

Searsport Personal Wireless Services Facilities Ordinance

1. Purpose

These standards are designed and intended to balance the interests of the residents of Searsport, ME, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in other provisions of this Ordinance, these Personal Wireless Services Facilities (PWSF) standards are also intended to:

- A. Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;
- B. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;
- C. Ensure that all entities providing PWSF within the municipality comply with the ordinances of Searsport;
- D. Permit Searsport to fairly and responsibly protect public health, safety and welfare;
- E. Encourage the carriers of PWSF to co-locate, thus minimizing adverse visual impacts on the community;
- F. Support the goals and policies of the Comprehensive Plan, especially the orderly development of Searsport with minimal impacts on existing residential uses;
- G. Protect Searsport's environmental resources and rural character as consistent with the goals and objectives outlined by the Searsport's Comprehensive Plan;
- H. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes;
- I. Minimize any potential adverse effect of PWSF on property values; and
- J. Protect the scenic and visual character of Searsport

2. Permits

- A. PWSF may be permitted upon successful compliance of a site plan review per the Searsport Site Plan Review Ordinance
- B. No construction, alteration, modification, or installation of any PWSF shall commence without successfully obtaining a site plan review permit

3. Dimensional and Locational Standards

A. Height, PWSF Overlay Zone: Where the municipality establishes a PWSF Overlay Zone, PWSFs of up to 195 feet in height may be permitted. Such structures must be monopoles and shall comply with all setback requirements set forth in this Ordinance.

B. Reconstruction of Nonconforming PWSF - A non-conforming ground-mounted PWSF, removed or destroyed for any reason, may be reconstructed on the same site, provided that it complies with the height restrictions of this subsection.

C. Setbacks: All PWSFs and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with the setback provisions of the zoning district in which the facility is located.

D. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mounted PWSF to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in paragraph 7 - Definitions. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. Fall zones for PWSFs may overlap.

E. Fall Zone for Mounts: In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, PWSFs and their equipment shelters shall not increase any non-conformities.

4. Performance and Design Standards

A. Visibility - The applicant is encouraged to utilize enhancements to the property and must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the municipality.

1. Visual impacts are measured on the basis of:

- a. Change in community scale, as exhibited in relative height, mass or proportion of the PWSF within their proposed surroundings.
- b. New visible elements proposed on a contrasting background.
- c. Different colors and textures proposed against a contrasting background.
- d. Use of materials that are foreign to the existing environment.

2. Enhancements are measured on the basis of:

- a. Conservation of opportunities to maintain community scale. e.g., buffering

areas and low-lying building should not be compromised so as to start a trend away from the existing community scale.

- b. Amount and type of landscaping and/or natural vegetation.
- c. Preservation of view corridors, vistas, and viewsheds.
- d. Continuation of existing colors, textures, and materials.

3. Visibility focuses on:

- a. Eliminating or mitigating visual impact.
- b. Protecting, continuing, and enhancing the existing environment.

4. Camouflage for Facilities on Roof of Existing Buildings:

PWSF shall be concealed or camouflaged within or behind existing or new architectural features to limit its visibility when PWSF extends above roof height of a building on which it is mounted. Facilities mounted on a roof of a building shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

5. Camouflage for Facilities on Side of Existing Buildings:

PWSF mounted on a side of a building, shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building. All surfaces shall be non-reflective.

6. Camouflage for Ground-Mounted Facilities:

Ground-mounted PWSF inside a Rural Agricultural Residential District shall be surrounded by a buffer of dense tree growth that begins at and extends continuously from ten (10) feet beyond the security barrier and portion of equipment shelter outside security barrier for a minimum distance of one hundred and fifty (150) feet and screens views of the facility in all directions. These trees must be pre-existing (pre-existing trees are preferred) on the subject property, planted on site, or be within a landscape easement on an adjoining site.

The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the PWSF owner's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

Ground-mounted facilities must be hidden or disguised in such a way so as to blend in with their surroundings.

