

WIRELESS COMMUNICATIONS FACILITIES ORDINANCE
TOWN OF BROOKSVILLE

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WIRELESS COMMUNICATIONS FACILITIES ORDINANCE
TOWN OF BROOKSVILLE

Section 1: TITLE

This Ordinance shall be known and cited as the "Wireless Communications Facilities Ordinance" of Brooksville, 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 (Municipal Home Rule); the provisions of Title 30-A MRSA Section 3001 (Home Rule); and the provisions of the Planning and Land Use Regulation Act, Title 30-A MRSA Section 4312 *et seq.*, and 30-A MRSA Section 4452 ('Enforcement and Land Use Laws and Ordinances').

Section 3: PURPOSE

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

- Implement a municipal policy concerning the provision of wireless communications services and the siting of their facilities,
- Establish clear guidelines, standards and time frames for the Town to regulate wireless communications facilities,
- Allow competition in wireless communications service,
- Encourage the provision of advanced wireless communications services to the largest number of businesses, institutions and residents of Brooksville,
- Permit and manage reasonable access to the public rights of way of Brooksville for wireless communications purposes on a competitively neutral basis,
- Ensure that all entities providing wireless communication service facilities and services within Brooksville comply with the Town's ordinances,
- Ensure that Brooksville can continue fairly and responsibly to protect the public health, safety and welfare of its citizens,
- Encourage the co-location of wireless communications facilities, thus helping to minimize adverse impacts and to protect the visual character of the Town of Brooksville,

--Enable Brooksville 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 Brooksville's 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 local land use ordinance applies to all construction, expansion and reconstruction of wireless communications facilities, existing or proposed, except as provided below:

- 1) Emergency wireless communications facility: A temporary wireless communication facility for emergency communications by public officials or agencies.
- 2) Amateur (ham) radio station: An amateur (ham) radio station licensed by the Federal Communications Commission (FCC) provided that it is not more than fifty (50) feet in height.
- 3) Parabolic antenna: A parabolic antenna less than seven (7) feet in diameter and not more than fifty (50) feet in height which is an accessory use of the property.
- 4) Maintenance or repair: Maintenance or repair of a wireless communications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- 5) Temporary wireless communications facility: A temporary wireless communications facility in operation for a maximum period of thirty (30) days.
- 6) Antenna as accessory use: An antenna that is an accessory use to a residential dwelling unit, provided that it does not exceed fifty (50) feet in height.

Section 5: REVIEW AND APPROVAL AUTHORITY

No person shall construct or expand a wireless communications facility without approval of the CEO and Planning Board as follows:

5.1. New construction. Approval by the Planning Board is required for construction of a new wireless communications facility.

5.2 Expansion of an existing facility. Approval by the CEO is required for expansion of an existing wireless communication facility.

5.3 Reconstruction of an existing facility.

5.3.1 Non-conforming: A non-conforming wireless communications facility, removed or destroyed for any reason, may be reconstructed on the same site, provided that it complies with the maximum height restriction in section 7.3 and does not make the facility any more non-conforming.

5.3.2 Conforming: A conforming wireless communications facility, removed or destroyed for any reason, may be reconstructed on the same site, provided there is no change in the height or any other dimension of the facility that would noticeably alter the physical character of the facility.

5.3.3 Written notification to the Planning Board is required for reconstruction of an existing wireless communication facility. A surety (bond) consistent with Section 6.3.11 shall be submitted for approval with that written notification to the Planning Board before any reconstruction begins. Reconstruction is allowed only within one year of the damage or removal of the existing facility.

5.4 Expiration of approved applications. All approvals shall expire within one (1) year of the date of issuance unless work there under is substantially completed. If work is not substantially completed within one (1) year, a new application must be made.

Section 6: APPLICATION 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 the application forms and submissions that will be required under this ordinance.

6.2 General Rules for All Applications

All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application which includes the following information:

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

6.2.2 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, including standards for radio emissions.

6.2.3 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 (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

6.2.4 Location map and elevation drawings of the proposed facility and any other proposed structures showing color and identifying structural materials.

6.2.5 List of names, addresses, tax map and lot number of all property owners within ½ (one-half) mile radius of the proposed structure.

