

# Town of Frankfort Wind Energy Facility Ordinance

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## Town of Frankfort Wind Energy Facility Ordinance

### TOWN OF FRANKFORT WIND ENERGY FACILITY ORDINANCE

#### Section 1 - Purpose and Intent

This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001, to protect and safeguard the health, safety, and welfare of the Town of Frankfort and its residents by establishing reasonable and uniform regulations to regulate the location, construction, and operation of wind energy facilities. This Ordinance shall be known as the “Frankfort Wind Energy Facility Ordinance.”

#### Section 2 - Applicability; Site Permit and Operational License Required

- 2.1 This Ordinance applies to all Wind Energy Facilities proposed to be constructed or operated after the effective date of the Ordinance, except that the construction and operation of Type 1 and Type 2 Wind Turbines (as defined below) are exempted from coverage by this Ordinance.
- 2.2 This Ordinance shall become effective upon the passage of this Ordinance, and applies retroactively to May 23 2011.
- 2.3 Wind Energy Facilities constructed prior to May 23, 2011 shall not be required to meet the Site Permit requirements of this Ordinance, except that any modification to an existing Wind Energy Facility that materially alters the size, type or number of Wind Turbines or other equipment shall require a Site Permit under this Ordinance.
- 2.4 Wind Energy Facilities constructed prior to May 23, 2011 shall be required to obtain Operational Licenses pursuant to this Ordinance within thirty (30) days of its effective date,
- 2.5 It shall be unlawful and a violation of this Ordinance to begin construction and/or operation of a Wind Energy Facility without a Site Permit and Operational License.
- 2.6 The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner/operator of a Wind Energy Facility. Approval of a Site Permit and Operational License by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner/operator to comply with this Ordinance. Repeated violations, particularly of the sound limits, may lead to proceedings to revoke a Wind Energy Facility’s Operational License.
- 2.7 Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other town ordinance, or regulation, the more restrictive provision shall control.
- 2.8 Should any section or provision of this Ordinance be declared by the courts to be invalid such decisions shall not invalidate any other section or provision of the Ordinance.
- 2.9 This Ordinance includes Sections 1 through 28. Decisions regarding compliance or approval of an Applicant’s Site Permit and Operational License must be made in light of the entire Ordinance.

#### Section 3 - Definitions

For the purposes of this Ordinance, the following terms are defined as follows. Terms not defined herein shall be given their customary dictionary meaning unless the context clearly indicates otherwise.

Ambient Sound - includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people.

Applicant - the individual or business entity that seeks to secure a Permit or License under this Ordinance.

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A-Weighted Sound Level (dBA) - one measure of the overall sound level. This measure is designed to reflect the response of the human ear, which does not respond equally to all frequencies. Lower frequency sounds are given less weight than those in the mid-range of human perception. The resulting measure is said to be A-weighted and the units are dBA.

Background Sound (L90) is defined over a continuous ten-minute period to be the average sound level during the quietest one continuous minute of the ten minutes. L90 may be measured relative to A-weighting or C-weighting, in which case it may be denoted L90A or L90C. It refers to sound that is normally present at least 90% of the time, and excludes any sound generated by a WEF. It also excludes intermittent sounds from flora, fauna, wind and human activity. Background sound levels vary during different times of the day and night. Because wind turbines operate continuously, the background sound levels of interest are those during quieter periods which are often the evening and night.

C-Weighted Sound Level (dBC) is similar to the A-weighted sound level (dBA), but it does not de-emphasize low frequencies to the extent that A-weighting does. For sounds with a significant low-frequency component, dBC is a more accurate measure of the energy of the sound waves than dBA.

Decibel (dB) - a dimensionless quantity that is proportional to the logarithm (base 10) of a ratio of two quantities that are proportional to the power, energy or intensity of sound. One of these quantities is a reference level relative to which all other levels are measured.

Essential Wildlife Habitat - areas identified by the Commissioner, Maine Department of Inland Fisheries and Wildlife, in accordance with the provisions of 12 M.R.S.A., Chapter 925, Subchapter 3, and any Department of Inland Fisheries and Wildlife rules implementing that Subchapter.

Frequency - the number of complete oscillations or cycles per unit of time. See Hertz, below.

Good Utility Practice - any of the practices, methods and acts with respect to the safe operation of a WEF engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation and maintenance of wind turbines during the relevant time period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

Hertz (Hz) - a unit of cycles per second. A process that repeats itself a given number of times in one second is said to occur at that many Hertz.

Immediate Family Members – husband, wife, son, daughter

Low Frequency Noise (LFN) – refers to sounds with energy in the lower frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.

Measurement Point (MP) - a location where sound and/or vibration are measured.

Mitigation Waiver - a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance. A Parcel in which the landowner has entered into such an agreement becomes a Participating Parcel. A complete copy of any such agreement must be provided to the Planning Board and recorded in the Waldo County Registry of Deeds.

Noise - any sound produced by a WEF. Noise does need to be loud to constitute an interference with the

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health and well being of residents.

Non-participating Landowner – any property or land owner other than a Participating Landowner.

Notification Area – the entire land base within two (2) miles, measured horizontally from the Project Boundary. All landowners with any part of their property within the notification area, or residents living within the notification area must be notified as specified in the Ordinance.

Occupied Structure - a building in which people live, work or frequent.

Owner/operator - the person or entity with legal ownership of a WEF, including successors and assigns, which have the authority and responsibility to operate the WEF on a day-today basis. An Owner/operator must have the legal authority to represent and bind.

Participating Landowner – one or more persons that hold title in fee to the property on which the WEF is proposed to be located pursuant to an agreement with the development Owner/operator.

Project Boundary - the boundaries of the WEF as shown on the site plan submitted to and approved by the Planning Board in accordance with this Ordinance.

Project Parcel - any parcel(s) of real estate on which all or any part of a WEF will be constructed.

Property Line - the recognized and mapped property boundary line.

Public Way - any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

Qualified Independent Acoustical Consultant - Qualifications for persons conducting baseline and other measurements and reviews related to the Application for a WEF or for enforcement actions against an operating WEF include, at a minimum, demonstration of competence in the specialty of community noise testing and Board Certified Membership in the Institute of Noise Control Engineers (INCE). Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this Ordinance. The Independent Qualified Acoustical Consultant can have no direct or indirect financial or other relationship to an Applicant.

Sensitive Receptor - places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, camp grounds and other nonagricultural businesses. These areas are more likely to be sensitive to the exposure of the noise, vibration, shadow or flicker generated by a WEF. These areas include, but are not limited to: schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, nonagricultural businesses and residences.

Setback – the minimal allowable horizontal distance as measured from the nearest turbine to a defined point (e.g. a property line or a road).

Setback Area – the entire land base that falls within a specified setback.

Setback Distance – the larger of one mile or 13 times the Turbine Height, measured horizontally from the Project Boundary to the nearest property line.

Shadow Flicker – alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object.

Shadow Flicker Receptor – any Occupied Building on a Non-participating Landowner's property plus an additional 100-foot boundary surrounding the exterior of the Occupied Building, the entire outdoor public

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area surrounding schools, churches and public buildings, and public roads with a posted speed limit greater than 25 mph.

Sight Line Representation – a line depicted in profile extending from an observer's eye to the lowest point of a viewed tower.

Sound - A fluctuation of air pressure that is propagated as a wave through air.

Scenic or Special Resource – a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451(9), any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such. Mt. Waldo Granite Works is a Scenic or Special Resource.