- B. Color - To the extent that a PWSF extends above the height of the vegetation immediately surrounding it, it shall be of a color, which blends with the background or surroundings. All surfaces shall be non-reflective.

C. Equipment Shelters – PWSF equipment shelters shall be designed consistent with one of the following design standards:

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

D. Lighting, Signage, and Security

1. Lighting: The mounts of PWSFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.5 initial foot-candles above ambient light conditions.
2. Signage: PWSF shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind except those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance.
3. Security Barrier: Ground-mounted PWSFs shall be enclosed by security fencing equipped with an anti-climbing mechanism.

E. Historic Buildings

1. A PWSF located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
2. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
3. A PWSF within an historic structure shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

F. Driveways - If available, existing entrances and driveways to serve a PWSF shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual traffic, and environmental impact. New driveways to serve a PWSF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is required.

G. Antenna Types - Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter no larger than required to achieve signal coverage requirements and minimum service standards, exclusive of the diameter of the mount. A close mount may be required to minimize visual impacts.

H. Mounts - All ground mounts shall be of a mast or monopole type mount. Mounts affixed to the roof or side of a building shall be masts only. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction of a nonconforming structure permitted under subsection 2.b.

I. Hazardous Waste - No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.

J. Noise - PWSF shall not generate noise in excess of limits permitted under any municipal noise ordinance for the Town of Searsport.

K. Radio Frequency Radiation (RFR) Standards - All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 93-326, published on August 1, 1996, and all subsequent amendments.

L. Federal and State Requirements - All PWSFs must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate PWSFs. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency. Failure to bring a PWSF into compliance with such revised standards and regulations shall constitute grounds for removal of the PWSF as abandoned, in accordance with subsection 6, at the owner(s) expense through the execution of the posted security.

M. Building Code - Safety Standards - To ensure the structural integrity of PWSFs, the owner of the facility shall ensure that it is constructed and maintained in compliance with the standards contained in applicable local building codes and the applicable standards for PWSFs that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a PWSF fails to comply

with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the PWSF, the owner shall have thirty (30) days to bring such PWSF into compliance with such standards. If the owner fails to bring such PWSF into compliance within thirty (30) days, such action shall constitute abandonment and grounds for the removal of the facility as abandoned at the owner(s) expense through execution of the posted security.

N. Balloon Test - The Planning Board may require a certified balloon test accurately simulating the height and location of the proposed PWSF. Public notice shall be given of the date and time of such test not less than 10 days prior thereto. The applicant shall provide photographs of such test from locations around the Town and within 20 miles from which the balloon(s) is visible.

O. Migrating Bird Protection - The applicant shall submit a plan indicating methods that it shall use to mitigate adverse impacts on migrating bird populations.

P. Alternative Tower Sites – If the proposed ground-mounted PWSF does not meet the standards of this Ordinance because of excessive height, insufficient camouflage or a lack of screening by existing trees or buildings then potential suitable alternative sites, where PWSFs can meet the standards and provide adequate signal coverage need to be inventoried and evaluated. More than one site each with a PWSF (that may be shorter than originally proposed) could be required. If the applicant determines that there are no suitable alternative sites the municipality may hire at the applicant’s expense a radio frequency engineer to independently assess if there are suitable alternative sites.

Q. Professional Services – The Planning Board may require that an independent radio frequency engineer be hired at the applicant’s expense to substantiate the applicant’s claim of technical necessity, the applicant’s evaluation of proposed site(s) and alternative sites and to propose suitable alternative sites. An independent landscape architect may be hired at the applicant’s expense to evaluate the applicant’s visual impact analysis and proposed mitigation and to propose visual impact mitigation alternatives.

R. Average Tree Canopy Height (ATCH) – ATCH shall be determined by a forestry or environmental consultant qualified to inventory tree height and determine the ATCH as defined in this Ordinance.