6.2.6 A signed statement that the owner of the facility, and his/her successors and assigns, agree to:

(i) respond in a comprehensive manner within 30 days to a request for information from a potential co-location applicant,

(ii) negotiate in good faith for shared use by third parties,

(iii) allow shared use if an applicant agrees in writing to pay reasonable charges for co-location,

(iv) 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.

The CEO or Planning Board may request documentation to substantiate any co-location charges imposed by the party whose facility is the site of the proposed co-location. Any documentation provided as substantiation would be considered confidential and would not be made public or shared with any party other than the CEO or Planning Board.

6.3 Planning Board Application Requirements (new construction)

In addition to the general rules of Section 6.2, the application shall include the following information:

6.3.1 A USGS 7.5 minute topographic map showing the location of all Structures and wireless communications 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.

6.3.2 A site plan prepared and certified by a professional engineer registered in the State of 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.

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

6.3.4 A visual assessment, consisting of the following:

(i) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

(ii) 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.

(iii) Photo simulations of the proposed facility taken from perspectives determined by the CEO. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos shall show the color of the facility and method of screening.

6.3.5 A narrative which includes:

(i) The extent to which the proposed facility would be visible from a designated scenic resource,

(ii) The distance to the proposed facility from the noted viewpoints of a designated scenic resource.

6.3.6 A drawing showing the fields of coverage of present wireless communication facilities and the area proposed to be covered by the applicant.

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

6.3.8 Evidence demonstrating that no existing building, site or structure can accommodate the applicant's proposed facility. Such evidence may consist of any one or more of the following:

(i) Evidence that no existing facilities are located within the targeted market coverage area which meet the applicant's engineering requirements.

ii) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost or without exceeding one hundred, ninety (190) feet to meet the applicant's engineering requirements.

iii) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

(a) The applicant's proposed 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 re-inforced to accommodate the new equipment.

(b) 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.

(c) Existing or approved facilities do not have space on which equipment can be placed so it will function effectively.

(d) The fees, costs or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable and/or the costs exceeding the pro rata share of a new facility are presumed to be unreasonable.

6.3.9 Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building or structure and has been denied access.

6.3.10 Written agreement that the applicant will certify compliance with all applicable FCC radio frequency emissions regulations within thirty (30) days of a request from the Town.

6.3.11 A sample form of a surety (bond), to be approved by the Planning Board, in an amount sufficient to cover the costs of site improvements and the costs of removal should the facility be abandoned or uncompleted in accordance with Section 12. That bond shall specify that the municipality shall be notified by the bonding agent of any cancellation or reduction of the surety. The Planning Board shall specify how much of the surety is allocated to completion of the facility and how much to removal of an abandoned or uncompleted facility. It is a condition of approval that a certified copy of the actual surety-bond be filed with the Town within forty-five (45) days of approval.

6.4 Application Procedure for Planning Board Approval

6.4.1 Seven (7) copies of the application shall be filed with the CEO at least two (2) weeks prior to the scheduled Planning Board meeting for review. The application shall be accompanied by the permit application fee (Section 10.1). Within forty-five (45) days of the filing of an application, the Planning Board shall review the application and determine if the application meets the submission requirements. The CEO and the Planning Board shall review any requests for a waiver from the submission requirements submitted pursuant to Section 9 and shall act on these requests prior to determining the completeness of the application.

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

6.4.3 The Planning Board shall hold a public hearing within thirty (30) days of the date on the notice from the CEO to the applicant that the application was deemed complete. The Planning Board shall publish the time, date and place of the hearing at least one (1) time at least seven (7) days prior to the hearing in a newspaper of area-wide circulation. Property owners within one-half (1/2) mile radius shall be notified by mail by the Planning Board of the hearing. 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.

6.5 Planning Board Decision

Within thirty (30) days of the public hearing, or within another time limit as may be otherwise mutually agreed upon by the Planning Board and the applicant, the Board shall approve, approve with conditions or deny the application in writing, together with the findings on which that decision is based.

Section 7: PLANNING BOARD APPROVAL STANDARDS

An application for approval by the Planning Board under Section 6 must meet the following standards.

7.1 Design for Co-location. A new wireless communications facility and related equipment shall be designed and constructed to accommodate expansion for future co-location of at least three additional wireless communications facilities or providers.

