

**DRAFT**  
**TOWN OF SUMNER**  
**INDUSTRIAL WIND ORDINANCE**  
**DECOMMISSIONING RECOMMENDATION**

September 8, 2011

- I. FUNDING GUARANTEE:** No aspect of Industrial Wind Facility (IWF) construction shall begin prior to:
- a) Planning Board (PB) approval of a detailed decommissioning plan by the Owner/Operator (OO) and,
  - b) The OO provides a Funding Guarantee through a PB approved Maine based financial institution, by either;
    - i) Establishing an Escrow Account owned by the Town, or,
    - ii) Securing a Performance Bond naming the Town as beneficiary, the term of the Bond to be for the expected useful life of the IWF.
  - c) The amount of the funding guarantee shall be equal to 100% of the projected decommissioning costs without consideration for the salvage value of any of the equipment or materials.
    - i) An independent certified Professional Engineer (PE), approved by the PB, will be retained and paid by the OO to do an initial estimate to set the Funding Guarantee level.
    - ii) At the end of the first year of operations and every other year thereafter, a PE, again approved by the PB and retained and paid for by the OO, will provide updated estimates of decommissioning costs.
    - iii) The PB shall re-underwrite the financial institution providing the Funding Guarantee coincident with each PE revaluation.
  - d) Within 30 days of receiving updated numbers the OO must make any necessary adjustments to keep the Funding Guarantee at 100%.
  - e) If the Town does the decommissioning and the fund is inadequate to cover the full costs the Town shall have first right to monies from the salvage value of the IWF to make the Town whole.
- II. USEFUL LIFE:** The OO shall, at its own expense, decommission the IWF at the end of the useful life of the IWF.
- a) The “end of useful life” is defined as:
    - i) 30 days after the OO decides to cease generating electricity at the IWF. Note: This decision must be communicated in writing to the PB within 24 hours and documented with a copy of the OO Board of Director’s meeting minutes.

- ii) 90 days after the failure of an IWF component which hampers full electrical generating capacity unless the IWF can be restored to full operation within the 90 day period. Note: The OO must notify the PB in writing within 24 hours of occurrence of any type of failure or damage to, or damage caused by, the IWF.
- iii) 180 days after the IWF has stopped generating electricity for any reason, including the OO inability to have the units adequately serviced for safe operation.
- iv) Upon the OO not restoring the Funding Guarantee to 100%.
- v) The PB may consider alternative timelines based on a written request stating the reasons for such a change from the OO.

**III. DECOMMISSIONING:** Decommissioning is expected to be completed by the OO within six months of reaching the end of useful life.

- a) This includes the removal of turbines, towers, poles, power lines, buildings, etc. unless expressly waived in writing by the PB. Foundations are to be removed to a depth of 36" and fill placed in the excavation with appropriate grading of all land within the facility. Plantings are considered part of the decommissioning as well as the removal of roads.
- b) Decommissioning will not be deemed complete by the PB until an environmental assessment, commissioned by the Town at the OO's expense, has certified the facility as fully decommissioned and free of any and all environmental hazards.

**IV. FAILURE TO PERFORM:** If the OO fails to complete the decommissioning within the established timelines the Town has the right to access the Escrow Account or Performance Bond and Town will contract the decommissioning to a third party. The Town costs for this conducting this activity shall be reimbursed from the fund or salvage value.

**V. ENVIRONMENTAL APPROVAL:** The PB shall release the Escrow Account or return the Performance Bond to the OO upon the PB accepting the decommissioning initiative as complete per the decommissioning plan, and as certified to be free of any environmental issues per III. b) above.

**VI. AMENDMENT:** The decommissioning plan may be unilaterally amended from time to time by the PB as warranted by changing circumstances or lessons learned over time from IWF's.