

**AN ORDINANCE REGULATING TELECOMMUNICATIONS FACILITIES
IN THE TOWN OF CRAFTSBURY**

Adopted 16 May 2006 by the Craftsbury Selectboard

SECTION I: AUTHORITY

Under authority granted in 24 V.S.A. §2291(19) and 24 V.S.A. Chapter 59, the Selectboard of Craftsbury hereby adopts the following civil ordinance concerning telecommunications facilities. Under this Ordinance, the Craftsbury Selectboard shall have the power to regulate the construction, alteration, development, decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements. The board may require that bond be posted or that other acceptable security be provided in order to finance future decommissioning or dismantling activities. The Selectboard will establish a Telecom Review Board to implement the provisions of this ordinance, including giving the power to the Telecom Review Board to issue or deny permits for Telecommunication Facilities.

SECTION II: PURPOSES

The purposes of this Ordinance are to protect the public health, safety and general welfare of the Town of Craftsbury, and to accommodate the communication needs of the community. The ordinance shall:

- A. Preserve the character and appearance of the Town of Craftsbury while allowing adequate telecommunications services to be developed;
- B. Protect the scenic, historic, environmental and natural resources of the town;
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring and removal of telecommunications facilities and towers:
- D. Minimize tower and antenna proliferation by requiring the sharing of available space on existing telecommunications facilities, towers and sites where possible and appropriate;
- E. Facilitate the provision of telecommunications services to the community;
- F. Minimize the adverse visual effects of telecommunications facilities and towers through careful design and siting standards; and
- G. Encourage the location of towers and antennas in non-residential areas and away from other sensitive areas such as those that have schools and child care facilities.

SECTION III: CONSISTENCY WITH FEDERAL AND STATE LAW

These regulations are intended to be consistent with state and federal law, particularly the Telecommunications Act of 1996 in that:

- A. they do not prohibit or have the effect of prohibiting the provision of personal wireless services;
- B. they are not intended to be used to unreasonably discriminate among providers of functionally equivalent services, and;
- C. they do not regulate personal wireless services on the bases of the environmental effects of radio-frequency emissions to the extent that the regulated services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

SECTION IV: TELECOM REVIEW BOARD and SELECTBOARD DUTIES

The Selectboard shall establish a Telecom Review Board composed of nine members serving three-year terms. Members serving the appointed term may be reappointed to successive three-year terms. The initial appointments shall be divided into classes to provide for the possible annual rotation of no more than 1/3 of the members.

The Telecom Review Board shall be empowered to implement the provisions of this ordinance with the powers to review applications, retain the services of consultants, enforce the provisions of this ordinance, and collect fees for applications and consultants as provided in this ordinance. Following proper procedures for a Public Hearing outlined below, the Telecom Review Board shall then issue or deny the permit.

SECTION V: PERMITS

- A. Application for a permit for a telecommunications tower or facility shall be made to the Telecom Review Board.

- B. No construction, alteration, addition, modification, or installation of any telecommunications tower or facility shall commence until a permit has been issued by the Telecom Review Board. This includes installation of antennas for new uses, change in the number of buildings or facilities, material change in technology used, or addition or change of any equipment resulting in greater visibility or structural wind-loading, or additional height of the tower or profile change of the facility due to additional antennas not included the original application.
- C. Telecommunications towers or facilities may be permitted upon compliance with this Ordinance and upon proof of compliance with other local, state or federal laws applicable to land use and development and to such towers or facilities.
- D. An applicant for a telecommunications tower or facility must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider.

SECTION VI: GENERAL APPLICATION REQUIREMENTS

An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Telecom Review Board at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

An application for a telecommunications tower or facility in the Town of Craftsbury shall be signed under the pains and penalties of perjury and shall include the following information:

- A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has the principal office shall be provided.
- B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
- C. The names and addresses of the record owners of all abutting property.
- D. A report from qualified (structural and radio-frequency) professional engineer(s) licensed in the state of Vermont, that:
 - 1. Describes the facility height, design and elevation.
 - 2. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.
 - 3. Describes the tower's telecommunications tower or facility and the minimum separation distances between antennas.
 - 4. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures proposed by the applicant within 30 miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the Town of Craftsbury.
 - 5. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites listed above.
 - 6. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
 - 7. All applications shall be accompanied by a written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the town.
 - 8. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
 - 9. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
 - 10. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The Telecom Review Board may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.

