

2018

# West Gardiner Selected Town Ordinances

West Gardiner (Me.). Municipal Officers

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## **Town of West Gardiner BARKING DOG ORDINANCE**

No animal belonging to the family Canis Lupus Familiaris or Canis Lupus Subspecies, owned, licensed or housed within the limits of the Town of West Gardiner shall bark, yelp, howl or cause an unnecessary nuisance to any member of the public within the following specified time periods: continuously for more than 20 minutes, or intermittently for more than 1 hour, or at all between the hours of 9 p.m. and 7 a.m.

Upon written complaint by the person disturbed, signed and sworn to, any constable, duly qualified law enforcement official, animal control officer or person acting in that capacity of the Town of West Gardiner may investigate and may give written notice to the owner or keeper of such dog or wolf hybrid that such annoyance or disturbance must cease. The warning shall be made part of the complaint.

A person who violates the conditions under this section commits a civil violation for which a fine not to exceed \$ 150.00 per violation may be adjudged.

All fines assessed and attorney fees shall be recovered for the use of the Town of West Gardiner through District Court.

ENACTED: 3/24/12

CERTIFIED Heidi M. Peckham  
Heidi M. Peckham  
Town Clerk

# CHANGEABLE SIGN ORDINANCE

ADOPTED  
17 DECEMBER 2015

THIS IS TO CERTIFY THAT THIS ORDINANCE WAS ADOPTED BY MAJORITY VOTE AT THE SPECIAL TOWN  
MEETING HELD DECEMBER 17, 2015 AT THE TOWN HALL.

A handwritten signature in cursive script, reading "Angela Phillis". The signature is written in black ink and is positioned above a horizontal line.

ANGELA PHILLIS, TOWN CLERK  
ADOPTED 12/17/15

## CHANGEABLE SIGN ORDINANCE

### Sec. 5-101 Authority

The Town of West Gardiner, Maine hereby enacts this "Changeable Signs Ordinance" (hereinafter the "Ordinance") pursuant to 23 M.R.S.A §1914 (11-A), 30-A M.R.S.A §3001.

### Sec. 5-102 Purpose

The purpose of this Ordinance is to regulate the frequency and manner of change of display on each side of a changeable sign in a manner contrary to that provided by State law, and to do so in a manner that promotes highway safety and to also assist local businesses to compete with businesses in other cities and towns.

### Sec. 5-103 Definitions

1. Changeable Sign means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.
2. Display means that portion of the surface area of the changeable sign that is, or is designed to be or is capable of being periodically altered for the purpose of conveying a message.
3. Dissolve is a mode of message transition of accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and loose legibility simultaneously with the gradual appearance and legibility of the second message.
4. Fade is a mode of message transition accomplished by varying light intensity, where the first message gradually reduces the intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
5. Flashing is the conspicuous intermittent exhibit of changing light or color effects with a period of change of less than 4 seconds.
6. Frame is a complete, static display screen on a changeable sign
7. Frame Border is a visual effect used to create the edge or form the outer boundary of a frame.
8. Frame Effect is a visual effect used to change from one message to another in the following ways:
  - A. Drizzle Effect is a mode of message transition where a complete or partial message appears to rain from the top of the display filling from the bottom to the top.
  - B. Flash Effect is a mode of message transition where a complete or partial message continuously blinks.
  - C. Mesh Effect is a mode of message transition where a complete or partial message appears as strands from opposite sides of the display interlacing to create a frame.
  - D. Pan Effect is a mode of message transition where a complete or partial message appears to scroll on a horizontal or vertical plane to accommodate the complete viewing of a message larger than the display area.
  - E. Radar Effect is a mode of message transition where a complete or partial message appears in a clockwise sweeping motion.
  - F. Resolve Effect is a mode of message transition where a complete or partial message appears to solidify a portion of pixel intervals.

- G. Scroll Effect is a mode of message transition where a complete or partial message appears to rotate on a vertical or horizontal plane.
- H. Shutter Effect is a mode of message transition where a complete or partial message appears as strands that rotate on a vertical or horizontal pivot point to create a solid message.
- I. Slots Effect is a mode of message transition where a complete or partial message appears to rotate on multiple horizontal axes at separate intervals.
- J. Spin Effect is a mode of message transition where a complete or partial message moves in a clockwise or counterclockwise sweeping motion.
- K. Spring Effect is a mode of message transition where a complete or partial message decompresses from a start position, such as top, bottom, center, right or left.
- L. Travel Effect is a mode of message transition where the message appears to move horizontally across the display surface.
- M. Twinkle Effect is a mode of message transition where a complete or partial message appears to sparkle.
- N. Wave Effect is a mode of message transition where a complete or partial message appears to fill the display surface from the lower left corner to right top corner in a single wave like motion.
- O. Wavy Effect is a mode of message transition where a complete or partial message appears in ripple like motion.
- P. Wink Effect is a mode of message transition where a complete or partial message appears to expand from the horizontal axis.
- Q. Wipe Effect is a mode of message transition where a complete or partial message glides in or out from a start position, such as top, bottom, center, right or left.
- R. Zip Text Effect is a mode of message transition where a complete or partial message appears to move and stack sections of the message from a start position such as the top, bottom, right or left.
- S. Zoom Effect is a mode of message transition where a complete or partial message appears to expand horizontally and/or vertical.
9. Lot means a lot for which the deed was legally recorded, or that was created by a plan legally recorded, in the registry of deeds for the county where the lot is located. Contiguous lots of record in the same ownership are considered on lot.
10. Message means a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.
11. Scroll is a mode of message transition where the message appears to move vertically across the display surface.
12. Sign Assembly means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundations.
13. "Time and Temperature Sign" means a changeable sign that electronically or mechanical displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.
14. Travel is the mode of message transition where the message appears to move horizontally across the display surface.
15. Video Animation is the broadcasting of moving visual images.