Sound Power – The total sound energy radiated by a source per unit time. The unit of measurement is the watt. Abbreviated as Lw. This information is determined for the Wind Turbine manufacturer under laboratory conditions specified by IEC 61400-11 and provided to the local developer for use in computer model construction. There is known measurement error in this test procedure that must be disclosed and accounted for in the computer models. Even with the measurement error correction it cannot be assumed that the reported Lw values represent the highest sound output for all operating conditions. They reflect the operating conditions required to meet the IEC 61400-11 requirements. The lowest frequency is 50 Hz for acoustic power (Lw) requirement (at present) in IEC 61400-11. This Ordinance requires wind turbine certified acoustic power (Lw) levels at rated load for the total frequency range from 6.3 Hz to 10k Hz in one-third octave frequency bands tabulated to the nearest 1dB. The frequency range of 6.3 Hz to 10k Hz shall be used throughout this Ordinance for all sound level modeling, measuring and reporting.

Sound Pressure – The instantaneous difference between the actual pressure produced by a sound wave and the average or barometric pressure at a given point in space.

Sound Pressure Level (SPL) – 20 times the logarithm, to the base 10, of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter. In equation form, sound pressure level in units of decibels is expressed as  $SPL (dB) = 20 \log p/pr$ .

Town means the Town of Frankfort.

Turbine Height – the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Energy Facility (WEF) - all of the land and equipment used by the Wind Energy System and its support facilities including the wind turbine, tower, access roads, control facilities, meteorological towers.

Wind Turbine or Turbine - means a system for the conversion of wind energy into electricity which is comprised of a tower, generator, nacelle, rotor and transformer.

### Section 4 - Classification of Wind Turbines

For the purpose of clarification, all Wind Turbine Generators are classified according to the following definitions:

#### Wind Turbine Classifications:

**Type 1 – Small Wind Turbine** means a single wind turbine with a nameplate capacity less than 10 kW, and a turbine height equal to or less than 80 feet. This ordinance does not apply to these.

**Type 2 – Intermediate Wind Turbine** means a single wind turbine with a nameplate capacity less than 100 kW, and a turbine height less than 150 feet, and not requiring a Site Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3456. This ordinance does not apply to these.

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**Type 3 – Large Wind Turbine** means up to three wind turbines with a nameplate capacity less than 1 MW, and a turbine height less than 300'. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-AM.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WEF.

For the purposes of this Ordinance, included in the Type 3 - Large Wind Turbine shall be any turbine(s) of nameplate capacity equal to or greater than 100 kW and a turbine height greater than 150 feet if the energy generated is for sale or use by a Person other than the generator.

**4 Type 4 – Industrial Wind Turbine** means one or more wind turbines each with a nameplate capacity of greater than or equal to 1 MW, or a turbine height greater than or equal to 300'; or more than three Type 3 Wind Turbines. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WEF.

### Section 5 - Permitting Authority

- 5.1 The Town of Frankfort Planning Board is authorized to review all WEF applications and may approve or reject such applications in accordance with the standards of the Ordinance.
- 5.2 The Maine Department of Environmental Protection (DEP) may be required to review WEF applications. The Planning Board shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP certification when making its determination.
- 5.3 The following types of permits require final approval by a vote of the residents of the Town of Frankfort
  - (5.3.1) Any WEF to be built on property owned by the Town
  - (5.3.2) Any WEF partially or totally owned by the Town

### Section 6 - Application Changes

- 6.1 Throughout the permit process, the Applicant shall promptly notify the Planning Board of any changes to the information contained in the permit application.
- 6.2 Any significant modifications of an approved WEF such as, not limited to, the number of Wind Turbines, turbine height, turbine design and specifications are considered material changes and shall require the Applicant to obtain an amended Site Permit from the Planning Board, pursuant to this Ordinance. The application procedures and permit requirements and standards for amending a Site Permit may be the same as for an initial application.
- 6.3 Minor changes in approved plans necessary to address field conditions may be approved by the Planning Board, provided that any such changes do not affect compliance with the Ordinance. The Permittee shall submit revised plans to the Planning Board showing the proposed minor change, which, if approved, shall be considered an amendment to an existing Site Permit and/or Operational License, as appropriate. In the event that a majority of the Planning Board believes that a requested change constitutes a material change to a Site Permit and/or Operational License or if the changes will affect compliance with the Ordinance, full re-approval may be required.

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### **Section 7 - Cumulative Effect of Multiple Permits Applications**

The Town of Frankfort reserves the right to limit the total number of WEF permits that are under review for approval at any given time.

### **Section 8 - Professional Services**

In reviewing an application for compliance with this Ordinance, the Planning Board may retain professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer, biologist, or land use planner. At the time an Application for a WEF Site Permit is filed with the Town, the Applicant shall execute for the benefit of the Town an agreement to pay and provide adequate surety guaranteeing payment of the cost of the investigation, review and processing of the Application, including without limitation by way of enumeration, legal, engineering, acoustical, planning, environmental, and staff administrative costs as provided in this Ordinance. The agreement shall provide for the establishment of an escrow account and cash deposit to be provided by the Applicant in an amount deemed sufficient by the Planning Board to begin review under this Ordinance. The Town may use the funds in the escrow account in connection with the application review as allowed by this Ordinance. In the event that the cash deposit in escrow is insufficient to complete the review, the Town shall notify the Applicant that additional funds are necessary and of the amount reasonably believed necessary to complete the review, and the Applicant shall provide the additional funds. The Planning Board shall not begin processing, or in the case of where additional funds are requested, shall not continue processing, the Application until the preliminary cost agreement is approved and signed and until the required surety, or additional surety, and/or funds, are provided to the Town.

### **Section 9 – Fees and Costs**

- 9.1 The application fee for a Site Permit shall consist of a base application fee of \$2,500.00 plus \$1,000.00 for every Wind Turbine included in the project.
- 9.2 The application fee for an Operational License is \$1,000.00
- 9.3 The annual fee for an Operational License is \$250.00
- 9.4 Decommissioning Bond: See Section 15
- 9.5 Road Damage Bond: See Section 12.6.3
- 9.6 Liability insurance: See Section 11.4

### **Section 10 – General Standards**

All WEFs shall comply with the applicable Standards of this Ordinance and ensure that no WEF shall cause unreasonable health or safety conditions.

#### **10.1 Building Codes:**

All components of the WEF shall be constructed in accordance with the Maine Model Building Code as defined by 10 M.R.S.A. Section 9721.

#### **10.2 Electrical Components and Interconnections**

All electrical components of the Wind Turbine and WEFs shall conform to relevant and applicable local, state, and national codes.

#### **10.3 Controls and Brakes**

Each Wind Turbine shall be equipped with a redundant braking system that includes both

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aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

### 10.4 **Blade Clearance**

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

### 10.5 **Signal Interference**

WEFs will be designed and sited to prevent the disruption or loss of radio, telephone, television, internet, or similar signals. See Section 12.5

### 10.6 **Guy Wires, Blade Feathering and Bird Sensing Radar**

Monopole towers with no guy wires are preferred to minimize bat and migratory bird fatalities, and bird fatalities in general. To further minimize such fatalities, Wind Turbines will be equipped with bird sensing radar, and the Wind Turbine blades will be feathered. Bird flight diverters must be installed on any tower with guy wires.

## Section 11 - Appearance and Safety Standards

### 11.1. **Appearance and Visibility Standards**

(11.1.1) Wind Turbines shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the WEF.

(11.1.2) The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the site to the natural setting and existing environment.

(11.1.3) Wind Turbines shall not be artificially lighted, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the WEF.