11. Includes other information required by the Telecom Review Board that is necessary to evaluate the request.
 12. Includes an engineer's stamp and registration number, where appropriate.
 13. A letter of intent committing the facility owner and his or her successors to permit shared use of the available space of a facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- E. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure is to be provided at the time an application is submitted.
 - F. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) report describing the probable impacts of the proposed facility.
 - G. A copy of the application for an Act 250 permit, if applicable, or a letter from the District Commission stating that an Act 250 application is not necessary.

SECTION VII: SITE PLAN REQUIREMENTS

All applications for wireless telecommunications facilities, other than applications for small-scale facilities, shall include a site plan that contains the following supplemental information:

- A. Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
- B. Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.
- C. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy-wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

SECTION VIII: PUBLIC HEARINGS & FINDINGS

When the Telecom Review Board determines that an application for a telecommunications permit is full and complete (including receipt and review of all consultant reports), the Telecom Review Board shall hold a public hearing within the next 45 days. Notice of the hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. Publication of the date, time, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.
2. Posting of the same information in three or more public places within the municipality in conformance with 1 V.S.A. §312(c) (2), including posting within view from the public right-of-way most nearby the property on which the Facility will be located.
3. Written notification to the applicant and to owners of all properties adjoining the property on which the Facility will be located, without regard to any public right-of-way.

The Telecom Review Board may recess the hearing on any application pending submission of additional information.

Within 45 days following the completion of the public hearing, the Telecom Review Board shall issue a written decision approving, approving with conditions, or denying the application. Any decision by the Telecom Review Board to deny an application for a permit under this ordinance shall be in conformance with 47 U.S.C. 332(c)(7)(B)((iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record. In approving an application, the Telecom Review Board may impose permit conditions consistent with the purpose of this ordinance. A written decision approving an application, or approving an application with conditions, shall constitute the permit for purpose of this ordinance.

SECTION IX: PROVISION FOR INDEPENDENT CONSULTANTS

- A. Due to the complex technical character of the information to be provided by an applicant pursuant to these regulations and the monitoring, testing and inspection of facilities and operation provisions, the Telecom Review Board shall hire such consultants as it deems reasonably necessary to assist it with such determinations as are to be made by it concerning such matters. All expenses incurred by the Telecom Review Board for such services as part of an application process shall be deemed to be part of the application fee and paid by the applicant. All expenses incurred by the Telecom Review Board for such consultation services incurred in performing its monitoring, testing and inspection, including the annual radio frequency inspections, shall be paid by the applicant or current permittee. Any failure to pay such expenses shall constitute a violation of the permit and automatically cause the revocation of the permit and all rights thereunder.
- B. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one of the following fields: a) telecommunications/radio-frequency engineering; b) structural engineering; c) assessment of electromagnetic fields; d) environmental protection, and, if determined by the Telecom Review Board, e) other fields.
- C. Upon submission of a complete application for a special use permit, the Telecom Review Board will provide its independent consultant(s) with the full application for their analysis and review.
- D. Applicants for any permit shall obtain written permission from the owners of the proposed property(s) or facility(s) site(s) for the town's independent consultant(s) to conduct any necessary site visit(s).
- E. Upon submission of a complete application, the independent consultant(s) will provide an estimate for the cost of reviewing the application to the Telecom Review Board. The Telecom Review Board will forward this estimate in writing to the applicant. The applicant will pay this fee during the review process, separate from the general application fee, and include this fee as part of the application process. No application will be processed without full payment. In lieu of estimates, the Telecom Review Board may require the applicant to fund an account which the town may draw upon to insure reimbursement of those fees.
- F. The consultants shall work under the direction of the Telecom Review Board. Copies of the consultant's findings and reports shall be made available to the applicant not less than seven (7) days prior to any meeting of the Telecom Review Board to consider the consultant's report, and the applicant shall be given opportunity to respond to said report in writing and at the next hearing when the consultant's report(s) will be considered.