## **Sec. 5-104 Regulations**

1. Each message shall be a fixed static display with a 4 (four) second hold rate of change minimum between changes. Time and/or temperature can change at a rate of every 1 (one) seconds. All modes and effects are allowed with the following exceptions: flashing, to include flash effect, or display continuous streaming of information; to include drizzle effect, twinkle effect, wavy effect or video animation, including frame border.
2. The display may comprise up to 100% of the surface area of a changeable sign.
3. The sign must be located outside State and/or Towns right of way and cannot project beyond the property line of the lot on which it is placed.
4. No sign may be located so as to obstruct a traffic control device or in a manner which would obscure the view of approaching or merging traffic.
5. No more than 1 (one) changeable sign may be permitted within 300 (three hundred) feet of another changeable sign per lot on the same side of the traveled way.
6. The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the center line of the nearest public way or actual ground level adjacent to the sign, whichever is lower.
7. Rooftop. No changeable sign may be mounted on any rooftop.
8. All text and graphics will be permitted 24 (twenty-four) hours a day.
9. No sign which advertises or calls attention to any products, businesses, or activities which are no longer sold or carried on shall remain on the premises for more than six months after the product, business, or activity has ceased being sold or carried on.
10. Illumination should not exceed the following: daytime of 2000 cd/m<sup>2</sup> and night time of 60cd/m<sup>2</sup>.

## **Sec. 5-105 Non-conforming Signs**


All signs legally in existence at the time of the enactment of this Ordinance and which are nonconforming in terms of height or setback from right of way and/or lot lines shall be exempted from the height and setback provisions of this Ordinance until such time as the sign may be removed, replaced, or reconstructed. However, all signs must immediately comply with the remaining provisions of this Ordinance, including the display hold rate and prohibition on flashing.

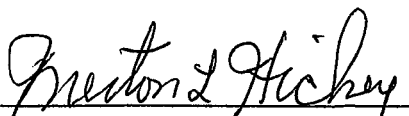
## **Sec. 5-106 Administration**

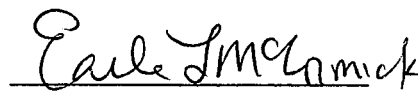
Pursuant to 23 M.R.S.A §1914 (11-A), the changeable signs within the municipality and displays on each side of those changeable signs shall comply with all other requirements of State law. The Town shall notify the Maine Department of Transportation in writing that it has adopted this Ordinance and shall send it a copy of the same. The Town of West Gardiner shall administer the provisions of this Ordinance.

ARTICLE 2. To see if the Town will vote to accept the proposed  
Changeable Sign Ordinance.


Adopted as read December 17, 2015.

  
Gregory A. Couture

  
Merton L. Hickey

  
Earle L. McCormick

Attest:

  
Angela Phillis  
Town Clerk

Town of West Gardiner  
318 Spears Corner Road  
West Gardiner, Maine 04345

April 16, 2009

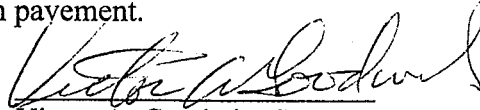
**TOWN SPECIFICATIONS FOR DRIVEWAYS ON TOWN ROADS**

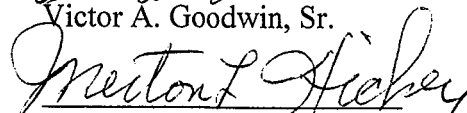
**NEW ENTRANCES**

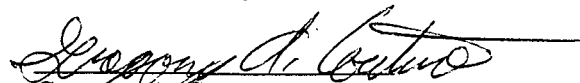
- A. Proposed driveway to be inspected by Road Commissioner.
- B. Road Commissioner will determine if culvert is required.
- C. Minimum size of culvert 15"x 30', plain galvanized, aluminum or sure-loc (plastic) larger if required.
- D. Culvert will be purchased and installed by landowner to Town's satisfaction; one foot of gravel or more to be installed over culvert and driveway from road to Town's right-of-way.

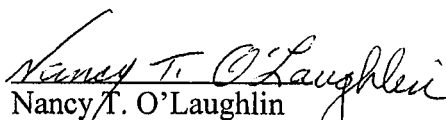
**PAVED DRIVEWAYS**

- A. To prevent water from running onto town roads, any driveway being paved on a town road shall have a depression before entering a town road; unless the driveway grade is lower than the town road grade.
- B. Pavement shall not exceed height of town payment.

