

Industrial Wind Ordinance Committee Town of Sumner

Bylaws Adopted September 8, 2011

Section 1. Mission

A. Mission. The Sumner Industrial Wind Ordinance Committee (IWOC) will draft an ordinance regulating Industrial Wind Energy Facilities (IWEF) and ordinances and/or amendments to existing ordinances for the protection of the Town of Sumner. *(See Sumner Industrial Wind Energy Facility Moratorium Ordinance, Section 2.A.3)* In accomplishing its mission, the IWOC will at all times be governed by the following strict ethical code and other regulations stated below.

Section 2. General Procedural Matters

A. The IWOC will elect both a Chairman, and a Vice Chairman who will serve in the **temporary** absence of the Chair. **If the Chairman submits his signed resignation in writing to the Secretary, the Vice Chairman automatically and immediately becomes Chairman. If the Chairman is otherwise permanently unable to serve, as determined by a two-thirds vote of the IWOC, the Vice Chairman automatically and immediately becomes Chairman. A two-thirds vote means two-thirds of the total number of all of the currently serving, duly appointed and sworn members of the IWOC. The IWOC will always calculate the precise number of IWOC members that comprise such a two-thirds vote at the time the vote is made.**

B. The IWOC will also elect a Secretary from among its members or hire a non-IWOC member to serve as Secretary. The Secretary will keep the Minutes, Agenda, correspondence and other records of the IWOC.

C. All matters, except as otherwise noted in these bylaws, will be decided by a show of hands vote and a simple majority will suffice for passage. A request by any IWOC member for a roll call vote will not be denied.

D. The Maine Moderator's Manual will be the authority on all parliamentary matters not covered herein. However, no part of the Maine Moderator's Manual will be interpreted to override any part of these bylaws.

E. In case of a vacancy on the IWOC, the Secretary will promptly, in writing via email, notify the Select Board, the Town Office, the People of Sumner via town email address group, and all IWOC members.

F. An emergency meeting of the IWOC may be called by the Chairman (and in the absence of the Chairman, by the Vice Chairman) with the written concurrence of the Chairman and any two other IWOC members. This concurrence must be emailed to the press, the Board of Selectmen and the members of the IWOC. Such emailed concurrence may be sent as soon as practicable after the Emergency IWOC meeting is held. In the absence of both the Chairman and the Vice Chairman, any three IWOC members may call an emergency meeting, subject to the same requirements for written concurrence stated above

in this paragraph. All provisions of the Maine Right to Know laws will be strictly complied with regarding the fullest public notice of the emergency meeting, **including the use of the town email address group.**

G. In order to pass any IWOC motion, a quorum of the IWOC must be present to do so. This quorum means a simple majority of the total number of all of the currently serving, duly appointed and sworn members of the IWOC. For a purely informational meeting, a quorum is not required.

H. These bylaws will be adopted if passed by a two-thirds vote of the IWOC and will be effective immediately upon enactment. These bylaws may be amended by two-thirds vote of the IWOC.

Section 3. Open and Fair Process

A. Transparency and Public Participation

1. All public deliberations and decisions regarding IWEFs will be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards. All deliberations among three or more IWOC members concerning IWEFs, by the IWOC or any of its subcommittees or working groups will comply fully with the letter and spirit of Maine State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1.

2. Specifically, all deliberations regarding IWEFs among **three** or more members of the IWOC and any of its subcommittees and working groups will be conducted at public meetings, which have been duly posted. Exceptions will be made only for communicating the information necessary to set up and facilitate public meetings or to share research information without any dialogue or comments as to the merits of any given issue.

3. Detailed minutes of deliberations and decisions concerning IWEFs, copies of all correspondence and emails to and from the IWOC will be recorded and posted and made available to the public as soon as practicable, with the exception of those publicly identified and disclosed as being subject to “attorney-client privilege”.

B. Open and Fair Process

1. The IWOC is committed to a completely fair and even-handed process of writing the Town’s proposed, comprehensive Industrial Wind Power Ordinance, with full and equal time allocated to both proponents and opponents of IWEFs and thorough research into both sides of all the issues by IWOC members and subcommittees.

2. **If and** whenever possible, the IWOC will attempt to obtain written testimony in advance of any public hearings, from wind opponents and advocates, especially their designated experts. Whenever possible, each expert should have an opportunity to fully confront and challenge in writing the expert assertions made by the opposing side. Each side will be required to provide to the IWOC appropriate and full citations to, and both hardcopy and digital copies of, credible scientific and other scholarly works.