SECTION X: COLLOCATION REQUIREMENTS

An application for a new wireless telecommunications facility shall be approved only if the Telecom Review Board finds that the facilities planned for the proposed structure cannot be accommodated on the available space of an existing or approved tower or structure due to one of the following reasons:

- A. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
- B. The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer and such interference cannot be mitigated at a reasonable cost.
- C. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
- D. Existing or approved towers and structures cannot accommodate the planned equipment at a height to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer.
- E. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
- F. There is no existing or approved tower in the area in which coverage is sought.

- G. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

Towers must be designed to allow for future placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

SECTION XI: HEIGHT AND SETBACK REQUIREMENTS

- A. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be measured to equal not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a recommendation by the Telecom Review Board that the additional height is necessary in order to provide adequate coverage in the Town of Craftsbury or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
- B. The minimum distance from any telecommunications tower or facility to any property line, dwelling or other occupied structure shall be no less than 1.5 times the height of the tower, including antennas or other vertical appurtenances.

Additionally, freestanding telecommunications towers or antennas over 20 feet in elevation may not be located in any of the following locations:

1. The habitat of any State listed Rare or Endangered Species.
2. Within the town's designated flood plain.
3. Closer than 1,000 feet horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building used for school or child care.

SECTION XII: LIGHTING AND SIGNAGE REQUIREMENTS

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by FAA or other federal or state law. If any lighting is required solely because of the height of a tower, the Telecom Review Board may review the plan to determine if the lighting requirement can be eliminated by a reduced height or a change in location of the tower. No commercial signs or lettering shall be placed on the tower or its appurtenances.

SECTION XIII: TOWER AND ANTENNA DESIGN REQUIREMENTS

Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety. In order to obtain a permit, an applicant must comply with the following:

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority, other federal or state authorities have dictated color. Use of stealth design, including those which imitate natural features, may be required in visually sensitive locations.
- B. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Telecom Review Board shall consider:
 1. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
 2. the frequency of the view experienced by the traveling public;
 3. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
 4. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 5. the distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;

- 6. the sensitivity or unique value of a particular view affected by the proposed tower;
 - 7. significant disruption of a view that provides context to a historic or scenic resource.
- C. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.
 - D. The Telecom Review Board may require a balloon test be conducted by the applicant. The applicant shall arrange to fly, or raise upon a temporary mast, a three-foot diameter brightly colored balloon at the maximum heights of the tower and within fifty horizontal feet of the center of the proposed tower. The date and time and location of this balloon test shall be advertised by the applicant, at 7 and 14 days in advance of the test date in *The Hardwick Gazette* and *The Chronicle*. The applicant shall inform at least 14 days in advance of the test, in writing, the Telecom Review Board, the Selectboard and the abutting property owners of the dates and times of the test. The balloon shall be flown for at least four consecutive hours sometime between 9:00 AM and 5:00 PM of the dates chosen. The applicant shall develop and submit to the Telecom Review Board a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test taken from a least 10 different perspectives with the Town of Craftsbury.
 - E. The Telecom Review Board shall have the authority to deny an application based on adverse visual impact or to impose conditions consistent with the purpose of this section in approving a proposed facility. During the application review, the Telecom Review Board may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

SECTION XIV: ACCESS ROADS AND ABOVEGROUND UTILITIES

Where telecommunications facilities require construction of a new access road or improvement to existing access roads, to the extent practicable, roads shall follow the contour of the land. Access roads, when consistent with the purposes of this Ordinance and when economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. If road construction crosses or utilizes publicly accessible snowmobile or cross country ski trails, the applicant shall provide for continued access to these sporting uses or prepare alternative trails, suitable to the organization(s) that maintains the interrupted sport trail. Utility or service lines shall be designed and located so as to minimize or prevent disruption of the scenic character and beauty of the area.