  
Victor A. Goodwin, Sr.

  
Merton L. Hickey

  
Gregory A. Couture

  
Nancy T. O'Laughlin  
Town Clerk



***Ordinance Prohibiting Retail Marijuana  
Establishments and Retail marijuana Social Clubs in the  
Municipality of West Gardiner***

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**Section 1. Authority.**

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. C.417; and Municipal Home Rule Authority, ME. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

**Section 2. Definitions.**

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

**Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.**

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in the ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

**Section 4. Effective date; duration.**

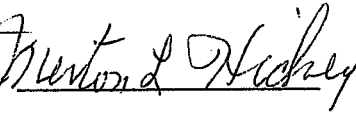

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

**Section 5. Penalties.**

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

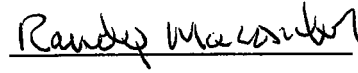
ARTICLE 63. SHALL AN ORDINANCE ENTITLED "ORDINANCE PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS IN THE MUNICIPALITY OF WEST GARDINER" BE ENACTED?

ADOPTED AS READ MARCH 18, 2017



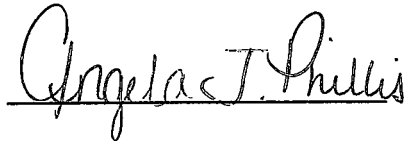
Gregory A. Couture

Merton L. Hickey



Randall W. Macomber

Attest:



Angela J. Phillis

Town Clerk

## WEST GARDINER MINIMUM LOT SIZE ORDINANCE

Section 1: Minimum Residential Lot Size – A single family unit may not be constructed on a lot of less than 60,000 square feet. If multi-family units are constructed on a single parcel, the parcel shall contain at least 60,000 square feet for each single-family unit constructed thereon. For the purpose of this ordinance “single family unit” is defined as a structure designed and equipped for use as permanent, seasonal, or temporary living quarters for one family. For the purpose of this ordinance “multi-family units” are defined as a structure designed and equipped for use as permanent, seasonal, or temporary living quarters for two or more families.

Section 2: Minimum Frontage – A lot upon which a single family unit is to be constructed must contain at least 200 lineal and contiguous feet of road frontage or a 200 x 200 foot square inserted inside of said lot boundaries. If a multi-family unit is constructed on a single parcel, the parcel shall contain at least 200 lineal and contiguous feet of road frontage for each single family unit constructed thereon or a 200 x 200- foot square inserted inside of said lot boundary for each single family unit or a combination thereof. “Road Frontage” for the purpose of this ordinance may be on a public road or a private road but must be lineal and contiguous. Corner lots must have 200 lineal feet of frontage, and cannot add the frontage from separate roads.

Section 3: Commercial Lot Size – For the purpose of this ordinance a “Commercial Lot” which is registered as a lot after October 15, 1987 that does not contain 60,000 square feet. A “Commercial Lot” shall be used for business purposes only. Said lot must contain at least 10,000 square feet with at least 75 lineal and contiguous feet of road frontage. Said Commercial Lot does not meet the minimum lot size and therefore cannot receive a permit for a septic system. If said lot is broken off from a single or multi family dwelling lot, said Residential Lot must still meet the 60,000 square feet minimum as well as either 200 lineal and contiguous feet of road frontage or contain a 200 x 200 foot square per family dwelling within.

Section 4: Exemption – This ordinance shall not apply to existing lots of record which do not meet the requirements of this ordinance at the date of its passage, provided that any such lot meets the requirements of any State Law or regulation. For the purpose of this ordinance “Lot of Record” is any lot with a Single Family Dwelling or any Multi-Family Dwellings on them before October 15, 1987 is exempt from 60,000 square feet for this ordinance.

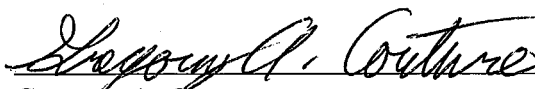
Section 5: Severability – If any portion of this ordinance be declared invalid it shall not affect any other portion of this ordinance.

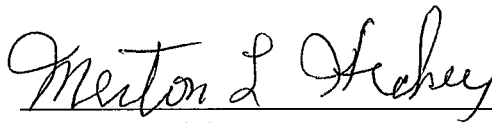
Section 6: Violation – Any person, firm, or corporation which violates any provisions of this ordinance, shall be subject to a fine or penalty of \$100 for each offense. Each such violation shall be considered a separate offense. Each day a violation of this ordinance is allowed to remain shall be considered a separate offense. The Municipal Officers or Code Enforcement Officer of the Town of West Gardiner shall enforce this ordinance in accordance with the law.

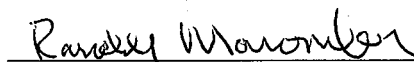
Section 6: Effective Date – This ordinance shall become effective when enacted by the legislative body of the Town of West Gardiner.

Article 61: To see if the Town will vote to accept an amendment to the Minimum Lot Size Ordinance to include a Commercial Lot.