7.2 Tower Design. Lattice tower structures without guy-wires are preferred. Where a monopole and/or guy-wires are specified, applicant must demonstrate the future utility of such a structure for expansion of service for the applicant and for co-locators.

7.3 Height. A new wireless communications facility shall be no more than one hundred ninety (190) feet in height.

7.4 Setback. The base of tower of a new or expanded wireless communications facility shall be set back one hundred fifty percent (150%) of its height from all property lines and public roads. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement.

7.5 Landscaping. A new wireless communications facility and related equipment shall 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. Landscaping shall be exclusively native and non-invasive plants.

7.6 Fencing. A new wireless communications facility shall be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

7.7 Lighting. A new wireless communications facility shall be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Security lighting may be used as long as it is shielded to be down directional to retain light within the fenced boundaries of the site.

7.8 Color and Materials. A new wireless communications 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.

7.9 Structural Standards. A new wireless communications 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" and with Hancock County Standards for wind shear and ice load.

7.10 Visual Impact. The proposed wireless communications facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon designated scenic resources and structures within the Town, as identified in the municipally adopted comprehensive plan or by a State or Federal agency, such as the National Register of Historic Places.

In determining the potential unreasonable adverse impact of the proposed facility upon scenic resources, the Planning Board may consider the following factors:

- 1) The extent to which the proposed wireless communications facility is visible above tree line from the viewpoint(s) of the impacted designated scenic resource and the particular scenic areas of value noted in the Town's Comprehensive Plan.
- 2) The type, number, height and proximity of existing structures and features, and the background features within the same line of sight as the proposed facility.
- 3) The amount of vegetative screening.
- 4) The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource.
- 5) The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

7.11 If an applicant proposes to locate a new wireless communications facility on municipal property, the applicant must show the following:

- 7.11.1 The proposed location complies with applicable municipal policies and ordinances.
- 7.11.2 The property lies outside of the Shoreland Zone.
- 7.11.3 The proposed facility will not interfere with the intended purpose of the property.
- 7.11.4 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.

Section 8: CEO APPROVAL REQUIREMENTS (for expansion of an existing facility)

8.1 An application for expansion of a non-conforming facility shall address the general rules for all applications (Section 6.2) and also include:

8.1.1 A drawing showing the fields of coverage of present wireless communications facilities and the area proposed to be covered by the expansion, and

8.1.2 A written description of how the expanded facility will fit into the applicant's wireless communications network. This submission does not require disclosure of confidential business information.

8.2 An application for expansion of a conforming facility which was not detailed in the original application approved by the Planning Board shall include:

8.2.1 A drawing showing the fields of coverage of present wireless communications facilities and the area proposed to be covered by the expansion,

8.2.2 A written description of how the expanded facility will fit into the applicant's wireless communications network. This submission does not require disclosure of confidential business information, and

8.2.3 A revised drawing from the application approved by the Planning Board showing the proposed expansion.

Within thirty (30) days of receipt of the completed application, or within another time limit as may be mutually agreed upon by the CEO and the applicant, the CEO shall approve, approve with conditions or deny the application in writing, together with the findings on which that decision is based.

Section 9: SUBMISSION WAIVER

The CEO and/or the Planning Board 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 and/or the Planning Board find in writing that due to special circumstances of the application the information is not required to determine compliance with the standards of this ordinance.

Section 10: FEES

10.1 Application Fee. An application for CEO and/or for Planning Board approval shall include payment of an application fee of two hundred fifty dollars (\$250). The application shall not be considered complete until this fee is paid.

10.2 Planning Board Review Fee. In addition to the application fee required under Section 10.1 above, the Planning Board may require an applicant to deposit, in advance, with the Town Treasurer, a sum determined by the Planning Board to be sufficient to reimburse all outside costs to be incurred by the Planning Board in its review of the application. Such costs may include, but are not limited to, costs of professional surveying, engineering and legal assistance as needed by the Planning Board pursuant to their review of the application. The purpose of such outside services shall be to provide independent technical advice to the Planning Board when, in the opinion of the Planning Board, the public interest or issues raised by the application may require it. In the event the Planning Board's actual outside review costs exceed the initial cost estimate, the Planning Board will require the applicant to deposit additional funds with the Town Treasurer. All funds shall be deposited in an escrow account and any portion not used shall be returned to the applicant within thirty (30) days of the Planning Board's decision.