SECTION XV: SMALL SCALE FACILITIES

The placement of wireless telecommunications antennas, repeaters or micro-cells on silos, church steeples, utility poles, existing buildings, structures, roofs, or walls are encouraged, but may be required to locate further than 100 feet of an existing residence, school or child care facility. Such facilities shall not extend more than 10 feet from the host structure or more than 20 feet in height from the ground, in the case of installations on the ground. Such small-scale facilities may be approved by the Telecom Review Board, providing the antennas meet the applicable requirements of this Ordinance, upon submission of:

- A. A final site and building plan.
- B. A report prepared by a qualified engineer indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.
- C. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure.

SECTION XVI: EXEMPTIONS

The following telecommunications facilities (if no higher than 35 feet, as measured from the average elevation of the finished grade to the highest point of the facility) are exempt from this Ordinance.

- A. police, fire, ambulance and other emergency dispatch
- B. amateur (ham) radio
- C. citizens band radio
- D. local business radio dispatch
- E. wireless broadband antennas, if approved by the Telecom Review Board.
- F. personal use antennae
- G. Temporary Wireless Communication Facilities subject to the following:
 - i) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Craftsbury.
 - ii) Temporary facilities are permitted for no longer than five days use during a special event.
 - iii) The maximum height of a temporary facility is 50 feet from grade.
 - iv) Temporary facilities must comply with all applicable portions of these regulations.

SECTION XVII: CONTINUING OBLIGATIONS

- A. Upon receiving a permit, the applicant shall annually demonstrate that it is in compliance with all FCC standards and requirements regarding RFR, the basis for its representations and the date that the most recent actual readings of RFR were performed at the site. The applicant shall provide a list of RFR readings, their distances from the tower/transmitter, dates of the readings and names of the person or company who took the readings.
- B. The telecommunications facility or tower owner shall maintain adequate insurance on the facility, tower and the entire site.
- C. All facility and tower sites shall be properly fenced and identified by signage that indicates the presence of RFR and any other appropriate warnings required by the permit conditions.

SECTION XVIII: MONITORING PROTOCOL

A. Monitoring Protocol: A copy of the Monitoring Protocol shall be on file with the Town Clerk.

B. Pre-transmission Testing: After the granting of a permit and before applicant's telecommunications facilities begin transmission, the applicant shall submit a report, prepared by a qualified telecommunications or radio frequency engineer, on the cumulative background levels of non-ionizing radio frequency radiation around the proposed telecommunications facility site and/or any repeater locations to be utilized for applicant's telecommunications facilities. The engineer shall use the monitoring protocol, or one substantially similar. This report shall be submitted to the Telecom Review Board, who may verify the results using an independent consultant.

C. Post-transmission Testing: After transmission begins, the owner of the tower or facility shall provide testing of the site as follows:

There shall be routine annual monitoring of emissions/exposure by a qualified engineer using actual field measurement of radiation, utilizing the Monitoring Protocol. This monitoring shall measure levels of non-ionizing radio frequency radiation (RFR) exposure at the telecommunications facility site and any repeaters. Each permittee shall provide a list of the most recent RFR readings at or near the site, their distances from the tower/transmitter, dates of the readings, and the name of the person and company who took the readings and verify the operational levels of each telecommunications transmitter at the time of testing. In addition, each permittee shall provide additional RFR readings taken at sensitive areas within 3 miles of the proposed tower. A report should indicate whether other permittees at the facility were notified prior to testing that RFR monitoring would occur. The notification should be attached to the report.

A report of the monitoring results shall be prepared by the engineer and submitted to the Telecom Review Board, who may verify the results using an independent consultant. In the case of co-located telecommunications equipment, permittee may bill all telecommunications providers and the telecommunications facilities owner(s) equally or according to a predetermined proportionality.

In the event of any major modification of existing telecommunications facility, or the activation of any additional channels, the telecommunications facility owner(s) shall immediately perform new monitoring as described in this Section. Minor changes, such as slight changes in frequency, shall not require additional monitoring.

Permittees shall have the opportunity to demonstrate reasons for inability to comply with these provisions.

D. Excessive Exposure: Should the monitoring of a telecommunications facility site reveal that the site exceeds the current FCC standard and guidelines in existence at the time of the violation, the owner(s) of all telecommunications facilities utilizing that site shall be so notified. In accordance with FCC requirements, the telecommunications facility owner(s) shall immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. Additionally, the telecommunications facility owner(s) shall submit to the Health Officer a plan for the correction of the situation that resulted in excessive exposure. Failure to act as described above shall be a violation of this Ordinance and subject to fines and other sanctions consistent with this Ordinance and 24 V.S.A Chapter 117.