ADOPTED AS READ MARCH 17, 2018

  
Gregory A. Couture

  
Merton L. Hickey

  
Randall W. Macomber  
Selectmen  
Town of West Gardiner


Enacted: October 15, 1987

Amended: March 21, 1992

Amended: March 24, 2007

Amended: March 17, 2018

CERTIFIED BY:

  
Angela Phillis  
Town Clerk

## **TOWN OF WEST GARDINER ORDINANCE RECALL OF ELECTED MUNICIPAL OFFICERS**

### **SECTION 1. Establishment**

Under M.R.S.A. Title 30-A § 2602 (6) amended Oct. 13, 1993, a town may enact an ordinance for the recall and removal of elected municipal officials with the exception of school board members as noted in Title 30-A M.R.S.A. § 2602.

### **SECTION 2. Purpose and Authority**

This ordinance provides the means and method by which citizens of the Town of West Gardiner may seek the removal from office of a Town of West Gardiner elected official. This ordinance is enacted pursuant to Title 30\_a M.R.S.A., §2528, 2602, §3001, and §3002.

### **SECTION 3. Procedure**

- a. The petition for recall must contain only signatures of the registered voters of the Town of West Gardiner, equal to ten percent (10%) of the number of votes cast in the last gubernatorial election.
- b. The petition shall be addressed to those members of the Board of Selectmen having no interest in the subject matter of the petition.
- c. The petition shall state the name and office of the person whose removal is being sought, and incorporate the petitioners' statement of the reason(s) such removal is desired as outlined in Section 3. d.
- d. An elected official may be recalled for (i) failure to appropriately carry out duties and responsibilities of the office (such as failure to represent the will of the people of West Gardiner); (ii) engaging in conduct which brings the office into disrepute; (iii) engaging in conduct which displays an unfitness to hold the office; or (iv) for the indictment or conviction of a crime under the laws of the State of Maine or a felony under the laws of the United States or entry of a plea of guilty to such an offense.
- e. If recall of more than one official is being sought there shall be a separate petition for each official whose removal is being sought.
- f. Each page of the petition shall provide a space for the voter's signature, address and printed name.
- g. The petition blanks shall be the date the petitioner initiates the recall request. The petition shall be available for signatures for 30 business days. At the expiration of said 30 business days, the Town Clerk shall declare the petition closed.

- h. All petition pages thereof shall be filed as one document.

#### **SECTION 4. Incumbent Duties Continued**

The incumbent (unless he/she has submitted a written resignation to the Selectmen) shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled, the official shall continue in office for the remainder of the unexpired term, subject to the subsequent recall. If recalled, the official shall be deemed removed from the office upon certification of the election results.

#### **SECTION 5. Clerk's Certification**

Within ten (10) days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in Section 3 of this ordinance. Should the petition be found insufficient, the petition will be filed in the clerk's office and the voter who filed the petition will be notified.

#### **SECTION 6. Calling the Recall Election**

- a. If the petition is certified by the Town Clerk to be sufficient, he or she will submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the official or officials whose removal is being sought of such action.
- b. The Selectmen upon receipt of the certified petition shall within ten (10) days time of receipt order an election by written ballot, pursuant to 30-A M.R.S.A. § 2528, to be held not less than 30 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition. In this case the selectmen may, at their discretion, provide for the holding of the recall election on the date of the regular municipal election.
- c. In the event that the Town Selectmen fail or refuse to order an election as herein provided, the Town clerk shall call the election to be held not less than 30 days nor more than 60 days following the Selectmen's failure or refusal to order the required election.
- d. If, between the time of ordering the recall election and 21<sup>st</sup> day before said election, the official whose recall is being sought requests a public hearing, the Selectmen shall promptly schedule such hearing to occur no fewer than 7 days before the election, and shall provide adequate posting at least 7 days before said hearing.

## **SECTION 7. Ballots for Recall Election**

Unless the official or officials whose removal is being sought have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall ask the question, "SHALL (name of official) BE RECALLED?," and provide boxes for 'Yes' or 'No' responses.

## **SECTION 8. Result of Election**

- a. In the event of an affirmative vote for removal, such vote shall take effect as of the recording of the vote tabulation into the records.
- b. A tie vote will defeat the recall.

## **SECTION 9. Vacancies to be filled**

A vacancy resulting from removal from office under this ordinance shall be filled in accordance with Title 30-A M.R.S.A. §2602.

## **SECTION 10. Limitations**

- a. No petition for recall shall be filed against an official with fewer than 4 months in office, or with fewer than 60 days of a multiyear term remaining.
- b. If an official has been subjected to a recall election and was not removed, no recall petition shall be filed against that official until at least twelve months (1 year) has passed since said recall election.

## **SECTION 11. Validity**

It is the intention of the municipality that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within this ordinance is declared invalid, all other sections shall remain valid and enforceable.

## **SECTION 12. Amendments**

This ordinance may be amendable by a majority vote of any legal town meeting when such amendment is published in the warrant calling for the meeting.

## **SECTION 13. Effective date**

This ordinance shall be in full force and effect as soon as the town votes to enact it.