5. Conditions of Approval

A. Maintenance - The owner of the facility shall maintain the PWSF in good condition.

Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, landscaping, and camouflage materials. The Code Enforcement Officer may direct the owner to perform maintenance that it determines to be required.

B. Certificate of Insurance - The applicant shall submit annually to the Town a Certificate of Insurance showing public liability insurance coverage of not less than \$1 million Combined Single Limit.

C. Antenna Installation - An antenna or antenna array may be located, without further approval, on any structure mounted PWSF legally existing prior to effective date of Section 6, and on any PWSF subsequently approved under the provisions of this Ordinance, provided that:

1. All carriers using the PWSF comply with provisions of this Ordinance including the requirements of co-location;
2. All carriers using the PWSF comply with the terms and conditions of approval of the PWSF by the Planning Board; and
3. There is no increase in the PWSF height, carrier capacity, or area of the security barrier.

Otherwise, a site plan review is required.

6. Commencement, Abandonment, or Discontinuation of Use

A. Commencement of Operation - Operation of a PWSF shall commence no later than nine (9) months from the date the application was approved. If the PWSF is not operating within this time period, the Planning Board, at its discretion, may revoke its approval, regardless of whether construction has begun.

B. Notification of Continued Use - Beginning 12 months after Planning Board approval and continuing on an annual basis thereafter, the owner of a PWSF shall provide the Code Enforcement Officer with written, signed certification that the PWSF is being used to provide Personal Wireless Services as defined. Failure to comply with this requirement shall constitute an admission that the PWSF is not in use and has been abandoned.

C. Discontinuance - At such time that the owner plans to discontinue operation of a PWSF, the owner will notify the municipality by certified U. S. Mail of the proposed date of discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to discontinuation of operations. In the event that the owner fails to give such notice, the PWSF shall be considered abandoned upon such discontinuation of operations.

D. Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the PWSF within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

3. Restoring the site of the PWSF to its natural condition, except that any landscaping and grading shall remain in the after-condition.

E. Failure to Remove - If the owner of the facility does not remove the facility upon the Planning Board's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the municipality may execute the security to pay for this action.

F. Failure to Maintain - If the owner of the facility fails to maintain the facility in accordance with the directions of the CEO pursuant to paragraph 5 (A), then the Planning Board, shall after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the Municipality may execute the security to pay for this action.

7. Definitions

Adequate Signal 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 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 or Personal Communications Services (PCS) communications in a rural or non-urban environment, this would be a signal strength of at least - 92dBm. 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.

Antenna. The surface from which wireless radio signals are sent and/or received by a PWSF.

Antenna Array. A collection of antennas attached to a mount to send and receive radio signals.

Average Tree Canopy Height (ATCH). An average height found by inventorying the height, at above ground level (AGL) of all trees over twenty (20) feet in height within the area that extends for a distance of one hundred fifty (150) feet from the base of the mount, security barrier, or designated clear area for access to equipment whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.

Camouflaged. A PWSF that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

Carrier. A company that provides personal wireless services also sometimes referred to as a provider.

Co-location. The use of a single mount by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal colocation), or the use of several mounts on an existing building or structure by more than one carrier.

Community Scale. Compatibility between the proposed PWSF and its surroundings in relation to the height, mass, materials, contrasts, and proportion of the proposed facility and its surroundings.

dBm. Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Environmental Assessment (EA). An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a PWSF is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for PWSF such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Facility. See Personal Wireless Service Facility.

Fall Zone. The area on the ground from the base of a structure mounted Personal Wireless Service Facility that forms a circle with a radius equal to 125% of the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

Lattice Tower. A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

Mast. A thin pole that resembles a street light standard or a utility pole. A dual-polarized antenna is typically deployed on a mast.

Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or 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 are mounted. (interior or exterior) including the following two types of mounts:

A. Ground-mounted - A mount that is a structure affixed to the ground, other than a building, upon which one or more antennas are mounted.