E. Structural Inspection: Tower owner(s) shall arrange for a qualified consultant (a licensed professional structural engineer) to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years unless there is cause to conduct an inspection more frequently. Monopoles and non-guyed lattice towers shall be inspected every five years unless there is cause to conduct an inspection more frequently. A report of the inspection results shall be prepared by the consultant, and a copy shall be sent to the Telecom Review Board within 10 business days. In the event of any major modification of the existing tower, which includes changes to tower dimensions, increase in number or types of antennas or other devices or structural modifications, the tower owner(s) shall immediately perform a new structural inspection.

F. Unsafe Towers: Should the inspection reveal any structural defect(s) which, in the opinion of the qualified consultant (a licensed professional structural engineer), render(s) that tower unsafe, the tower owner(s) shall undertake the following actions:

1. Immediately upon notification of any structural defect(s) which render(s) a tower unsafe, post warnings of same at access points to the tower; notify the landowner and owners of record of the abutting properties within the unsafe area (minimally a 360-degree area radius of the height of the tower); when appropriate, in consultation with emergency authorities, restrict access to the unsafe area and/or encourage evacuation of residents.

2. Within 10 business days of notification of any structural defect(s) which render(s) a tower unsafe, submit to the Telecom Review Board a plan to correct the structural defect(s) as soon as reasonably possible. The tower owner(s) shall implement its remediation plan immediately but in no event later than 10 business days.

SECTION XIX: REMOVAL OF ABANDONED, UNUSED, OBSOLETE DAMAGED OR DANGEROUS TOWERS OR OTHER PORTIONS OF FACILITIES

Abandoned or unused towers or other portions of telecommunications facilities shall be removed as follows:

- A. The owner of a tower shall annually, on January 15, file a declaration with the Telecom Review Board certifying the continuing safe operation of the entire tower and other portions of the facility. Failure to file a declaration shall mean that it is no longer in use and the Telecom Review Board shall declare it abandoned.
- B. An owner who has failed to file an annual declaration with the Telecom Review Board by January 15 may, by February 15 of the same year, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
- C. Abandoned or unused towers and facilities shall be removed within 180 days of cessation of operations unless a time extension is approved by the Telecom Review Board. If the tower is not removed within 180 days of cessation of operations at a site, the town shall notify the owner and may remove the tower and all associated facilities, repair the landscape and re-vegetate the area.
- D. Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a tower previously removed shall require a new permit.

- E. Applicant shall, as a condition of the use permit provide a financial surety bond payable to the Town of Craftsbury in an amount acceptable to the Telecom Review Board to cover the cost of removal of the telecommunications facility, repair of the landscape and re-vegetation of the area.
- F. Any costs for removal of the telecommunications facility, repair of the landscape and re-vegetation of the area that are incurred by the Town of Craftsbury in excess of the amount of the surety bond shall be assessed against the tower owner and/or the facility owner. If, for any reason such assessments are not collectable, the costs will be assessed against the property owner.

SECTION XX: FEES, ENFORCEMENT AND PENALTIES

- A. Fees for filing the application to build or alter a wireless communications facility shall be \$500 plus the costs incurred by the Town for retaining consultants as provided in Section VIX. Such fees are in addition to the financial surety bond required in Section XIX
- B. The Telecom Review Board shall be the enforcement officer/body.
- C. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. Penalties shall be a minimum of \$100 per violation with each day that a violation continues being a separate violation.
- D. Costs incurred by the Town of Craftsbury pursuant to any enforcement action, including but not limited to attorney fees, court costs, and costs outlined in Section XIX shall be assessed against the property owner and/or tower owner.

SECTION XXI: SEVERABILITY CLAUSE

A finding that a particular portion of this Ordinance is not in accordance with any state or federal law shall only affect the validity of that portion of the Ordinance.

SECTION XXII: DEFINITIONS

Adequate Capacity: Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

Adequate Coverage: Coverage is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

Affiliate: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Tower—Structure: Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers. (See also Stealth Facility).