(11.1.4) Wind Turbines shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, emergency contact information, and for any appropriate warnings.

(11.1.5) Each Wind Turbine shall be located to reasonably maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the Wind Turbine(s) from Occupied Buildings of Non-participating Land Owners, Scenic Resources and public roads.

### 11.2. **Safety Standards**

(11.2.1) **Design** - The design of the Wind Turbines and WEF shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.

(11.2.2) **Access** - All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to fifteen (15) feet above ground surface.

(11.2.3) **Warnings** - A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.



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### 11.3 Inspections

Wind Turbines shall be inspected, at the expense of the owner/operator, after construction is completed but before becoming operational, and at least every year thereafter, for structural and operational integrity by a Maine licensed professional engineer, and the Owner/operator shall submit a copy of the inspection report to the Planning Board. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide the Planning Board a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance.

### 11.4 Liability Insurance

The Applicant shall maintain a current general liability policy for the WEF that covers bodily injury and property damage in an amount commensurate with the scope and scale of the Turbine or Project. The Applicant or its designee shall provide certificates of insurance to the Planning Board, and provide a copy of each annual renewal to the Planning Board. The Town of Frankfort shall be listed as additional insured on this policy.

## Section 12 - Public health and Safety Standards

### 12.1 Fire Protection

The Applicant shall prepare a plan in consultation with the Town of Frankfort fire departments as part of the permitting process. The plan shall address all activities at the WEF from the start of construction through the end of power generation and the final removal and restoration of the site, and shall describe a response plan to address all identified potential fire, rescue and hazardous materials scenarios. The Owner/operator shall ensure that the WEF complies with the following control and prevention measures and assumes responsibility for all associated incremental costs:

(12.1.1) Use of fireproof or fire resistant building materials and buffers or fire retardant landscaping around WEFs as appropriate.

(12.1.2) Incorporation of a self-contained fire protection system to address nacelle fires including but not limited to redundant fire quenching systems in the nacelle.

(12.1.3) Maintenance of firebreak areas as appropriate cleared of vegetation and maintained as a fire/fuel break as long as the Wind Turbine is in operation.

(12.1.4) Provision for any additional fire fighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the WEF that is beyond the current capabilities and duties of the local fire department.

### 12.2 Hazardous Waste

The Owner/operator shall be responsible for compliance with all ordinances, state regulations and laws applicable to the generation, storage, cleanup, and disposal of hazardous wastes generated during any phase of the project's life. The Town of Frankfort requires that a plan be submitted by the Applicant demonstrating the ability and intent to meet such compliance as part of the application process.

### 12.3 Blasting Plan and Requirements

The Application shall include a blasting plan which complies with the provisions of 38 M.R.S.A. § . The Applicant must execute this plan, and bears sole responsibility for the associated costs. Blasting shall be performed only after approval has been given to the Applicant for such operations.

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### 12.4 **Emergency Shutdown Plan and Requirements**

An Application for a WEF Site Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/operator and Licensee will follow in the event an emergency shutdown is required

### 12.5 **Communications and Electromagnetic Interference Standards**

The WEF shall not cause any disruption or loss of radio, telephone, television, internet, or similar signals. The Applicant shall provide a statement from the Federal Communications Commission that the proposed WEF will not cause any disruption of radio, television or similar signals.

(12.5.1) WEFs shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The Owner/operator of the project shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems including relocation or removal of the Wind Turbine, and any and all related transmission lines, transformers, and other components related to the interference.

(12.5.2) The Owner/operator of the WEF shall respond within one day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two days of the request. The Owner/operator is responsible for mitigating within two days from the determination of interference attributed to the operation of the Wind Turbine.

(12.5.3) The Owner/operator of the WEF shall respond within five business days to any request for communications interference investigation by a property owner or resident within a three-mile radius, measured horizontally, of the WEF. Testing will commence within five business days of the request. The owner/operator is responsible for mitigating within ten business days from the determination of interference attributed to the operation of the Wind Turbine.

### 12.6 **Ground Transportation Standards**

(12.6.1) The Applicant shall identify all public ways to be used within the Town of Frankfort to transport equipment and parts for construction, operation or maintenance of the Wind Turbines.

(12.6.2) A qualified third party engineer, hired by the Planning Board and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(12.6.3) The Town of Frankfort may bond the road(s) in compliance within state regulations.

(12.6.4) Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Owner/operators expense.

(12.6.5) The Applicant shall demonstrate that it has appropriate financial insurance to ensure the prompt repair of damaged roads.

### 12.7 **Plan and Risk Assessment for Road and Property Use**

12.7.1 An Application for a WEF Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

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(12.7.1.1) A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WEF, including a description of how and when such ways and property will be used or affected.

(12.7.1.2) A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.

(12.7.1.3) A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WEF, including: the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.

(12.7.1.4) A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WEF.

(12.7.1.5) Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WEF.

12.7.2 The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WEF in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WEF.

12.7.3 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

12.7.4 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligation under the agreement, including but not limited to any obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities.

## Section 13 - Review Standards

### 13.1 Environmentally Sensitive Area

The plan for the WEF will reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant shall demonstrate appropriate measures for protecting these resources, including both during construction and post construction.

### 13.2 Wildlife Protection

The Applicant will demonstrate that the WEF will not have a significant adverse effect on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse effects to birds, bats, game animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the WEF will have no significant adverse effect on rare, threatened or endangered wildlife. The

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wildlife and habitat analysis must include appropriate pre-construction field studies and at least three sets of corresponding post-construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational. These studies will be conducted by a qualified wildlife biologist hired by the Town of Frankfort and paid for by the Applicant. If the post-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Town, the Owner/operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) with involvement by The U.S. Fish and Wildlife Service (USFWS), if applicable, shall develop an appropriate mitigation plan. The Owner/operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW and USFWS.

### 13.3 **Raptor Habitat**

The WEF will meet all USFWS expectations for studies associated with eagles, migratory birds, and bats, and to address the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. To the extent practicable, the creation of artificial habitat for raptors or raptor prey will be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, by the MDIFW and the USFWS.

### 13.4 **Erosion Control**

The WEF will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the “Maine Erosion Control Handbook for Construction: Best Management Practices”, March 2003. Whenever sedimentation is caused by stripping vegetation or grading it shall be the responsibility of the Owner/operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Owner/operator’s expense as quickly as possible.

### 13.5 **Groundwater Protection**

The WEF will not adversely affect the quality or quantity of groundwater. The Applicant shall have to demonstrate to the Planning Board’s satisfaction that there are no unusual risks to the groundwater, including underground rivers, created by the project. The Board may require as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells, springs and certified public water sources within a two-mile radius of the foundation shall be established. If degradation or contamination occurs, permanent remedies shall be the responsibility of the Owner/operator.

### 13.6 **Light Pollution**

The WEF shall be designed to minimize the amount of nighttime light pollution. The Applicant shall provide a plan showing lighting on and around all Wind Turbines and associated facilities. Lighting on Wind Turbines shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. The minimum number of Wind Turbines will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.

### 13.7 **Scenic and Aesthetic Resource Standards**

The development shall not significantly compromise views from a Scenic or Special Resource, as established by the Natural Resources Protection Act (NRPA) or by the Town, such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource of state or national significance.

13.7.1 If a proposed WEF will be located within 3 miles of a Scenic or Special Resource, the Applicant shall provide a visual impact assessment to the Planning Board.