Article 50: Shall an Ordinance entitled "Recall of Elected Municipal  
Offices be enacted?

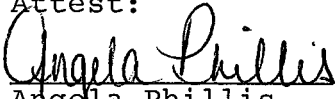
Adopted as read March 22, 2014

  
Gregory Couture

  
Merton Hickey

  
Earle McCormick

Attest:

  
Angela Phillis  
Town Clerk



# WEST GARDINER SHOOTING RANGE ORDINANCE

ADOPTED  
17 DECEMBER 2015

THIS IS TO CERTIFY THAT THIS ORDINANCE WAS ADOPTED BY MAJORITY VOTE AT THE SPECIAL TOWN  
MEETING HELD DECEMBER 17, 2015 AT THE TOWN HALL.

A handwritten signature in cursive script, reading "Angela Phillis", is written over a horizontal line.

ANGELA PHILLIS, TOWN CLERK  
ADOPTED 12/17/15

## **WEST GARDINER SPORT SHOOTING RANGE ORDINANCE**

An ordinance to establish the right of the West Gardiner Rod & Gun Club to continue to operate amid increased pressure from real estate development.

**WHEREAS**, it is the policy and desire of the Town of West Gardiner to support its traditions and character as it continues to evolve; and

**WHEREAS**, it is also the policy and desire of the Town of West Gardiner to promote the safe use of firearms; and

**WHEREAS**, preserving shooting ranges in town support both the aforementioned goals.

### **THE TOWN OF WEST GARDINER DOES ORDAIN AS FOLLOWS:**

Maine Law MRSA 11209, which specifies the minimum distance allowed for the discharge of firearms from a building or dwelling, does not apply to any existing shooting range located in West Gardiner.

### **DEFINITIONS:**

For purpose of the ordinance, "building" means any residential, commercial, retail, educational, religious or farm structure that is designed to be occupied by people or domesticated animals or is being used to shelter machines or harvested crops.

For purposes of this ordinance, shooting range means an area designed for the purpose of providing a place for the discharge of various types of firearms.

Dwelling – Any building or structure or portion thereof designed or used for residential purposes.

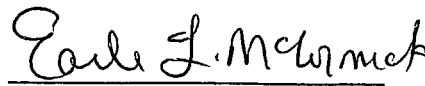
Sport Shooting Range – As used in this section, means an area designed and used for the shooting of rifles, shotguns and pistols.

ARTICLE 3. TO SEE IF THE TOWN WILL VOTE TO ACCEPT THE PROPOSED WEST  
GARDINER SPORT SHOOTING RANGE ORDINANCE.


ADOPTED AS READ DECEMBER 17, 2015

  
GREGORY A. COUTURE

  
MERTON L. HICKEY

  
EARLE L. MCCORMICK

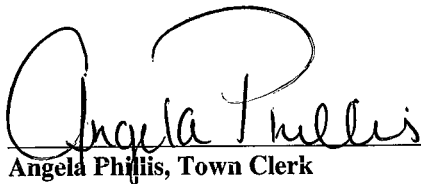
ATTEST:

  
ANGELA PHILLIS  
TOWN CLERK

# **TOWN OF WEST GARDINER, MAINE WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE**

**ADOPTED  
28 March 2015**

**This is to certify that this ordinance was adopted by majority vote at the Annual Town Election held March 28, 2015 at the Town Hall.**

  
\_\_\_\_\_  
Angela Phillis, Town Clerk

Adopted 3/28/15

# **TOWN OF WEST GARDINER, MAINE**

## **WIRELESS TELECOMMUNICATIONS FACILITIES (WTF) ORDINANCE**

### **ARTICLE I – TITLE AND PURPOSE**

#### **1. TITLE**

This ordinance shall be known and cited as the “Town of West Gardiner, Maine Wireless Telecommunications Facilities (WTF) Ordinance”, hereinafter referred to as “this Ordinance.”

#### **2. PURPOSE**

The purpose of this Ordinance is to establish predictable and balanced regulations and to provide a process and a set of standards for the construction of wireless telecommunication facilities within the Town of West Gardiner in order to:

- A. Implement a municipal policy concerning the provision of wireless telecommunications services, and the appropriate siting of their facilities;
- B. Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunication facilities in order to avoid potential damage to adjacent properties;
- C. Encourage the provision of advanced wireless telecommunication facilities to the largest number of businesses, institutions and residents of West Gardiner;
- D. Encourage competition in wireless telecommunications services;
- E. Permit and manage reasonable access for wireless telecommunications on a competitively neutral basis;
- F. Ensure that all wireless telecommunication carriers providing facilities or services within West Gardiner comply with the ordinances of the Town;
- G. Ensure that West Gardiner can continue to fairly and responsibly protect the public health, safety and welfare;
- H. Encourage the co-location of wireless telecommunication facilities in order to maximize the use of approved or pre-existing sites within the coverage area;
- I. Minimize adverse impact on the Town’s aesthetic resources and to protect the scenic, historic, environmental, natural resources, and visual character of the community;
- J. Enable West Gardiner to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development; and
- K. Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the Town with minimal impacts on existing uses.