Section 11: AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application must be approved by the CEO and/or the Planning Board, in accordance with Section 5. If there is a transfer of ownership before or during the building phase, the new owner shall meet with the CEO and/or the Planning Board.

Section 12: ABANDONED OR UNCOMPLETED FACILITIES

12.1 Abandoned Facilities. A wireless communications 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 facility owner's expense, the cost of which shall first come from any surety or bond in favor of the municipality under Section 6.3.11.

12.2 Uncompleted Facilities. A wireless communications facility that does not contain all lot improvements and landscaping in accordance required under this ordinance by the time it goes into operation shall be considered

uncompleted. The CEO shall notify the owner of the facility in writing and order the completion of said facility within ninety (90) days of receipt of the written notice. If the facility is not completed within this time period, the municipality may undertake all uncompleted lot improvements and landscaping at the facility owner's expense, the cost of which shall first come from any surety bond in favor of the municipality under Section 6.3.11.

12.3 Release of Surety/Bond. Upon removal of the wireless communications facility or the completion of said facility, as the case may be, the facility owner may apply to the Planning Board for release of part or all of the surety bond. The request shall not be unreasonably withheld so long as the facility has been removed or completed to the satisfaction of the Planning Board.

Section 13: APPEALS

Any appeal by any aggrieved party with standing from any decision of the CEO or the Planning Board to approve, approve with conditions or deny any application made under this ordinance, including any enforcement action or inaction alleged under Section 14 of this ordinance, shall be to the Superior Court in accordance with Rule 80(B) of the Maine Rules of Civil Procedure, said appeal to be filed within thirty (30) days of the written decision, action of failure or refusal to take action complained of.

Section 14: 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 may take any other legal action to ensure compliance with this ordinance.

The Board of Selectmen is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith and/or that the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

Section 15: PENALTIES

Any person who owns or controls any building, tower or property that violates this ordinance shall be penalized in accordance with 30-A MRSA §4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 16: 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 17: EFFECTIVE DATE

This ordinance becomes effective immediately upon passage by the Town.

Section 18: DEFINITIONS

Antenna: 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: 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.

Co-location: the use of a wireless communications facility by more than one wireless communications provider.

Conforming: a communications facility constructed under the authority of the Wireless Communication Facilities Ordinance or one complying with the requirements thereof.

Designated scenic resource: that specific location, view or corridor 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 as a downtown skyline or mountain range, resulting in a panoramic view corridor.

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.

Expansion: the addition of antennas, towers or other devices and structures to an existing facility, by the owner or a co-locator, which was not detailed in the application approved by the Planning Board.

FAA: the Federal Aviation Administration or its lawful successor.

FCC: the Federal Communications Commission, or its lawful successor.

Guy-wire: a tensioned cable between the tower and the ground or other surface for lateral support.

Height: 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, archaeological and recreational resources: resources which 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;
5. Areas identified by a government agency such as the Maine Historic Preservation Commission as having significant value or archaeological

resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible for listing; and

6. State and local park and conservation land.

Lattice tower: a type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and free-standing.

Line of sight: the direct view of the object from the designated scenic resource.

Monopole: a mount that is self-supporting with a single shaft of wood, steel, concrete or other material that is designed for the placement of antennas and arrays along the shaft.

Mount: the structure or surface upon which antennas and arrays are mounted.

Non-conforming: a communications facility that is not constructed under the authority of the Wireless Communications Facilities Ordinance and does not meet the requirements thereof.

Parabolic antenna (also known as a satellite dish antenna): a bowl-shaped antenna designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Principal use: the use other than one which is wholly incidental or accessory to another use on the same premises.

Public recreational facility: 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 people.

Setback: the distance measured from the base of the tower.

Shall and May: "shall" is mandatory; "may" is permissive.

Substantially completed: 90% of total construction is completed.

Targeted market coverage area: the area which is targeted to be served by the proposed communications facility.

Unreasonable adverse impact: the proposed project would produce an end result which is excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource, and/or would significantly diminish the scenic value of the designated scenic resource.

Viewpoint: that location which is identified either in the Town's 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 communications facility or facility: any structure, equipment, 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, or any other kind of wireless communication transmissions. When a tower or similar support structure is land-based, "facility" includes the area and all components including the perimeter fencing.