13.7.2 The developer must have the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this Ordinance.

## Town of Frankfort Wind Energy Facility Ordinance

### **Section 14 - Ethical Standards**

#### **14.1 Transparency, Public Participation and Highest Ethical Standards**

All public deliberations and decisions regarding Wind Energy Facilities shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

#### **14.2 Public Access**

All deliberations concerning Wind Energy Facility Projects, whether in writing or conducted verbally, by the Planning Board, Selectman, Appeals Board, and any other subcommittees or working groups of the afore mentioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding Wind Energy Facilities between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings for which notice has been duly given. Exceptions will be made only for: 1) appropriately recorded and executed executive sessions; and 2) communicating the minimal information necessary to set up and facilitate public meetings. Minutes of deliberations and decisions concerning Wind Energy Facilities will be maintained and filed in the Frankfort Town Office. Copies of all correspondence and e-mails will be made available for public inspection and copying in accordance with the Freedom of Access law. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, and working groups shall be part of the public record.

#### **14.3 Conflicts of Interest**

The process to develop and permit Wind Energy Facility Projects shall be governed by a strict ethical code for conflicts of interest. No Selectperson, planning board member, member of the appeals board, code enforcement officer or their immediate family member, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for Wind Energy Facility Projects. Conflicts of interest include, but are not limited to:

(14.3.1) having right, title or interest in a Project Parcel;

(14.3.2) having a financial arrangement with an individual or company that derives income from the development of wind energy, including a signed Mitigation Waiver with financial remuneration;

(14.3.3) serving as a paid representative of an individual or company that derives income from the development of wind energy, or a written or verbal promise for future employment or contracts from a wind development company;

(14.3.4) being directly or indirectly affiliated as an Applicant with a pending Application for a Wind Energy Facility Project;

(14.3.5) knowing that there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than \$1,000 on behalf a wind development company.

Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision-making regarding Wind Energy Facility Projects, with the exception of voting and debating as a private citizen at any public meeting and public hearings.

#### **14.4 Bidding and Contracting**

All bidding, contracts and employment for projects located or partially located on Town owned land, must be awarded through a process of public notice and competitive bidding. The Town of Frankfort reserves the right to design the bidding process to favor local contracts and local employment.

## Town of Frankfort Wind Energy Facility Ordinance

### Section 15 - Decommissioning Standards

- 15.1 The Owner/operator shall, at its expense, complete decommissioning of the WEF within:
- 1) twelve (12) months after the end of the useful life of the WEF, or;
  - 2) as specified in the materials provided at the time of application or;
  - 3) pursuant to remedies described in Section 15.8
- The WEF will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- 15.2 Decommissioning shall include removal of wind turbines and foundations to a depth of 36 inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the Wind Turbine or WEF's useful life, as determined in accordance with Section 15.1 the Applicant provides written evidence of plans for continued beneficial use of these components of the WEF, and this evidence is approved by the Planning Board.
- 15.3 Except as otherwise provided by Section 15.2 disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.
- 15.4 An independent and certified Professional Engineer shall be retained, at the cost of the WEF Company, to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs"), and the cost of decommissioning including the salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Town of Frankfort after the first year of operation and every three (3) years thereafter.
- 15.5 The Owner /operator shall post and maintain decommissioning funds in an amount equal to Net Decommissioning Costs; provided that at no point shall decommissioning funds be less than one hundred percent (100%) of Decommissioning Costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the Owner/operator and Participating Landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Frankfort. No work can begin on the WEF before the decommissioning bond is issued and approved.
- 15.6 Decommissioning funds may be in the form of a performance bond, surety bond, or other form of financial assurance as may be acceptable to the Town of Frankfort.
- 15.7 If the Owner/operator fails to complete decommissioning within the period prescribed by Section 15.1 then the Participating Landowner shall have an additional six (6) months to complete decommissioning.
- 15.8 If neither the Owner/operator, nor the Participating Landowner completes decommissioning within the periods prescribed by Sections 15.1 and 15.7 the Wind Turbine or WEF shall be deemed to be in violation of this Ordinance and the Town of Frankfort may take such measures as necessary, including court action, to ensure the completion of decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town of Frankfort shall constitute agreement and consent of the Parties to the agreement, their respective heirs, successors and assigns that the Town of Frankfort may take such action as necessary to implement the decommissioning plan.
- 15.9 The escrow agent shall release the decommissioning funds when the Owner/operator has demonstrated and the Planning Board concurs that the decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.

## Town of Frankfort Wind Energy Facility Ordinance

### Section 16 – Construction and Design Standards

- 16.1 **General Construction Standards** All Wind Turbines shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event that, after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, the Owner/operator shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, the Owner/operator shall present a plan to the Town describing the reason for the delay and the time frame for the cure to be put in place.
- 16.2 **Electrical Design Standard** On-site power and transmission lines shall be placed consistent with Good Utility Practice. Wind Turbines shall be engineered according to Good Utility Practice to prevent transient ground currents and stray voltage. The Applicant shall demonstrate that there will be no significant adverse effect upon the environment or individuals from transient ground currents and stray voltage.
- 16.3 **Transmission Line Standards** The Applicant must, in conjunction with the Maine Public Utility Commission (PUC), prepare a written report documenting all anticipated changes, modifications or upgrades to the public utility grid within the Town of Frankfort due to the WEF. The written report must include necessary approvals from the PUC, proof of leases or required right of ways for transmission lines, and any alternatives to the final plan considered. The report must document the residual capacity remaining in the local utility grid that is available for use by other local electrical generating projects.
- 16.4 **Geological Stability** Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.
- 16.5 **Operational Performance Standards**
- (16.5.1) **General Performance Standards** All Wind Turbines shall be operated and maintained consistent with Good Utility Practice for comparable facilities.
- (16.5.2) **Repairs and Maintenance** The Owner/operator shall be required to repair and replace the WEF and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

### Section 17 - Shadow Flicker and Blade Glint Assessment and Requirements

- 17.1 Shadow flicker occurs when the blades of a Wind Turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment. The WEF shall not have an unreasonable adverse effect on any Sensitive Receptor. The Application shall include a detailed shadow flicker and blade glint assessment model and an estimate of the expected amount of flicker and glint.

This study must meet the following requirements.

(17.1.2) The study shall be prepared by a registered professional regularly engaged in this type of work. The Applicant shall be responsible for paying all costs associated with conducting the study.

(17.1.3) The study will examine the areas within a two-mile radius of any Wind Turbine in the proposed WEF.

(17.1.4) The model will be calculated using the following minimum inputs:

- i. Turbine locations (proposed and existing)

## Town of Frankfort Wind Energy Facility Ordinance

- ii. Shadow flicker Sensitive Receptor locations
- iii. Existing topography (elevation contours and vegetation)
- iv. Rotor diameter, blade width and hub height
- v. Joint wind speed and direction distribution (wind rose table)
- vi. Hours of sunshine (long term monthly references)

(17.1.5) The model may be prepared by use of current aerial photography and topographical maps. A site visit by the preparer is required to identify Sensitive Receptors and to verify the existing conditions.

(17.1.6) The study shall estimate the locations and durations of shadow flicker caused by the proposed WEF within the study area. The study shall clearly indicate the duration of shadow flicker at locations throughout the study area, showing the total number of hours per year anticipated.

(17.1.7) The study must include estimates for the duration of shadow flicker at all existing occupied structures and roadways. The estimated duration of shadow flicker at such locations shall include flicker that occurs within 100 feet of the structures.

(17.1.8) The study must include a statement of the assumptions made, methodology applied, and data used by the study. This information must be sufficient to allow an independent third party to verify the results of the study.

