WIRELESS TELECOMMUNICATION FACILITY ZONING BYLAW
TOWN OF THETFORD, VERMONT

SECTION I: AUTHORITY

Under authority granted by 24 V.S.A. Chapter 117, the Town of Thetford adopts this Wireless Telecommunication Facility Zoning Bylaw.

Pursuant to 24 V.S.A. § 4414(12), the Development Review Board shall have the authority to regulate construction, alteration, and development, decommissioning and dismantling of Wireless Telecommunication Facilities in the Town of Thetford.

SECTION II: PURPOSE

The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Town of Thetford, while accommodating the telecommunication needs of the Town's residents.

SECTION III: CONSISTENCY WITH FEDERAL AND STATE LAW; SEVERABILITY

This bylaw is intended to be consistent with the Telecommunications Act of 1996 and Title 24, Chapter 117 of Vermont Statutes Annotated. If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

SECTION IV: DEFINITIONS

The following terms shall have the meanings indicated:

Wireless Telecommunication Service - Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless Telecommunication Facility - Any tower or other support structure, including antennae, that will extend 20 or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

Wireless Telecommunication Service Provider - Any person or entity providing Wireless Telecommunication Services.

SECTION V: CONDITIONS UNDER WHICH PERMIT REQUIRED; EXEMPTIONS

Wireless Telecommunication Facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw. No installation or construction of, or significant addition, or significant modification to, any Wireless Telecommunication Facility shall commence until a permit has been issued by the Development Review Board. However, in accordance with 24 V.S.A. § 4412(9), a permit shall be issued for a Wireless Telecommunication Facility that in, the determination of the Development Review Board will impose no effect or merely a *de minimis* effect upon any criteria established in Section IX below. The determination of the Development Review Board regarding no impact or *de minimis* effect shall be in writing and shall be subject to appeal under 24 V.S.A. § 4471.

No permit shall be required for a Wireless Telecommunication Facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and that does not exceed 50 feet in elevation.

This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or

broadcast television service.

No permit shall be required for a Wireless Telecommunication Facility that has received a certificate of public good pursuant to 30 V.S.A. § 248a.

This bylaw shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 20 feet above the roof of that portion of the building to which they are attached.

SECTION VI: PERMIT APPLICATION REQUIREMENTS

In addition to information otherwise required in the Zoning Bylaw of the Town of Thetford, applicants shall include the following supplemental information:

1. The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.

2. The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.

3. The name, address and telephone number of the owner or lessee and any easement holder of the property on which the Wireless Telecommunication Facility will be located.

4. The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.

5. A vicinity map showing the entire vicinity within a 1,000 foot radius of the Facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. 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.

6. The location of the Facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.

7. Elevations and proposed site plans of the Facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).

8. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.

9. Construction sequence and time schedule for completion of each phase of the entire project.

10. A report from a licensed engineer that:

a. Describes any tower's design and elevation.

b. Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between

antennas.

c. Describes a tower's capacity, including the number, elevation, and types of antennas that the tower is proposed to accommodate.

d. In the case of new Facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.

e. Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.

f. Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.

g. Demonstrates the Facility's compliance with the standards set forth in this bylaw or other applicable standards.

h. Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).

i. Includes such other information as determined by the Development Review Board to evaluate the application.

11. A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements and the provisions of this Bylaw and all other applicable laws.

12. In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.

13. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required is not required for the facility.

SECTION VII: INDEPENDENT CONSULTANTS

Upon submission of an application for a Wireless Telecommunication Facility permit, the Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the Development Review Board. The consultant(s) shall work at the Development Review Board's direction and shall provide the Development Review Board such reports and assistance, as the Development Review Board deems necessary to review an application.

SECTION VIII: BALLOON TEST

The Development Review Board may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at least 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Development Review Board, in writing, of the

date, time and location of the test, at least 15 days in advance of the test.
The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Development Review Board.

SECTION IX: CRITERIA FOR APPROVAL AND CONDITIONS

An application for a Wireless Telecommunication Facility permit shall be approved after a hearing when the Development Review Board finds all the following criteria have been met:

1. The Facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Development Review Board may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant.

2. The Facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the Wireless Telecommunication Facility, unless the proposed elevation is reasonably necessary to provide adequate Wireless Telecommunication Service capacity or coverage or to facilitate collocation of facilities.

3. The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.

4. The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.

5. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board to cover the cost of removal of the Facility, should the Facility be abandoned or cease to operate.

6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.

7. The applicant will maintain adequate insurance on the Facility.

8. The Facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Development Review Board may condition a permit on the provision of appropriate fencing.

9. The proposed equipment cannot be reasonably collocated at an existing Wireless Telecommunication Facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Development Review Board shall consider the following factors:

A. The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.

B. The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.

C. The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.

D. Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.

E. Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.

10. The Facility provides reasonable opportunity for collocation of other equipment.

11. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

12. The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Development Review Board shall consider the following factors:

A. The results of the balloon test, if conducted.

B. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.

C. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.

D. The duration and frequency with which the Facility will be viewed on a public highway or from public property.

E. The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.

F. Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.

G. The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.

H. The sensitivity or unique value of a particular view affected by the Facility.

I. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.

13. The Facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.

14. The Facility will not generate undue noise.

SECTION X: CONTINUING OBLIGATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES

The owner of a Wireless Telecommunication Facility shall, at such times as requested by the Development Review Board, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the Facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the Facility has been abandoned.

SECTION XI: REMOVAL OF ABANDONED OR UNUSED FACILITIES

Unless otherwise approved by the Development Review Board, an abandoned or unused

Wireless Telecommunication Facility shall be removed within 90 days of abandonment or cessation of use. If the Facility is not removed within 90 days of abandonment or cessation of use, the Development Review Board may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

Unused portions of a Wireless Telecommunication Facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section V.

ADOPTED this 30 day of June, 2008 by the Thetford Selectboard:

_____	Michael J. Brown, Chair
_____	John Bacon
_____	Suzanne Masland
_____	Tig Tillinghast
_____	Andrew Toler

EFFECTIVE DATE: 21 July 2008