3. The IWOC will take special care to avoid the appearance of reviewing or processing any specific IWEF proposals for the Town of Sumner during the period of the Industrial Wind Power Moratorium and will attempt, where practicable, to videotape public hearings for future viewing by Sumner residents and property owners.

Section 4. Ethical Standards

A. **Conflicts of Interest & Bias.** The Wind Ordinance Process will be governed by a strict ethical code for conflicts of interest and bias. No IWOC member deemed to have a **major**, unresolved conflict of interest or bias will be directly or indirectly involved in the IWOC ordinance process. Such individuals must identify in writing the exact and full nature of the conflict of interest or bias and must recuse themselves from all direct and indirect planning and decision making regarding the IWOC ordinance process, with the exception of voting and debating as a private citizen at any public meetings and public hearings. Individuals with a **minor**, unresolved conflict of interest or bias must identify in writing the exact and full nature of the conflict of interest or bias and recuse themselves from all direct and indirect IWOC planning and decision making regarding only those matters that involve that particular minor ethical issue. The IWOC itself will decide, always by a two-thirds vote, if a conflict of interest or bias exists, whether it is major or minor, and what action should be taken.

B. Code of Ethics for IWOC Members

1. IWOC members will not engage in any financial involvement with any wind companies connected to possible IWEF development **in Sumner** nor accept any gifts of any value whatsoever from such wind companies. Financial involvement with companies developing other, competing sources of energy **in Sumner** and any gifts received from such companies must be fully and promptly disclosed in writing to the IWOC.

2. IWOC members will not accept any form of compensation whatsoever or inducement from wind companies or companies developing other competing sources of energy, that is contingent on any action before an IWOC public hearing or meeting, either by the full IWOC or any of its subcommittees, or any action involving IWEFs before the Sumner Select Board, Town meeting or any other Town committee or board or any state or federal governmental entity. This paragraph applies to all wind companies, whether connected to possible IWEF development **in Sumner or elsewhere.**

3. Any offers of such inducements will be reported to the IWOC Chair and Secretary in writing (emailed notice will suffice) and to every IWOC member. The Chair will **then** convene an Emergency meeting of the IWOC to consider a response, including reporting the incident to the proper law enforcement authorities. Failure by an IWOC member to report such an attempted inducement within **72 hours** will, in and of itself, constitute a possible ethics violation and must be the subject of an IWOC Ethics Inquiry.

4. IWOC members will not knowingly provide confidential information acquired by any town public official in the course of his or her official duties to any wind companies or to any companies developing other competing sources of energy.

5. IWOC members will attempt to avoid the "**appearance**" of a conflict of interest **by full disclosing issues as required by these bylaws**, taking steps to resolve those issues to the satisfaction of the IWOC, and/or by fully or partially recusing themselves from the IWOC ordinance process as required by the IWOC. IWOC members will also attempt to avoid the "**appearance**" of bias by not making inflammatory or intemperate remarks regarding the **general** pros or cons of IWEFs.

C. Allegations of Ethical Violations. An allegation against an IWOC member of conflict of interest or bias or any other misconduct will only be considered by the IWOC upon proper and full written notice. Only allegations made openly, in writing to the IWOC Secretary, and to the IWOC member against whom the allegation is made, with the identity of the accuser clearly stated, will be considered. No anonymous allegations will be entertained. The accuser must also fully comply with any additional requirements for information or notice made by the IWOC after the accusation has been delivered to the IWOC Secretary.

D. IWOC Ethics Inquiry. Upon receipt of all requested information, and upon full compliance with all of the provisions regarding written notice, the IWOC will examine the allegation and decide if an Ethics Inquiry should be convened. The Rules of Procedure for an Ethics Inquiry will be published at such time as the IWOC deems it necessary.

Appendix to IWOC Bylaws - Definitions

As used in these bylaws, the following terms will have the following meanings:

A. Industrial Wind Energy Facility

See the Industrial Wind Energy Facility Moratorium Ordinance, enacted by Special Town Meeting, 6 June 2011, Section 2.A.2.

B. Personal relationship.

The terms "**personal relationship**" mean any family or social relationship, or association by ties of affection that is characterized by one or more of the following:

1. persons who are husband and wife, or parent and child;
2. persons who share a physical intimacy with each other;
3. persons who acknowledge an ongoing romantic relationship with each other;
4. persons who live together in the same residence;
5. persons who intermingle their financial assets without an accounting of separate ownership interests.

