

TOWN OF ALNA, MAINE
WIRELESS COMMUNICATION FACILITIES ORDINANCE

Section 1. Purposes

The purposes of this Ordinance are to provide performance standards and submission requirements for wireless communication facilities located and operated in the Town of Alna.

1. This Ordinance is designed and intended to balance the interests of the residents of the Town of Alna and wireless communications providers and customers in the siting of wireless communications facilities within the town. These standards are also intended to:
2. Minimize the adverse impacts of such facilities, including visual impacts, environmental impacts, impacts to historically significant areas, and safety impacts.
3. Permit the construction of new towers only where all other reasonable opportunities have been exhausted.
4. Encourage the users of towers and antennas to configure and locate them in a way that minimizes the need for additional towers in the Town of Alna.

Section 2. Authority and Effective Date

This Ordinance has been prepared in accordance with the provisions of Title 30-A, Section 3001 of the Maine Revised Statutes Annotated (MRSA) and the Home Rule Powers as provided for the Article VIII-A of the Maine Constitution. This Ordinance shall be effective upon its adoption by vote of the Special Town Meeting on October 30, 2001.

Section 3. Applicability

The provisions of this Ordinance shall apply to all siting, construction, maintenance, relocation, additions to. Renovations of and replacements of Wireless Communications Facilities in the Town of Alna.

Section 4. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Section 5. 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 control.

Section 6. Definitions

For the purpose of this Ordinance the following words and phrases shall have the meaning herein described.

Wireless Communication Facility. Transmitters, structures (including but not limited to towers) and other types of installations including but not limited to antennae and accessory structures used for the provisions of wireless services, including but not limited to all commercial mobile services. This Ordinance does not apply to direct to home satellite services or other similar antennae, which are no greater than six feet in diameter. This Ordinance does not apply to a facility used solely for municipal public safety, or public works use, with a maximum tower height of one hundred (100) feet.

Section 7. Space and Bulk

A. Tower Height:

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed a maximum tower height of 150 feet.

B. Antennas:

1. Height:

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height, with antennas, does not exceed the maximum allowable height:

2. Mounting and dimensions:

The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

(a.) Whip antennas: Shall not exceed 20' in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

(b.) Microwave dish antennas: The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24', with no single dish being more than 8' in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.

(c.) Panel antennas: The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length or 2' in width.

C. Lot Area:

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

D. Setbacks:

The center of the base of any telecommunications tower must meet the following setback criteria or the required minimum setback of the District in which it is located, whichever is greater: 100% of tower height. If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible. There shall be no setback requirements for antennas mounted on alternative tower structures. The standard setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

Section 8. Co-Location Requirements:

A. On existing towers:

1. Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town using existing towers and alternative tower structures and to owners of such towers and alternative tower structures within a 1 mile search radius of the proposed tower, stating their siting needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice, which was sent and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment planned for the proposed tower. Such evidence will include documentation from a qualified and licensed professional engineer that:
2. Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
3. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
4. Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
5. Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

6. Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
7. Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so found is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines, after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
8. The Planning Board will maintain a list of existing and approved towers and alternative tower structures, including name and address of owner(s), within the Town of Alna.

B. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity.

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Planning Board executed agreements documenting binding commitments to co-locate from the number of co-locators approved by the Planning Board.

Section 9. Interest of Telecommunication Entity

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to use the tower to provide wireless communication services. All wireless communication entities which are contracted to locate on the tower must join as applicants.

Section 10. Submissions

In addition to all of the relevant site plan review submission requirements listed in Town of Alna Subdivision and Site plan Review Ordinance, the following submissions shall be required unless waived by the Planning Board:

1. A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of antenna(s) that it can accommodate and the basis for the calculation of capacity.
2. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.

3. A letter of intent that commits the tower owner and his or her successors in interest to: respond in a timely, comprehensive manner to a request for information from a potential co-location applicant; negotiate in good faith for shared use by third parties that have received an FCC license or permits; allow shared use if an applicant agrees in writing to pay reasonable charges.
4. A site justification analysis, including the need for the facility and reasons why co-location on existing or approved towers or alternative tower structures is not possible. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.
5. Proof of financial capacity to build, maintain, and remove the proposed tower.
6. An inventory of all of the provider's existing and approved towers, antennas or sites within the Town of Alna and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.
7. Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.
8. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.
9. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
10. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.
11. A visual analysis, which may include photo montage, field mock up, or other techniques, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically those listed in the National Register of Historic Places or those that are eligible for such listing. An applicant shall successfully demonstrate to the satisfaction of the Board that the proposed facility accommodating other users including other wireless communication companies and local police, fire and ambulance companies unless it is determined to be technically infeasible based on the Board's evaluation of information submitted. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communication service.

12. Identify any other telecommunicating facilities existing or proposed on the site.
13. Details of all other structures including buildings, parking areas, utilities, gates, access roads, etc.

Section 11. Structural Requirements

Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures. The Applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Lincoln County relative to wind and ½" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan. For towers or antennas placed on buildings or alternative tower structures, the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower or antennas and their accompanying equipment.

Section 12. Design Standards

Wireless communication facilities:

1. Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with the surroundings. This may include, but is not limited to, having galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.
2. Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.
3. Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.
4. No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. Lighting may be used which serves security, safety and operational needs, but which does not directly or indirectly impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed 0.5 foot-candles upon abutting residential properties. If lighting is required, the Planning Board may review the available lighting alternatives. In consideration of the above factors, and approve the design that would cause the least disturbance to the surrounding properties and views.
5. Motion detecting security lighting is permitted.
6. The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

7. Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury. A security fence of at least 6 feet in height shall be placed around the base of the facility to control access.
8. No advertising and signage except warning or no trespassing signs shall be permitted on the facility.
9. Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

Section 13. Location

1. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.
2. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

Section 14. Additional Standards and Criteria

1. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
2. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings, natural canopies and among other uses.
3. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

Section 15. Waiver Provision

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section when it 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. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 150' or may the height of an alternative tower structure be increased to more than 150'.

Section 16. Amendments

Any change to existing, previously approved and proposed towers requires site plan approval as noted in the definitions of major and minor development in Changes include, but are not limited to, modifications to approved height and to approved attachments such as antennas and dishes as well as requests for additional attachments.

Section 17. Removal of Abandoned Wireless Communication Facility

1. The owner of a wireless communication facility shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.
2. Any WCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.
3. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.
4. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Such performance guarantee shall be satisfactory to the Planning Board as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Alna.
5. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.
6. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.
7. The replacement of all or portions of a WCF previously removed requires a new site plan approval.

Section 18. Inspections

Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structural integrity. Such inspections shall be performed as follows:

1. Monopole towers: at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.
2. Self-supporting towers-at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.
3. Guyed towers-at least once every three years following completion of construction. The Inspection shall take place between the second and third year of the repeat sequence.
4. The inspection report shall be submitted to the Planning Board within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Planning Board, may require repair or demolition of the tower. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO.
5. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.