Antenna: A device which is attached to a tower or other structure for transmitting and receiving electromagnetic waves.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. 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.

Applicant: A person who applies for a telecommunications facility siting. An applicant may be the telecommunications service provider or the owner of the property.

Available Space: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Cellular Service: A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular Telecommunications: A commercial Low Power Mobile Radio Service bandwidth licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cellular Telecommunications Facility: A cellular telecommunications facility consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Channel: The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

Collocation: Locating wireless communications equipment from more than one provider on a single site.

Communications Facility: A land facility supporting antennas and microwave dishes that send and/or receive radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

Communication Tower: A guyed, monopole, or self-supporting vertical structure, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

Directional Antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Distance Measurement. Any measurement of distance from a telecommunications facility called for in these regulations will be from the center of the antenna where it meets the ground, or from a point on the ground directly beneath the center of the antenna for an antenna that is above ground level, to the boundary line or closest edge of a building or structure as measured on the ground between the two points.

Electromagnetically Able: The determination that the signal from and to the proposed new antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

Engineer: An engineer who is licensed to practice in the State of Vermont and who is qualified in the relevant field of knowledge or engineering specialty (e.g., a structural engineer in questions of load-bearing, shear forces, etc.; an electrical engineer in question so radiation effects, interference, etc.).

Existing Towers and Antennas: Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

Frequency: The number of cycles completed each second by an electromagnetic wave measured in Hertz (Hz.).

GIS: Geographic Information Services

Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. 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.

Location: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second Bearing or orientation should be referenced to true North.

Modification of an Existing Facility: Any change, or proposed change in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing permit.

Modification of an Existing Tower: Any change, or proposed change in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

Monitoring: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from telecommunications facilities, towers, antennas or repeaters.

Monitoring Protocol: The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from telecommunications facilities.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations.

Permit: Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.

Personal Wireless Services: Commercial mobile services, unlicensed wireless exchange access services. These services include cellular services, personal communications services, specialized mobile radio services, and paging services.

Preexisting Towers and Antennas: Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

RFR: Radio frequency radiation as defined by the FCC.

Roof and/or Building Mount Facility: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Scenic (Resource, Character or Vista) View: The natural, attractive or impressive scenery and quality of the area. A wide angle or panoramic field of sight that may include natural and/or manmade structures and activities. A scenic vista may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A vista may be to a far away object, such as a mountain, or a nearby object.

Site: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

Stealth Design: Any communications facility which is designed to blend into the surrounding environment. Examples include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also: *Alternative Design Tower Structure*.)

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antennas under all reasonable predictable conditions as determined by professional structural engineering analysis.

System: The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Facility: All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

Telecommunications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary Wireless Communication Facility: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

Tower: A guyed, monopole, or self-supporting vertical structure, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

USGS: United States Geological Survey.

VCGI: Vermont Center for Geographic Information.

View Corridor: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360 -degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Whip Antenna: A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more). Also called omnidirectional, stick, or pipe antennas.

SECTION XXIII: EFFECTIVE DATE

This Ordinance shall become effective sixty (60) days after its adoption by the Craftsbury Selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this Ordinance.

SECTION XXIV: NOTICE

This Ordinance shall be entered into the minutes of the town records and shall be posted in a least five conspicuous places in town. A concise summary of it shall be published in *The Hardwick Gazette* and *The Chronicle* within 14 days of its adoption accompanied by information as to where the full text of it may be examined, the right of voters to petition for a vote, and the name, address and telephone number of a person who is available to answer questions about it. The Ordinance shall become effective 60 days after its adoption unless a petition signed by five percent of the qualified votes in the Town asking for a vote on the question of disapproving the Ordinance is filed with the Town Clerk or the Selectboard within 44 days after the adoption of the Ordinance. If such a petition is filed, the Selectboard shall call a special meeting to vote on that question and the Ordinance shall become effective at the end of that meeting unless a majority of those voting on the question disapproves the Ordinance or 60 days after it adoption.

SECTION XXV: SIGNATURES OF SELECTBOARD

SIGNATURES _____

DATE _____