#### **3. ACTIVITIES EXEMPT FROM THIS ORDINANCE**

The following are exempt from the provisions of this Ordinance:

- A. Amateur (Ham) radio stations licensed by the FCC or wireless telecommunication facilities used for the transmission and receipt of wireless computer networks, with a maximum tower height, including antenna, of seventy-five (75) feet above ground level. Amateur (Ham) radio facilities shall be exempt from all fees listed in this Ordinance when co-locating on a tower of any height.
- B. Parabolic antennas and residential antennas or towers that are an accessory to a residential dwelling unit for personal or non-commercial use.
- C. Maintenance, upgrade, or repair of an existing WTF and its equipment, provided that there is no change in the height or any other dimension of the facility.
- D. Temporary wireless telecommunications facilities for emergency communications by public officials.
- E. Facilities completely enclosed in existing structures at the time of enactment of this Ordinance.
- G. Governmental services are exempt from all fees contained herein, but are subject to the rest of this ordinance.

Adopted 3/28/15

#### **4. DEFINITIONS & REFERENCES**

##### **A. CONSTRUCTION OF LANGUAGE**

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

##### **B. REFERENCES TO THE TOWN**

All references in this Ordinance to "Town," "the Town," "the Town of West Gardiner," and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to The Town of West Gardiner, Maine, an incorporated municipality in the County of Kennebec, State of Maine and its municipal boards, officials and officers.

##### **C. Definitions.**

For the purposes of this Ordinance, the following definitions apply:

**Abandon** -- Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

**Accessory Equipment** -- Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

**Administrative Approval** -- Zoning approval that the [Zoning Administrator] or designee is authorized to grant after Administrative Review.

**Administrative Review** -- Non-discretionary evaluation of an application by the [Zoning Administrator] or designee. This process is not subject to a public hearing. The procedures for Administrative Review are established in Section IV E of this Ordinance.

**Antenna** -- Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

**Carrier on Wheels or Cell on Wheels ("COW")** -- A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

**Collocation** -- The act of siting Telecommunications Facilities on an Existing Structure without the need to construct a new support structure and without a Substantial Increase in the size of an Existing Structure.

**Concealed Telecommunications Facility** -- Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

**Existing Structure** -- Previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

**Major Modifications** -- Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

**Minor Modifications** -- Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

Ordinary Maintenance -- Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

Replacement -- Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

**5. Construction.**

The tower must be constructed of materials that make it nearly invisible, and, lighting must be as inconspicuous as possible--existing only for the purpose of satisfying the Federal Aviation Administration (FAA) requirements.

**6. Applications/Permitting**

A. Review - The West Gardiner Planning Board will rule on all applications after a Public Hearing is held.  
B. The applicant shall provide proof of adequate liability insurance to the West Gardiner Planning Board. Applicant shall provide a Certificate of Insurance evidencing current coverage, and provide notice to Town of West Gardiner to County if insurance is diminished, canceled, terminated, or not renewed, and, identify the tower by application number.

**7. Location of Tower.**

The applicant shall locate the tower on the designated lot so that the distance from the base of the tower to any adjoining property lines or public way is a minimum of (a) 100 per cent for free standing towers, or (b) 80 per cent for guy anchored towers.

**8. Landscaping.**

Applicant shall landscape the tower site perimeter with at least one row of deciduous trees, not less than two (2) inches in diameter measured three (3) feet above grade, spaced not more than twenty (20) feet apart and within twenty-five (25) feet of the site boundary, as well as at least one (1) row of evergreen trees or shrubs at least four (4) feet high when planted and spaced not more than fifteen (15) feet apart and within forty (40) feet of the site boundary.

**9. Security Fencing.**

Applicant shall fence the tower site with a minimum of eight (8) foot high security fencing with barbed wire around the base of the tower not more than 20 feet including buildings, and post appropriate signs on the fence every twenty (20) feet warning of the danger of trespassing.

**10. Changes in Business Status.**

If tower applicant sells, transfers, disposes of or yields control over its facilities and equipment and services and business interests used to support its obligation hereunder, or assigns any of its rights or delegates its obligations, or enters bankruptcy proceedings, executes an assignment for the benefit of creditors or ceases to exist or loses its license to operate or such license is limited in any way, applicant shall give legal notice to the West Gardiner Planning Board.

**11. Setbacks:**

Lot setback from any Great Pond or River shall be one-quarter lineal mile.

- o Front: 15 Feet, (relative to the supporting structure only, the setback is to the center of the supporting structure)
- o All others: 10 feet (relative to the supporting structure only, the setback is to the center of the supporting structure)
- Height:
- o No taller than 200 feet

(B) Abandonment and Removal. If a Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, the [Jurisdiction] may require that such Support Structure be removed only after first providing written notice to the owner of the Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Support Structure within thirty (30) days of receipt of said written notice. In the event the owner of the Support Structure fails to reclaim the Support Structure within the thirty (30) day period, the owner of the Support Structure shall be required to remove the same within six (6) months thereafter. The [Jurisdiction] shall ensure and enforce removal by means of its existing regulatory authority.