B. Building-mount - A mount that is: (1) the roof or side of a building upon which one or more antennas are mounted; or (2) a mount that is a structure affixed directly to the roof or side of a building and not part of the building, upon which one or more antennas are mounted.

Personal Wireless Service Facilities (PWSF). Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended and this Ordinance. PWSFs include a mount, antenna, equipment shelter, and other related equipment. A PWSF shall not include any of the following:

A. Wireless communication facilities for emergency communications by public officials.

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

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

D. Temporary Personal Wireless Service Facilities in operation for one maximum period of one hundred eighty (180) days. Such temporary facilities shall be removed prior to 30 days following the maximum period.

E. An antenna that is an accessory use to a residential dwelling unit, provided that the PWSF is not used for commercial purposes.

Personal Wireless Services. The three types of services covered by this Ordinance: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

PWSF Overlay Zone. A PWSF Overlay Zone shall be defined as any property within the following districts, as defined by the Land Use Ordinance of the Town of Searsport, Maine:

- Mixed Residential
- Industrial
- Rural Agricultural Residential

Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio Frequency Radiation (RFR). The emissions from PWSFs.

Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

8. Additional Application Requirements for PWSFs.

In addition to the foregoing requirements contained in this ordinance, applications for PWSFs shall include:

- A. For ground-mounted PWSFs that must be screened by trees a written report must be provided from a qualified forestry or environmental consultant that describes the Average Tree Canopy Height and the methodology used to determine it.
- B. A proposal to construct or modify a PWSF must include evidence of a commitment from a duly licensed carrier to utilize the tower to provide wireless communication services.
- C. 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.
- D. An inventory of all of the provider's existing and approved towers, antennae or sites within Seaside and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Waldo County.
- E. Identification of any other PWSFs existing or proposed on the site.
- F. Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.
- G. Evidence must be provided that written notice was sent, by pre-paid first-class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the municipality utilizing existing towers and alternative tower structures and to owners of such towers. This notice shall state the applicant's siting needs and include a request for information of the co-location capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.
- H. Evidence must be provided that existing or previously approved towers and alternative tower structures with the municipality cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:

1. Planned necessary equipment would exceed the structural capacity of existing and approved PWSF and alternative tower structures considering (1) the existing and planned use of those PWSFs and alternative tower structures, and (2) the existing and approved PWSFs cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost.
2. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that PWSF or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
3. Existing or approved PWSFs 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
4. Other documented reasons make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved PWSFs and alternative tower structures.

I. Evidence must be provided that the proposed PWSF cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such PWSF sites could be changed to accommodate the proposed tower, and a general description of the projected cost of shared use of the existing or approved PWSF site.

J. A report must be provided from a Registered Professional Engineer that describes the PWSF, the technical reasons for the PWSF design and the capacity of the PWSF, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.

K. When a proposed ground-mounted PWSF does not meet the standards of this Ordinance evidence must be provided demonstrating whether there are alternative sites that can meet the standards and provide adequate signal coverage. Using more than one site each with a shorter PWSF than was originally proposed must be considered.

L. A letter of intent must be provided that commits the PWSF owner and its successors in interest to:

1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
2. negotiate in good faith for shared use by third parties that have received an FCC license or permits; and
3. allow shared use if an applicant agrees in writing to pay reasonable charges.

M. Proof of financial capacity to build, maintain, and remove the proposed PWSF must be submitted.

N. 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 must be provided.

O. 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 must be submitted.

P. 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, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

Q. 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.

R. An analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.

S. The applicant shall submit written proof that the proposed use and the facility comply with the FCC regulations on radio (RF) frequency exposure guidelines and a propagation map showing the proposed radio frequency coverage.

T. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Town prior to the beginning of the federal 30-day comment period, and the Town process, shall become part of the application requirement.