(17.1.9) The study shall include a paint sample that demonstrates the color, texture and gloss of the proposed surface coating and a certification that the proposed surface coating will not create a reflective surface conducive to blade glint.

(17.1.10) WEF's shall be designed and sited so that shadow flicker and/or blade glint will not exceed 10 hours per year for any given receptor. Property owners may waive the Shadow Flicker and Blade Reflection restriction with a written Mitigation Waiver. (See Section 19)

### **Section 18 - Standards for Setbacks and Noise**

This section addresses the interrelated standards of setbacks and noise, and applies to all WEFs. Setbacks provide a number of important Ordinance functions, including but not limited to: 1) working in conjunction with noise standards as a primary means of mitigating potential and unforeseen noise complaints; 2) providing for public safety in the event of a catastrophic turbine failure or ice throw; 3) mitigating the effects of shadow flicker from larger turbines

#### **18.1 Setback Standards**

##### **(18.1.1) Setbacks to Non-participating Landowner Property Lines**

WEF turbines shall not be located any closer than the greater distance of either 5,280 feet or 13x the Turbine Height, as defined, from the property lines of non-participating landowners. Landowners may waive this setback with a written Mitigation Waiver (see section 19)

##### **(18.1.2) Setback to Utility Lines**

WEF turbines shall not be located any closer than 1,600 feet from any above ground utility lines, excluding those erected to serve the WEF, unless agreed to in writing by the affected utility company.

##### **(18.1.3) Setbacks to Public Roads**

WEF turbines shall not be located any closer than 1,600 feet from any public road

##### **(18.1.4) Setbacks to Scenic and Special Resources**

WEF turbines shall not be located any closer than 2,400 feet from any scenic or special resource.



## Town of Frankfort Wind Energy Facility Ordinance

### (18.1.5) **Setback to Occupied Building of Participating Landowner**

WEF turbines shall not be located any closer than 1,600 feet from any occupied building by a Participating Landowner

### **Noise Standards**

For all wind turbines, the primary guiding principle is that their operation must not be disruptive at any time of day or night. Current sound limitations in the state of Maine regulating noise from WEF reflect sound limits applicable to urban residential and urban mixed neighborhoods instead of the deep quiet of rural areas such as Frankfort to which this Ordinance pertains.

### **18.2 Principles Governing Sound Measurements**

(18.2.1) Section 27 applies in addition to relevant paragraphs of Section 26. Procedures in Section 27 and Section 26 are mandatory and additional to the relevant application procedures.

(18.2.2) Sound measurements must be made to all non-participating property lines within and up to two (2) miles measured horizontally from the Project Boundary.

(18.2.3) All sound measurements will be filtered for both dBA and dBC.

(18.2.4) All sound measurements before construction, and after will be made by a Professional Engineer who is a Full Member of the Institute of Noise Control Engineering (INCE).

(18.2.5) This engineer must be an independent contractor to the Town of Frankfort, and have no ties to wind developers or related conflicts of interest.

### **18.3 Noise Limits at Non-participating Property Lines**

(18.3.1) Post- construction audible noise levels (dBA) attributable to a WEF shall not exceed the following limits on any property belonging to a Non-participating Landowner.

45dBA during the day (7AM-7PM)

40dBA during the evening (7PM- 11PM)

32dBA at night (11PM-7AM).

Property owners may waive this noise restriction with a written Mitigation Waiver. See Section 19

(18.3.2) Low frequency noise levels (dBC) attributable to a WEF shall not exceed the following limits, measured inside or at any Property Line:

1. 20 decibels (measured as dBC) above the pre-development ambient noise level (measured as dBA).

2. A maximum not-to-exceed level of 50dBC.

Property owners may waive this noise restriction with a written Mitigation Waiver. See Section 19

(18.3.3) Noise measurement standards and procedures are described in Section 27

### **Section 19 - Mitigation Waivers**

**Mitigation Waiver Agreement:** Non-participating Landowners may waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the Applicant and the Non-participating Landowner, who thereby becomes a Participating Landowner. Complete copies of executed Mitigation Waivers must be included with the submission of the WEF Application. The Mitigation Waiver must be recorded in The Waldo County Registry of Deeds, and describe the benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the burdened property.

## Town of Frankfort Wind Energy Facility Ordinance

### Section 20 - Reporting Requirements

#### 20.1 Extraordinary Events

The Owner/operator shall notify the Town Office or member of the Select Board of any extraordinary event within 24 hours of that event, "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town of Frankfort or its residents.

Additionally, the Owner/Operator will provide the Town and its residents with a hotline phone number for reporting of any such extraordinary events to a manned facility on call 24hours a day, 365 days a year.

#### 20.2 Change of Owner/operator

The Owner/operator will notify the Town of Frankfort of a pending change of ownership in writing 30 days before the effective change. New owners will apply for a transfer of permits to be reviewed by the Town Of Frankfort and will assume all the obligations of the selling Owner/operator.

20.3 Reports from annual safety inspections. See section 11.3

20.4 Annual proof of liability insurance. See section 11.4

### Section 21 - Appeals

- 21.1 The Board of Appeals shall have the power to hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the Board of Appeals.
- 21.2 The Board of Appeals may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence that was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.
- 21.3 For the purposes of hearing appeals, at a minimum, all property owners and residents within the Notification Area shall be deemed to have interested party standing. The Appeals Board may grant other individuals interested party standing as special circumstances warrant. All interested parties must be sent notice by certified mail with mailing costs paid for by the Applicant. The Appeals Board will give interested parties a reasonable and appropriate amount of time to present information and rebuttals.
- 21.4 A final Town vote as outlined in Section 25.8 shall not be subject to Appeals Board review.
- 21.5 Further appeal from any decision of the Board of Appeals may made to Superior Court in accordance with Maine Rules of Civil Procedure 80B

## Town of Frankfort Wind Energy Facility Ordinance

### Section 22 - Tax Valuation Agreement

#### 22.1 Tax Valuation Agreement

(22.1.1) WEFs that have a taxable property value of greater than \$10 million dollars; or, if the project will be qualified as a “designated business” for the purposes of state tax incremental financing as defined in Title 30-A M.R.S.A. §5241, are required to have a written agreement between the Town of Frankfort and the Owner/operator designating the financial methodology that will be used for tax valuation purposes (“Tax Valuation Agreement”).

(22.1.2) The Tax Valuation Agreement must be in a format approved by the Town attorney and comply with all applicable state and federal tax codes and laws.

(22.1.3) The Tax Valuation Agreement must include a financial projection of the tax valuation for the useful life of the project and be prepared by a qualified CPA and reviewed by a qualified tax attorney selected by the Town and paid for by the Applicant.

### Section 23 – Complaints, Violations and Enforcement

#### 23.1 General Standard

It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any permit or Operational License issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any permit or Operational License issued under this Ordinance.

#### 23.2 Enforcing Authority

The Code Enforcement Officer will serve as the Enforcing Authority for WEFs. The Enforcing Authority will:

(23.2.1) Have the authority to conduct investigations, resolve complaints, ensure compliance with and enforce standards, and seek penalties if required.

(23.2.2) Appoint qualified representatives to investigate complaints. The reasonable costs and fees for the qualified representative will be paid by the Owner/operator and may include engineers, consultants, and other professionals.

(23.2.3) Recommend to the Planning Board amendments to this Ordinance deemed necessary to address health or safety concerns not currently addressed in this Ordinance.

(23.2.4) Have access to Town legal counsel as required.

