior to deliberations, shall estimate the cost of such review and the applicant shall deposit with the Town, the full estimated cost, which the Town shall place in an escrow account and shall reimburse the applicant if funds remain after payment.

6.5 Notice of Complete Application

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The CEO or Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Planning Board.

If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete, and requires Planning Board review, the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6. Public Hearing

For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application. The applicant shall notify all abutters, within 1,000 feet of the proposed Wireless Telecommunication Facility, of the time and location of the public hearing.

6.7. Approval

A.) CEO Approval. Within thirty (30) days of receiving a complete application for approval under section 5.1(A), the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. The CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 7.1 of this ordinance.
The CEO shall notify all abutters of the decision to issue a permit under this section.
The time period may be extended upon agreement between the applicant and the CEO.

B.) Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary,

or within 60 days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

Section 7. Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1. CEO Approval Standards

An application for approval by the CEO under Section 5.1(A) must meet the following standards.

A.) The proposed facility is an expansion, accessory use, or colocation to a structure existing at the time the application is submitted.

B.) The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.

C.) The proposed facility increases the height of the existing structure by no more than twenty (20) feet and which does not exceed 100 feet in height

D.) The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.

E.) The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon 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.

7.2. Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(B) must meet the following standards.

A.) New wireless telecommunications facilities may be sited on Municipal Property.

B.) If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:

1.) The proposed location complies with applicable municipal policies and ordinances.

2.) The proposed facility will not interfere with the intended purpose of the property.

3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

C.) Design for Colocation. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.

D.) Height. A new wireless telecommunications facility must be no more than 100 feet in height.

E.) Setbacks. A new or expanded wireless telecommunications facility must be set back one hundred five percent (105%) of its height from all property lines. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:

An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

F.) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

G.) Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

H.) Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

I.) Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

J.) Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

K.) Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

1.) The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;

2.) The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

3.) The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);

4.) The amount of vegetative screening;

6.) The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

6.) The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

L.) Noise. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

M.) Historic & Archaeological Properties. 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.

7.3 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

1.) The owner of the wireless 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 colocation 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 wireless telecommunications facility by third parties;
   c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.
   d.) require no more than a reasonable charge for shared use of the wireless telecommunications facility, 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 and maintenance, 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 life span of the useful life of the wireless telecommunications facility.
2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8. Amendment to an Approved Application

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

Section 9. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO 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 CEO 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 municipality 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.

If a surety has been given to the municipality for removal of the facility, 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.

Section 10. Appeals

10.1 Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

a.) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

10.2 Appeal Procedure

1. Making an Appeal

a. An administrative appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement. Applications for appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

(i) A concise written statement indicating what relief is requested and why the appeal should be granted.

(ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

b. Upon receiving an application for an administrative appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

c. The Board of Appeals shall hold a public hearing on an administrative appeal within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

2. Decision by Board of Appeals

a. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

b. The person filing the appeal shall have the burden of proof.

c. The Board shall decide all administrative appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the Municipal Officers.

3. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

4. Reconsideration

In accordance with 30-A M.R.S.A. section 2691(3) (F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

Section 11. Administration and Enforcement

The CEO, as appointed by the Board of Selectmen, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO 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 CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.
The Board of Selectmen, or their authorized agent, are authorized to enter into administrative consent agreements for the purpose of resolving violations of this ordinance and recovering fines and expended attorneys fees and expert witness fees 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 the non-removal of the violation will not result in a threat to public health and safety or substantial environmental damage. The selectmen may direct the town's legal council to enforce this ordinance through the courts pursuant to Title 30-A M.R.S.A. § 4452.

Section 12. 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. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense. In addition all fees, expert fees and court costs shall be awarded to the town as set forth in Title 30-A M.R.S.A. § 4452.

Section 13. Conflict and Severability

13.1 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.

13.2 Severability

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

Section 14. Definitions

The terms used in this ordinance shall have the following meanings:

"**Antenna**" means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

"**Antenna Height**" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna.

Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"**Colocation**" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

"**Expansion**" means the addition of antennas, towers, or other devices to an existing structure.

"**FAA**" means the Federal Aviation Administration, or its lawful successor.

"**FCC**" means the Federal Communications Commission, or its lawful successor.

"**Height**" means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

"**Historic or Archaeological Resources**" means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"**Historic District**" means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

"**Historic Landmark**" means any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"**Line of sight**" means the direct view of the object from the designated scenic resource.

"**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.

"**Principal Use**" means the use other than one which is wholly incidental or accessory to another use on the same premises.

"**Public Recreational Facility**" means a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

"**Designated Scenic Resource**" means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

1.) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such a downtown skyline or mountain range, resulting in a panoramic view corridor; or
2.) lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

"**Targeted Market Coverage Area**" means the area which is targeted to be served by this proposed telecommunications facility.

"**Unreasonable Adverse Impact**" means that the proposed project would produce an end result which is:

1.) excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and
2.) would significantly diminish the scenic value of the designated scenic resource.

"**Viewpoint**" means that location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

"**Wireless Telecommunications Facility**" or "**Facility**" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services,

unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Section 15. Effective Date

This Ordinance becomes effective on_____and shall repeal any inconsistent ordinance or ordinance provision. Without limitation this ordinance specifically repeals and supersedes the Telecommunication Facilities Ordinance adopted on 3/16/2002 by Town meeting Article 26.

Public Hearing Held _____

Notice Published_____

Cell Tower Ordinance
Town of Morrill

MUNICIPAL OFFICERS' CERTIFICATION OF OFFICIAL TEXT OF PROPOSED ORDINANCE

To the Town Clerk of the Town of Morrill, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled

CELL TOWER ORDINANCE

which is to be presented to the voters for their consideration on

MARCH 15, 2014.

Pursuant to 30-A M.R.S.A. § 3002 (2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

DATED: MARCH 3, 2014

Town Selectmen