(C) Multiple Uses on a Single Parcel or Lot. Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself. If this is a Multiple Use Parcel the Telecommunications Facility shall not infringe on the minimum lot size of the additional principal use.

## **§12. MONITORING**

A. The WTF owner shall provide the CEO with copies of current FCC licenses, renewals, and copies of any reports filed with the FCC when changes occur.

B. The WTF owner shall arrange for a licensed professional structural engineer or professional tower service/installation company to conduct inspections of the tower's structural integrity and safety.

1. Towers shall be inspected every five years at the owner's expense.

2. A report of the inspection results shall be submitted to the CEO and the Planning Board.

3. Modification of existing facilities which include changes to dimension or antenna number or type may require a new structural inspection at the Board's discretion.

## **§13. ABANDONMENT OR DISCONTINUATION OF USE**

A WTF that is not listed as having a license in the FCC Database or is out of operation for a continuous period of twelve

(12) months or more shall be considered abandoned.

A. At least thirty (30) days prior to the time that the tower owner plans to abandon or discontinue use of a WTF, said owner must notify the CEO by certified mail.

B. If the CEO considers a WTF abandoned, the CEO shall notify the owner of an abandoned WTF by certified mail in writing and order the removal of the WTF within one hundred eighty (180) days of receipt of the written notice. The owner of the WTF shall have forty (40) days from the date of the written notice to demonstrate to the CEO that the WTF has not been abandoned.

C. If the Owner fails to show that the WTF is actively being operated, the WTF owner shall have one hundred eighty (180) days from the date of the notice required by §13-B, above, to remove the WTF.

## **§14. REMOVAL**

A. Any WTF, or upper portion thereof, that ceases to operate must be removed at the expense of the permit holder within one hundred eighty (180) days from the date of the notice required by §11-B, above.

Adopted 3/26/04 - 14 - Amended 3/30/07

B. Removal shall include, but not be limited to, antennas, mounts, equipment shelters, and security barriers. Waste materials must be properly disposed of at an offsite location.

C. The site of the WTF must be restored to its pre-construction condition. The owner of the WTF shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and re-establishment of vegetation.

D. The permit holder or land owner may apply for a change of use permit that will allow the existing facilities, not including towers, to be retained for future use.

E. If the permit holder fails to remove a WTF in accordance with the provisions of this section, the Board of Selectmen of the Town of West Gardiner and/or their representatives shall have the authority to enter the property and dismantle the WTF at the permit holder's expense.

## **ARTICLE VII – PERFORMANCE GUARANTEES**

### **§ 1. GUARANTEE FOR REMOVAL**

At the time of approval of a permit application, and prior to initiating construction of any WTF within the Town of West Gardiner, the applicant must guarantee the costs for the removal of the WTF.

A. The amount of the guarantee shall be equal to the estimated removal cost, provided by the applicant and certified by a professional civil engineer licensed in Maine or a professional tower construction company.



B. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine or a professional tower construction company every five (5) years from the date of the Planning Board's approval of the site plan.

C. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase. The applicant may also request adjustments in the guarantee.

## **§ 2. TYPES AND CONTENTS OF GUARANTEE**

One of the following performance guarantees chosen by the applicant shall be provided with submittal of the application.

### **A. Interest-Bearing Escrow Account**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, direct deposit into a savings account, or purchase of a certificate of deposit.

1. For any account opened by the permit holder, the Town shall be named as owner or co-owner, and consent of the Town shall be required for a withdrawal.

2. Any interest earned on the escrow account shall be returned to the WTF owner unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required work.

### **B. Performance Bond**

A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town, and the procedures for collection by the municipality. The bond documents shall specifically reference the wireless service facility for which approval is sought.

### **C. Irrevocable Letter of Credit**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the removal of the wireless service facility and may not be used for any other project or loan.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the

Town Selectmen, and/or Town Attorney, expenses paid for by the applicant.

## **§ 3. RELEASE OF GUARANTEE**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, that the

removal meets or exceeds the design requirements for which the release is requested.

## **§ 4. DEFAULT**

If upon inspection, the CEO or other inspecting official finds that any of the required removal has not been performed in

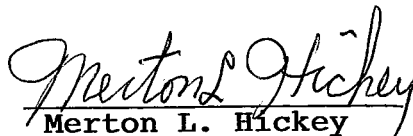
accordance with the approved plans and specifications, he shall report in writing to the Municipal Officers, the Planning

Board, and the permit holder and guarantor. The permit holder shall have 30 days, unless otherwise specified by the CEO, to remedy any insufficiency noted. Thereafter, the Municipal Officers shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

**ARTICLE 54. Shall an Ordinance entitled "Town of West Gardiner, Maine Wireless Telecommunications Facilities Ordinance" be enacted or take any other action thereon?**

**Adopted as read March 28, 2015**

  
Gregory A. Couture

  
Merton L. Hickey

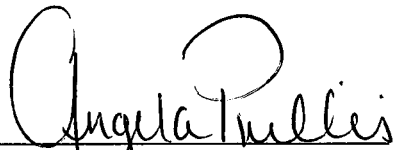
  
Earle L. McCormick

Attest:  
  
Angela Phillis  
Town Clerk

# WIND ENERGY SYSTEMS ORDINANCE

ADOPTED  
17 DECEMBER 2015

THIS IS TO CERTIFY THAT THIS ORDINANCE WAS ADOPTED BY MAJORITY VOTE AT THE SPECIAL TOWN  
MEETING HELD DECEMBER 17, 2015 AT THE TOWN HALL.