#### 23.3 Enforcement

Standards in this Ordinance will be enforced through a series of enforcement options including but not limited to: 1) Emergency shutdown; 2) 5 day response to serious violations with a 10 day mitigation period; 3) 30 day complaint resolution with a 30 day mitigation period; 4) financial penalties; and 5) other remedies.

#### 23.4 Emergencies and Emergency Shutdown

Owner/operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the WEF that presents an imminent physical threat of danger to life or significant threat to property. A WEF that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a professional engineer in good standing prior to resumption of operation. The Town shall have the right to access all Wind Turbines to verify conditions and/or repair progress with reasonable notice to the Wind Turbine owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine

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failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, the Owner/operator shall notify the Town of the occurrence and proposed remedial action.

### 23.5 **Serious Violations of Standards**

The Owner/operator of the WEF shall respond within five business days to any complaint or complaints deemed by the Enforcing Authority to have merit. Testing, paid for by the Owner/operator, will commence within ten working days of the complaint. Except as noted for interference with emergency communications, the Owner/operator is responsible for mitigating the problem within ten business days from the final determination of any cause attributed to the operation of the WEF. Pursuant to Section 12.5.2, interference with emergency communications must be responded to in one day and mitigated within 2 days.

Three (3) verified noise complaints attributed to the operation of a Wind Turbine within a period of one month or less with a measurable noise level greater than noise levels pursuant to section 18.3.1 or 50 dBC inside or at a property line shall be considered a serious violation. Failure to resolve the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 23.4. Serious violations shall be tried to a court.

### 23.6 **Other Violations**

If the Enforcing Authority determines that a violation of the Ordinance or the permit has occurred, and the violation is determined neither to be an emergency pursuant to Section 23.4, nor a serious violation pursuant to Section 23.5, the Enforcing Authority shall provide written notice to the Owner/operator requiring abatement of the violation within 30 days. Mitigation involving significant construction or physical modification shall be completed pursuant to Section 16.1.

### 23.7 **Penalties**

Whoever violates any provision of this Ordinance shall be liable to the Town, upon conviction, by a fine of not less than \$500 and not more than \$1,000 per violation. Each non-compliant Wind Turbine constitutes a separate violation and each day during which a violation occurs constitutes a separate violation. Additionally, the Town shall recover the cost of prosecution, including its reasonable attorneys' fees.

### 23.8 **Other Remedies**

If the Owner/operator has not corrected the violation within the timeframes contained in Section 23.5 or Section 23.6, the Court may order the WEF to cease operation until the WEF can prove compliance with the standards of this Ordinance. If after 6 months the Owner/operator has not demonstrated good faith and significant effort in resolving the issue, the Court may order the decommissioning pursuant to Section 15

### 23.9 **Identifying Violations and Registering Complaints**

(23.9.1) Pursuant to Section 20.1 the Owner/operator will report to the Town all extraordinary events within 24 hours of their occurrence.

(23.9.2) For any WEF owned, in whole or part, by the Town or maintained on Town property, the Town will maintain, a system for recording and investigating all complaints related to the WEF. The system must be able to receive complaints 24 hours a day, 365 days a year. A permanent record of all complaints, investigations and outcomes will be maintained. The Town will designate a representative and method to receive and respond to complaints from the Town 24 hours a day, 365 days a year.

## Town of Frankfort Wind Energy Facility Ordinance

### Section 24 - Permit Requirements

#### 24.1 Permit Requirement

(24.1.1) A site permit is required for the construction of Type 3 and Type 4 WEFs in the Town of Frankfort.

(24.1.2) The Planning Board will consider all existing and proposed Wind Turbines held in common or related ownership or that are part of a common scheme of development to be a single WEF, regardless of separate corporate ownership.

(24.1.3) Receipt of a permit under this Ordinance does not relieve the Owner/operator from the responsibility to obtain any other such permits or approvals as required by the Town of Frankfort or pursuant to other State or Federal jurisdiction.

### Section 25 - Application Submission Requirements and Procedural Time Frames

#### 25.1 Pre-application Meeting

A pre-application meeting with the Planning Board will be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board will review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

#### 25.2 Notice to Abutters and Residents within the Notification Area

The Planning Board will provide general public notice to the general public and personal notification to all property owners and residents within the Notification Area of all proceedings relative to a WEF application. The notice will briefly describe the proposed WEF and notify the recipient of the dates, times and places of all meetings. The town will give residents no less than 14 days' notice of all such meetings and shall post all notices.

#### 25.3 Determine Submission Requirements

An Applicant has 180 days from the pre-application meeting to submit an application for a WEF site permit/operational license and the required fees to the Town Clerk. The Town Clerk will notify the Planning Board and forward all materials to the Board. The submission requirements for WEFs are listed in Section 26.

#### 25.4 Completeness Review

Upon submission of an application and application fee, the Planning Board will schedule a meeting to review the application for completeness. Specific studies may be required for a consideration of completeness including but not limited to noise studies, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

#### 25.5 Site Inspection

The Planning Board reserves the right to establish a time for a site inspection at any time during the application process. Planning Board and Applicant will set a mutually agreeable time for the Planning Board to inspect the site. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection will be treated as a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed WEF and relevant property boundaries. The

## Town of Frankfort Wind Energy Facility Ordinance

- Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.
- 25.6 **Public Hearing Requirement**  
The Planning Board will schedule a public hearing on the application to be held within 60 days of the determination of completeness of the Application for the WEF.
- 25.7 **Final Planning Board Determination**  
A decision to approve or deny the application will be made by the Planning Board within 60 days from the date of the public hearing, except that this deadline may be extended by consent with the Applicant. In considering whether to approve or deny an application, the Planning Board shall apply the review criteria contained in Section 13 and shall consider whether the Applicant has shown that the application will comply with all development and performance standards.
- 25.8 **Final Town Approval**  
If a WEF is to be located on Town property or if the WEF is to be wholly or partially owned by the Town, the Planning Board may not issue a permit or license under this Ordinance until the Town has approved its participation in the application by a vote at a Town Meeting.

### Section 26 - Submission Standards.

All information in this application, unless specified, will become part of the public record. Information submitted by the Applicant must be continuously updated throughout the application process as changes are made or new information becomes available. An Applicant may request that the Planning Board waive any submission standard that it believes is inapplicable by filing a written request with the Planning Board. Submissions requirements may also be waived by the Planning Board if they are parts of an amended permit or subsequent application. (Section 25.3)

The Applicant shall submit a written application, which shall include:

- 26.1 Applicant's name and contact information.
- 26.2 Legal Owner/operator and contact information.
- 26.3 Description of the legal structure of the WEF including a corporate organizational chart, ownership and equity structure, and all investors.
- 26.4 Description of the proposed WEF that includes the number of Wind Turbines, the nameplate capacity of each Wind Turbine, Turbine Height and manufacturer's specifications for each Wind Turbine, the aggregate generating capacity of the entire project, and a description of associated facilities.
- 26.5 Location map, drawn to scale, showing the project showing the location of the each Wind Turbine, associated facilities, all property under partial or total control of the Applicant including easements and those under lease with Participating Landowners, roads, municipal boundaries, and any public way, above ground utility lines, designated floodplain, deer wintering area, bald eagle nests, state or federally designated wetlands, Scenic Resource, Historic Site or Area, Significant Wildlife Habitat, Locally-designated Passive Recreation Area, residence or planned residence, approved residential subdivision, Occupied Building or Protected Location within 1.5 miles of the proposed development, and depicting the current zoning designations for the area.
- 26.6 Detailed site plan showing the location of each Wind Turbine and Associated Facility and any of the following features located within 1.5 times the required setback: property boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), buildings (identify use), roads, driveways, right-of-ways, overhead utility lines, Scenic or Special Resources, tree cover, wetlands, streams, water bodies, areas proposed to be cleared of vegetation or re-graded, and areas proposed to