9. Review, Approvals and Fees.

A. Approval of the Code Enforcement Officer (CEO) is required for co-location on an existing PWSF.

- B. Approval of the Planning Board is required for construction of a new PWSF, or modification (except for co-location) of an existing PWSF.
- C. In accordance with Section 9A and 9B above, the CEO or Planning Board shall review applications for PWSF, and make written findings on whether the proposed facility complies with this Ordinance.
- D. An application for approval shall include ten (10) copies of the application and payment of an application fee as determined by a fee schedule promulgated by the Municipal Officers upon Planning Board recommendation.
- E. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. If the application is complete, the CEO will begin his review. If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.
- F. The Planning Board will further review all documents and information submitted and determine if the application is complete. The Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. When the Planning Board has determined the submission requirements have been met, they will notify the applicant in writing.
- G. When the application is deemed complete and is ready for Planning Board review, the Planning Board shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

10. GENERAL PROVISIONS

- A. The Planning Board may, upon reviewing the application, impose any conditions on the applicant that the Planning Board deems necessary in order to bring the application into compliance with this Ordinance.
- B. The Planning Board may require the filing of a Performance Bond, other financial security, or the execution of a conditional agreement with the municipality by the applicant, if deemed reasonably necessary to ensure the completion of all project elements shown on the Site Plan or required by condition imposed by the Planning Board.
- C. All construction, performed under the authorization of a building permit or certificate of occupancy, issued for the development within the scope of this Ordinance, shall be in

conformance with the approved plan. It shall be a violation of this Ordinance to develop any approved project other than in accordance with the approved PWSF, representations made in the PWSF Applications, or any conditions attached to the approval, unless appropriate approvals are obtained under this and other applicable ordinances.

11. VIOLATION, ENFORCEMENT AND PENALTIES

A. Violation and Enforcement: The Code Enforcement Officer shall enforce the provisions of this Ordinance and shall report all violations to the Select Board, who are authorized to institute legal proceedings to enjoin violations of this Ordinance.

B. Penalties: Any person or persons who violate any provision(s) of this Ordinance or any permit issued under the provisions of this Ordinance, shall, upon conviction in Maine District Court, be subject to civil penalties in accordance with the provisions of Title 30-A MRSA § 4452, and the penalties provided for therein shall be assessed for each day of the violation.

C. Obtaining a permit under this ordinance through knowing misrepresentation of facts is a violation of the ordinance and subject to prosecution under this ordinance and 30-A MRSA section 4425.

12. APPEALS

If the Planning Board disapproves an application, or grants approval-with-conditions that are objectionable to the applicant or any abutting property owners or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, abutting property owner(s) or aggrieved party may appeal the decision of the Planning Board, in writing, to the Board of Appeals within 30 days of the Planning Board's official written decision.

The Board of Appeals may, after holding a public hearing, sustain, reverse or modify the Planning Board's decision in accordance with the Board of Appeals Ordinance.

13. CONSTRUCTION

A. Severability: Severability is intended throughout the provisions of this Ordinance. Should any provision, including among other things any exceptions, part(s), phrase(s) or term(s) or the application thereof to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

B. Suppression: This Ordinance supersedes and replaces any and all like or comparable ordinances, policies or decisions previously enacted and in force within the Town of Searsport.

and shall remain in effect until or unless revoked, or superseded by action of the voters of Searsport.

C. Amendments: From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised, or deleted. Such action shall be proposed at town meeting to the voters of Searsport by the Select Board. Approval of any amendments, revisions or deletions rests exclusively with the voters of Searsport.

14. Effective Date

This ordinance becomes effective on March 6,2010

Revised March 11, 2023

This is a true and Attested copy by: _____
Eric Glidden, Town Clerk

----- (end of the ordinance) -----

Fee Schedule:

The fee schedule recommended by the Searsport Planning Board and established by the Searsport Municipal Officers on February 2,2010 will be as follows:

- A. \$250 Basic Application Fee, which includes any PWSF up to a height of fifty (50) feet,
- B. \$5 per foot for PWSF heights above fifty (50) feet,
- C. \$5 per abutter notification.
- D. \$110.00 Newspaper Advertising