A handwritten signature in black ink, reading "Angela Phillis". The signature is written in a cursive style with a large initial "A".

ANGELA PHILLIS, TOWN CLERK  
ADOPTED 12/17/15

## **WIND ENERGY SYSTEMS ORDINANCE**

### **A. LARGE WIND ENERGY SYSTEMS**

A large wind energy system means a system of equipment that has an aggregate rated capacity of more than 100 Kw that converts and then stores or transfers energy from the wind into usable forms of energy.

For the purpose of this ordinance, no large wind energy systems are allowed in the Town of West Gardiner.

### **B. SMALL WIND ENERGY SYSTEM REQUIREMENTS**

A small wind energy system means a system of equipment located on a single lot that as an aggregate rated capacity of not more than 100 kW that converts and then stores or transfers energy from the wind into usable forms of energy. For the purpose of this ordinance, Small Wind Energy Systems shall be considered a structure and shall meet all dimensional requirements of applicable districts.

1. Permitted Locations: A small wind energy system is permitted in any zoning district.
2. Minimum Lot Size: No wind energy system shall be erected on any lot less than one acre in size.
3. Total Height: For property sizes between one acre and two acres, the total height shall not exceed 45 feet. For property sizes between two and five acres, the total height shall not exceed 60 feet.
4. Number of Systems: For property sizes equal to or greater than five acres the total number of small wind energy systems shall not exceed three. Each system shall be separated at its base by 1.2 times its total height.
5. Setbacks:
  - a. Property lines: A small wind energy system shall be set back from the nearest property line not less than 1.5 times its total height except when that system is designed to be mounted on a structure then it must meet dimensional requirements of the respective zone.
  - b. Inhabited Structures: A small wind energy system shall be set back from the nearest inhabited building not less than 1.5 times its total height.

## 6. Design Standards.

- a. **Monopole Design:** The design of the small wind energy system shall be of a monopole design without guy wires.
- b. **Minimum Blade Height:** The minimum height of the lowest extent of a turbine blade shall be 20 feet above the ground or 20 feet above the highest point of any structure or obstacle within 20 feet from base of the turbine.
- c. **Access:** No tower shall have a climbing apparatus within 12 feet of the ground. All access doors or access ways to towers and electrical equipment shall be lockable.
- d. **Visual Appearance:** Small wind energy systems shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. No small wind energy system shall be lighted unless required by the FAA. No advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy system.
- e. **Electrical Interconnections:** All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
- f. **Signal Interference:** Efforts shall be made to site small wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy system shall cause permanent and material interference with television or other communication signals.
- g. **Over speed Controls:** Every small wind energy system shall be equipped with both manual and automatic over speed controls.

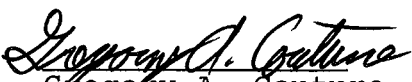
## 7. Permit Applications. Application for a small wind energy system shall include the following information.

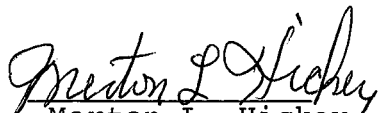
- a. **Site plan** to scale showing the location of the proposed small wind energy system and the locations of all existing buildings, structures and property lines along with distances.
- b. **Elevations** of the site to scale showing the height, design and configuration of the small wind energy system and the height and distance to all existing structures, buildings, electrical lines and property lines.
- c. **Standard drawings** and an engineering analysis of the systems tower including weight capacity.

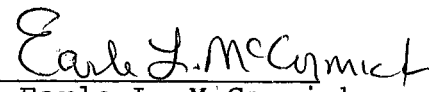
- d. A **standard foundation** and anchor design along with soil conditions and specifications for the soil conditions at the site.
- e. **Specific information** on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system including the name and address of the manufacturer, model and serial number.
- f. **Emergency** and normal shutdown procedures.
- g. A **line drawing** of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.
- h. **Evidence** that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator unless the system will not be connected to the electricity grid.
- i. **Abandonment.** If the CEO determines that the small wind energy system has been abandoned, the Owner of the small wind energy system shall remove the wind generator and the tower at the Owner's sole expense within 6 months after the Owner receives the Notice of Abandonment. In the event the owner fails to remove the abandoned small wind energy system, the Town shall remove the system and bill the owner for the cost.

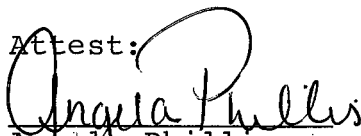
ARTICLE 4. To see if the town will vote to accept the proposed Wind Energy Systems Ordinance.

Adopted as read December 17, 2015.

  
Gregory A. Couture

  
Merton L. Hickey

  
Earle L. McCormick

Attest:  
  
Angela Phillis  
Town Clerk

Amended 12/3/2015