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- be significantly excavated or blasted.
- 26.7 Copies of all Participating Landowner agreements and easement agreements.
- 26.8 Copies of any deeds or purchase agreements for land owned or under option by the Owner/operator.
- 26.9 Receipt showing payment of application fees and escrow for professional and public hearing fees.
- 26.10 A copy of the most current business plan for the WEF.
- 26.11 A copy of all collected and available relevant wind data for the WEF. This information is a critical indicator of the long-term financial viability of the project.
- 26.12 Proof of financing.
- 26.13 Reference list of all previous WEFs with which the Owner/operator has been affiliated.
- 26.14 Proof of compliance with all required setbacks. The Applicant shall work with the Planning Board to complete a pre-construction noise study per Section 27. This study must be completed before the permit can be approved.
- 26.15 A detailed noise prediction model for worst-case noise scenarios based on wind speed and wind direction for the WEFs. The study shall be projected onto a contour map for a minimum of two miles from each Wind Turbine. Worst-case scenarios for each property line within the 2-mile radius, measured horizontally from the base of the nearest turbine to the closest property boundary, shall be reported in table form. The model will address the unique mountainous terrain of the area. Noise predictions will include both single source and line source origination. All underlying assumptions and algorithms in the model will be documented.
- 26.16 As part of the review process, the Applicant will, per Maine TA Bulletin #4, provide written demonstration that the noise standards in this Ordinance will be met.
- 26.17 The Wind Turbine manufacturer's noise emission specifications for each Wind Turbine model.
- 26.18 A shadow flicker and blade reflection model for the proposed WEF. The model will provide a worst-case scenario (100%) seasonal representation for each Occupied Building within 2 miles of any Wind Turbine. The model will calculate maximum hours of shadow flicker and blade reflection in table form for each Occupied Building. A worst-case scenario shall also be constructed for vehicle traffic on Route 1A.
- 26.19 Copies of all executed Mitigation Waiver agreements concerning Setbacks, Noise and Shadow Flicker/Blade Reflection.
- 26.20 Written documentation that the Wind Turbine Plan is consistent with the Frankfort Wind Energy Facility Ordinance.
- 26.21 Any documentation required to be submitted by Section 13.
- 26.22 Written evidence that the Maine Department of Inland Fisheries and Wildlife, the Maine Natural Areas Program and the U.S. Fish and Wildlife Service have all been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines and inclusion of any comments and recommendations made by those agencies.
- 26.23- Sight line, photographic, and elevation information shall be provided from: 1) at least three points from public ways that have a view of the horizon where the WEF will be located; 2) and other

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- locations as the Planning Board deems necessary, including from Occupied Buildings of Non-participating Land Owners provided permission is granted by a Non-participating Land Owner.
- (26.23.1) A Sight Line Representation shall be drawn that shows the lowest point to the Wind Turbine visible from each location. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and physical structures.
- (26.23.2) Each Sight Line shall be illustrated by one four-inch by six-inch color photograph of the current view taken after the leaves are down off the trees.
- (26.23.3) Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the WEF when built.
- 26.24 Provide a written description of emergency and normal shutdown operations Section 10.3
- 26.25 Submit required permits from the Federal Aviation Administration with deference given to the planning of future low-level air traffic routes pursuant to Section 11.1
- 26.26 Submit contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating WEF.
- 26.27 Proof of Liability Insurance
- 26.28 Time-line showing all phases of the construction.
- 26.29 Detailed structural drawings of the tower foundation and anchoring system prepared and stamped by a Maine-licensed professional engineer qualified to prepare such drawings. Details must be provided of all significant excavation and blasting.
- 26.30 Demonstrate compliance with Section 16.3. A map shall be provided showing all transmission lines and rights-of-way that will need to be built or upgraded to accommodate the WEF. Applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from involved landowners and any governmental unit responsible for access, approval or construction of electric transmission and distribution lines, whether part of the WEF or part of the local electrical distribution grid. The Applicant shall submit an affidavit stating that no property will need to be taken by eminent domain to facilitate transmission lines necessary to support the project.
- 26.31 A geological report from a registered geotechnical engineer demonstrating that the geological make up of the site can support the Wind Turbines and the underlying ground is geologically stable. The report shall include a slope stability analysis and any underlying fault zones.
- 26.32 A written summary of all routine operation and maintenance procedures for the WEF.
- 26.33 Provide an estimate of required new equipment and training to be provided pursuant to Section 12.1
- 26.34 Document all potential hazardous wastes that will be used on the WEF, including but not limited to any chemicals used to clean the Wind Turbine blades, and how these wastes will be transported, handled, stored, cleaned up if spilled, and disposed of during any phase of the project's life and document the transport of any aerosols as a result of routine blade cleaning.
- 26.35 A communication/electromagnetic interference study prepared by a registered professional engineer showing that the proposed WEF will comply with Section 12.5. The Owner/operator will sign an affidavit stating that the Owner/operator shall be responsible for the full cost remediation to remain in compliance with this Section.



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- 26.36 Before and after photographs or videos of the roadways, in a format approved by the Planning Board, shall be submitted as part of the documentation process pursuant to Section 12.6.
- 26.37 A road and property use and risk assessment plans in compliance with Section 12.7.
- 26.38 A decommissioning plan in compliance with Section 15.
- 26.39 Proof that the Applicant has notified the following agencies via certified mail and received any necessary permits or permissions for the project:
1. Federal Aviation Administration.
  2. U.S. Department of Defense facilities located within 50 miles from the proposed WEF.
- 26.40 Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Planning Board to ensure compliance with this Ordinance.
- 26.41 Signed affidavit from the Owner/operator that Applicant has read the Town of Frankfort Wind Energy Facility Ordinance and agrees to abide by its provisions.

### Section 27 - Noise Measurement Standards and Procedures

- 27.1 A qualified independent acoustical consultant who is a Full Member of the Institute of Noise Control Engineering (INCE) shall conduct all noise studies. The acoustical consultant shall be hired by and report to the Planning Board. The Applicant will pay for the studies.
- 27.2 The WEF Applicant/Licensee shall provide all technical information and wind facility data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.
- 27.3 Sound level meters and calibration equipment must comply with the latest version of the American National Standards Institute “ American Standard Specifications for General Purpose Sound Level Meters” currently ANSI Standard S1.4 and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.
- 27.4 Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standards for outdoor measurements currently ANSI S12.18-1994 “Outdoor Measurements of Sound Pressure”.
- 27.5 Along with information about the make, model, and name plate capacity of all turbines potentially used in the proposed WEF, the Applicant will also supply their sound power levels (Lw) for each 1/3 octave band from 6.3 Hz to 10k hz.
- 27.6 A sound propagation model predicting the sound levels immitted into the community computed using at minimum 1/1-octave band sound power levels to compute the LCEq and LAeq levels to generate LAeq and LCEq contours in 5 dB increments overlaying an aerial view and property survey map from the WEF property out to a distance to include all residential property lines within two (2) miles measured horizontally from the project boundary.
- 27.7 Prior to permit application approval, a pre-construction ambient noise level study shall be conducted at each property line within 2 miles measured horizontally from the center of the turbine base.