C. Financial involvement.

The terms "**financial involvement**" mean any business or other relationship of any kind between an IWOC member and a "**wind company**" (see definition below) which results in, or could reasonably be perceived to result in, any kind of economic benefit -- no matter how slight -- to either the IWOC member or to the wind company. The terms "financial involvement" include any past, existing, or current efforts toward future achievement of, any of the following by an IWOC member with a "wind company", or by a person with whom the IWOC member has a "**personal relationship**":

1. ownership or investment interest to any degree, or
2. contract right, or
3. significant customer relationship, or
4. employment relationship of whatever nature, including part time, full time, subcontracting, consulting or other advisory nature.

D. Wind Company.

The terms "**wind company**" mean any business entity with any past or present financial involvement with, or current efforts to achieve, future "**financial involvement**" in, the development of any IWEF. The terms "wind company" include all of the following:

1. the wind company's employees, whether full time or part time, officers, partners, investors, subcontractors, advisors, consultants, agents, representatives,
2. the wind company's other allied business entities,
3. other companies, entities or individuals with any amount of ownership interest or investment in the wind company,
4. subordinate companies, whether owned wholly or in part by the wind company, and any companies in which those subordinate companies have any investment or ownership interest in,
5. companies in which the wind company has any level of investment in, or contractual relationship with,
6. anyone with a "**personal relationship**" with any of the above people mentioned in this section or a "**financial involvement**" with any of the above entities or people mentioned in this section.

E. Town Board or Committee.

The terms "**Town Board**" or "**Town Committee**" mean the Town Select Board, the Planning Board, the IWOC, the Appeals Board, and any other elected or appointed board or committee of the Town of Sumner, Maine.

F. Public official.

The term "**public official**" means any person holding an elected or appointed position with a Sumner Town board or committee and all part time and/or full time Town employees, subcontractors, consultants or advisors.

G. Participation in an Industrial Wind Power Matter.

The terms "**participation in an Industrial Wind Power matter**" mean any action by an IWOC member to vote, decide, deliberate, influence or direct others in regard to any matters involving the development of an IWEF in the Town of Sumner and which are currently before, or anticipated as coming before the IWOC or any other "**Town Board or Committee**" or "**public official**," whether elected, appointed or serving as a Town Employee.

H. Conflicts of Interest by IWOC Members

The terms IWOC member refer to both the member and anyone with whom the member has a personal relationship. The terms "**conflicts of interest**" include, but are not limited to, any one of the following, but, unless otherwise noted, pertain **only** to the development of IWEFs **in the Town of Sumner**:

1. having a lease as a Participating Landowner for a Wind Turbine or a lease for a transmission right-of-way;
2. having an identified financial arrangement with a "**wind company**", including a signed Mitigation Waiver with financial remuneration;
3. serving as a paid representative of a "**wind company**", or having a written or oral promise for future employment or contracts from a "**wind company**";
4. having any direct or indirect financial involvement with a "**Wind Company**" that is considering, is preparing, or has actually submitted an application for an IWEF;
5. knowing there is an opportunity to accept bids, receive remuneration, or employment, (whether part time or full time, or as a subcontractor, consultant, or advisor) from a "**wind company**", the value of which is \$1,000 or greater, and making any overt act toward taking advantage of that opportunity.
6. involvement in any other situation deemed a conflict of interest or bias by a two-thirds vote of the IWOC.
7. entering into any kind of "gag" contract or agreement with a wind company, whether written or oral, that prohibits or restricts the right of either of the contracting parties to disclose part or all of that agreement or contract.
8. having any kind of "**financial involvement**" with a wind company

9. Failure by an IWOC member to promptly and fully **disclose** in writing any financial involvement with a “wind company” which is in any way participating in the development of an IWEF will, in and of itself, constitute a potential conflict of interest which must be reviewed by an IWOC Ethics Inquiry

10. Failure by an IWOC member to promptly and fully disclose in writing any past, present, or contemplated, future “financial involvement” with any company in competition with the Industrial Wind Energy Industry, will, in and of itself, constitute a potential conflict of interest which must be reviewed by an IWOC Ethics Inquiry. Competing companies include any other renewable energy company or fossil-fuel companies, including but not limited to nuclear, solar, natural gas, coal, oil, biomass, tidal and any other energy producing company or organization which supports that competing energy source.