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- 27.8 The tests shall be conducted using both an A-weighting scale (dBA) and low frequency C-weighting scale (dBC).
- 27.9 Predictions shall be made at all property lines within and outward for two (2) miles measured horizontally from the turbines for the wind speed, direction and operating mode that would result in the worst case WEF nighttime sound emissions.
- 27.10 Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum one set of tests should be performed during each of the four (4) calendar seasons of the year.
- 27.11 All measuring points shall be located in consultation with the property owners such that no significant obstruction blocks noise and vibration to the site.
- 27.12 Outdoor noise level measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.
- 27.13 Duration of measurements shall be a minimum of ten continuous minutes for each criterion at each location.
- 27.14 Measurements must be made when the wind levels are less than 4.5 mph and with appropriate wind screening for the recording device.
- 27.15 When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to: 1) the unique aspects of the mountainous contours and terrain of the area and its effect on noise predictability and; 2) line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.
- 27.16 Measurements should be obtained during representative weather conditions when the Turbine noise is most noticeable, including periods of temperature inversion most commonly occurring at night.
- 27.17 Measurements shall be taken at each of the following three time periods:  
 (28.17.1) Day (10 a.m. – 2p.m.)  
 (28.17.2) Evening (7p.m. -11 p.m.)  
 (28.17.3) Night (12 midnight – 4 a.m.)
- 27.18 Each measurement shall be replicated during the same time period over three different days within the same season for a total of 9 measurements per location per season (e.g., three daytime measurements in the winter, three evening measurements in the winter, and three night time measurements in the winter). The lowest of the three measurements, per season, will be used to determine the pre-construction ambient noise for that time period and season.
- 27.19 For each measurement the following minimum criteria will be recorded:  
 (27.19.1) Lmax, Leq, L10 and L90 in dBA  
 (27.19.2) Lmax, Leq, L10 and L90 in dBC  
 (27.19.3) A narrative description of any intermittent noises registered during each measurement  
 (27.19.4) Wind speed and direction at time of measurement  
 (27.19.5) Description of weather conditions at time of measurement  
 (27.19.6) Description of topography and contours relative to proposed or actual Wind Turbines
- 27.20 A comparison of the expected sound levels from the proposed WEF with the sound level limits of this regulation shall be submitted. Per Maine TA Bulletin #4, a written report comparing the expected sound levels with the pre-development ambient sound levels will

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help determine compliance with the standard.

- 27.21 A 5-dBA and/or a 5-dBC penalty shall be applied for short duration repetitive noise or repetitive impulse noise. This is a characteristic “thumping” or “whooshing” sometimes exhibited by larger Wind Turbines. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.
- 28.22 A 5dBA penalty shall be applied for tonal noise. This is a single or limited frequency noise (vs. broadband noise) associated with mechanical noise artifacts (i.e. high pitched whining, screeching, buzzing). Per Maine TA Bulletin #4 noise over a narrow frequency is more serious nuisance than broadband noise.
- 27.23 For sites being measured with existing Wind Turbines two sets of measurements are required:  
 1) one set with the Wind Turbine(s) off and;  
 2) one set with the Wind Turbine(s) running.
- 27.24 For noise complaints after the Wind Turbines are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner. If requested by the property owner, continuous measurements may be taken for longer periods of time to capture intermittent nuisance noise patterns.
- 27.25 Within twelve months of the date when the project is fully operational, and within four weeks of the anniversary date of the pre-construction background noise measurements, repeat the existing sound environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WEF’s running and with all WEF’s off.
- 27.26 The post-construction measurements will be reported to the Town of Frankfort (available for public review) using the same format as used for the preconstruction sound studies. Post-construction noise studies shall be conducted by a firm chosen and hired by the Town of Frankfort. Costs of these studies are to be paid by the Licensee.
- 27.27 Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.
- 27.28 When testing for WEF noise compliance, all measurements at the test location must be the pre-turbine background noise measurement location nearest to the home of the complainant in line with the WEF and nearer to it. The time of day for the testing and the wind farm operating conditions plus wind speed and direction must replicate the conditions that generated the complaint. Procedures of ANSI S12.9-Part 3 apply. The effect of instrumentation limits for wind and other factors must be recognized and followed.
- 27.29 In addition to the pre-construction ambient noise study, ten monitoring sites will be selected by an acoustical engineer, in consultation with the Planning Board, where noise-monitoring equipment will be installed. The equipment may be relocated, as needed depending on field conditions and noise complaints. Equipment can only be installed with the consent of the property owner. The equipment will be able to log and record noise data at least every fifteen minutes and will be able to measure dBA and dBC weighted scales. The noise monitoring equipment will be installed and operational before construction begins at the WEF. The noise monitoring equipment will remain operational until one year after the WEF becomes operational. The Town of Frankfort will hire an acoustical engineer or a firm specializing in measurement of noise that will be responsible to operate, maintain and gather data from the noise monitoring equipment. Reports of the data gathered will be provided to the Planning Board on a quarterly basis unless otherwise requested. The cost of these requirements will be borne by the owner/operator of the WEF.

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### Section 28 - Operational License

An Operational License is required for the operation of all WEFs. Applications for a WEF Operational License shall be submitted to the Planning Board.

- 28.1 Where an Applicant is applying for a new or amended WEF Permit, the application for a WEF Operating License, or amended license, shall be submitted to the Planning Board in conjunction with the Permit application, and shall include the application form and the separate fee specified in Section Fees and Costs.
- 28.2 Where an Applicant is applying for a WEF Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WEF Permit and the fee specified in Section Fees and Costs.
- 28.3 An Operational License shall be valid for 3 years.

(28.3.1) Granting of an Operational License is conditional upon the following criteria:

(28.3.1.1) Demonstration by the Applicant of compliance with performance standards of the Ordinance.

(28.3.1.2) For the initial Operational License, the Wind Turbine Project must successfully pass an inspection for structural and operational integrity conducted by a Maine licensed professional engineer paid for the owner/operator and chosen by the Planning Board. The inspection shall be conducted after construction is completed but before operations begin. Success will be demonstrated by submission of a copy of the engineer's inspection report to the Planning Board. If the report specifies that repairs, maintenance or changes to safety procedures are necessary, the owner shall provide the Planning Board with proof that the repairs have been completed, a written schedule for any recommended maintenance, and documentation of any updated safety procedures.

(28.3.1.3) For a renewal of an Operational License, where there is no change of Ownership or operator, the inspection procedure and criteria specified in Section 28.3.1.2 shall be completed six months prior to the expiration of the current Operational License.

(28.3.1.4) Applications for Operational License renewals where there is no change of ownership of operator shall be submitted to the Planning Board 6 months prior to their expiration.

(28.3.1.5) An Operational License shall automatically terminate upon transfer of ownership or operation of the WEF. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WEF. The application for renewal of the Operational License in the case of transfer of ownership or operation shall include the following items:

1. The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different
2. An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time
3. Evidence of the Applicant's technical and financial ability to operate the WEF in accordance with this Ordinance, the Site Permit, and the Operational License
4. For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant

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5. An updated safety plan in accordance the requirements of Section 11.2
- 6 An updated fire prevention and emergency response plan in accordance with the requirements of Section 12.1
- 7 An updated emergency shutdown plan in accordance with the requirements of Section 23.4
8. An updated decommissioning and site restoration plan in accordance with the requirements of Section 15
9. Updated liability insurance information in accordance with the requirements of Section 11.4
10. A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections.

(28.3.1.6) An Operational License may be automatically terminated upon any amendment to a permit.

(28.3.1.7) Failure to comply with the provisions of this Ordinance may result in the suspension or revocation of the Operational License pursuant to Section 23.

(28.3.1.8) An Operational License shall be deemed abandoned if the WEF's operation has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment.