

TOWN OF SUMNER INDUSTRIAL WIND ORDINANCE

Section 1. Title

This Ordinance shall be known as the Town of Sumner Industrial Wind Ordinance.

Section 2. Principle and Purpose

A Community is not a risk taking entity. Businesses, on the other hand, do take risk as a matter of course. We considered it our responsibility to craft an ordinance which minimized risks to the Town, without precluding economic opportunities. The purpose of this Ordinance is to regulate Industrial Wind Energy Facility (IWEFs) or and Industrial Wind Turbine (IWT) to protect and safeguard the health, safety, and general welfare of the citizens of Sumner by establishing reasonable and uniform regulations.

Section 3. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, etc. seq. (Comprehensive Planning and Land Use Regulation, or "Growth Management Act"), and consistent with the Town of Sumner's Comprehensive Plan,

Section 4. Conflicts with Other Ordinances, Laws and Regulations and Amendments

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute from any jurisdiction, the more restrictive provision shall control.

Propose amendments to this ordinance by a two-thirds (66 and two-thirds percent) vote of the voting members of the Planning Board. Such proposed amendments shall then be placed expeditiously on a warrant by the Select Board which will then call a Special Town Meeting within sixty (60) days to consider the amendment(s). (If an annual Town Meeting is scheduled to be conducted within sixty (60) days of the date of the amendment's passage by the Planning Board, the Amendment(s) may be placed on a warrant for that Annual Meeting.)

Section 5. Indemnification

The Owner Operator must agree to indemnify and hold-harmless the Town, Town Officials, Town Employees and Committee Members from any and all litigation pertaining to any IWEF litigation costs and any and all consequential damages.

Section 6. Insurance Liability Protection

The Applicant or an Applicant's designee acceptable to the Planning Board will maintain a current general liability policy for the Industrial Wind Facility in an amount commensurate with the scope and scale of the Wind Energy Facility. This will cover bodily injury, property damage, loss of property, business interruption, destruction of resources, incurred by the Town or any resident or property or business owners, from the existence of the IWEF either due to the IWEF or incurred by the IWEF from external events including tornadoes, earthquakes, hurricanes, ice storms, other weather or naturally

occurring related events as well as vandalism, plane incursions, forest fires, etc. This insurance shall also cover losses in tax revenue due the Town, had the event not occurred-and for the expected life of an IWT/IWEF.

The costs of such policy shall be borne entirely by the Applicant or its designee. The Applicant or its designee shall provide **“Certificates of Insurance”** to the town office, The Select Board and Planning Board annually or whenever requested. In addition the Town of Sumner shall also be listed as an **“ADDITIONAL INSURED”** on the Applicant or Applicant’s General Liability Insurance Policy. The applicant will also provide a copy of each annual renewal of Liability Insurance to the Town of Sumner Planning Board. If deemed necessary by the Town of Sumner Planning Board, the Applicant will also be responsible for expenses incurred for legal or other expert insurance advice. Notice shall be given to the Town by the policy provider in the case of cancellation or change to the policy. Such notice must include the exact text of the proposed changes. In addition, the Applicant, Permittee, Owner/Operator and Licensee, as applicable, must inform the Planning Board of such changes in writing.

Section 7. Revenue

Any Owner Operator who makes representations to the Town of the expected tax and/or revenue opportunities from the project will be expected to guarantee the represented revenue as a minimum contribution to the Town for the projected life of the IWEF, whether the IWEF continues to exist or not. To the degree that IWEF revenue increases the Town revenue from the IWEF will increase proportionally.

Section 8. Expertise

The Planning Board may at its discretion hire expertise of whatever type it deems necessary, at any time during the application process and throughout the life of the IWEF, with advance notice to the applicant and/or Owner/Operator and at the Applicant/Owner/Operator’s expense.

Section 9. Reimbursement of Fees and Costs

A. Owner/operator shall reimburse all of the Town’s costs incurred due to the IWEF, including but not limited to the Planning Board’s fees and costs, including but not limited to, costs of preparation, negotiation, review, administration, travel/food/lodging, inspection of IWEFs and enforcement of this Ordinance. Such reimbursement shall include, without limitation, the Planning Board’s attorneys’ fees, all engineering, court stenographer, videographer and/or consultant fees **including any experts hired by the Planning Board to help review IWEF applications, hourly fees for Planning Board members attending IWEF-related meetings and hearings which extend beyond its regularly scheduled meetings or which extend beyond one hour at any regularly scheduled meeting**, administrative and clerical costs incurred by the Town Office **and/or the CEO including hourly fees for work pertaining to IWEFs**, and the costs of public notices, including mailings, use of graphical artists, and creation of signs to be placed within the Town **and websites created to administer and provide public notice regarding the IWEF . The owner/operator shall also reimburse the Town of Sumner for the costs of purchasing, maintaining and updating any office equipment needed due to the IWEF, including but not limited to, computers, software, printers and scanners.**

B. Reimbursement shall also include, without limitation, all costs of actual Emergency Response to any situation arising at the IWEF, including the costs of repair and/or replacement of any

vehicles or equipment damaged or ruined in such a response. The owner/operator shall also pay for insurance policies regarding: injuries to Emergency Responders, their medical care, both short term and long term, and disability for loss of employment for individual emergency responders.

C. The funds shall be placed in an escrow account in the name of the Town of Sumner under the management of the Town Clerk, with the Planning Board having the authority, by majority vote, to authorize expenditures according to the needs of this Ordinance. The Applicant shall deposit \$100,000 in such an escrow account within ten calendar days of submitting an application for a Permit to Build, **or for an operational license by a new owner/operator. If the owner/operator fails to provide notice and proof of such deposit to the Planning Board, the application shall be deemed to have been withdrawn.**

D. If at any time throughout the operational life of the IWEF the escrow account falls below \$50,000, and is not replenished to the full \$100,000 amount within thirty days of notice from the Town of Sumner, the Planning Board shall then order an immediate shutdown of the IWEF until such time as notice and proof of full escrow replenishment has been provided to the satisfaction of the Planning Board.

E. The Town of Sumner may recover all reasonable costs of collection for monies owing to the Town under this Ordinance, including attorneys' fees, from the owner/operator.

Section 10. Validity and Severability

If there is a conflict between provisions of this ordinance, the more stringent provision shall govern. If there is a conflict between a provision of this Ordinance and that of another Town of Sumner ordinance, the provision of this ordinance shall govern, but only as it relates to an IWEF.

If there is a conflict between the provisions of this Ordinance and any state rule or law applying to IWEFs, the more stringent provision shall govern.

The invalidity of any part of this Ordinance by a court of competent jurisdiction does not invalidate any other part of this Ordinance.

Section 11. Venue of Jurisdiction

Any legal disputes arising out of an IWEF the venue for jurisdiction shall in every case shall be in Oxford County Superior Court, Maine.

Section 12. Effective Date

This Ordinance shall become effective upon the date of its passage.

If this Ordinance is enacted within 90 days after the expiration of an Ordinance entitled "Moratorium on Wind Power Development for the Municipality of Sumner" (Moratorium) adopted June 06, 2011, the effective date of this Ordinance will be retroactive to the expiration date of the Moratorium.

Section 13. Applicability

This Ordinance applies to any Industrial Wind Turbine that is the subject of a permit or license application pending before, or filed with the Town of Sumner, after the effective date of the Ordinance.

Section 14. Wind Turbine Classifications

Industrial Wind Energy Facility (IWEF) --

Industrial Wind Energy Facility” (IWEF) means all of the following -- any wind energy installation:

- A. consisting of one or more industrial wind turbines with a combined tower and blade height of more than 150 feet (from ground to blade tip at its highest point); and
- B. with a nameplate capacity of more than 100 kilowatts; and
- C. requiring a Site Location of Development permit from the Maine Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456; and
- D.. the purpose of which facility is to primarily generate electricity using ambient wind as a source of power in order to supply electricity to off-site customers; and
- E. includes, but is not limited to, any associated installations such as meteorological towers, substations and any other structures accessory to such facility including but not limited to, cables/wires, and generator lead lines, fences, lighting systems, access roads, parking lots, and any areas to be stripped, cleared, grubbed, blasted or graded, landscaped or screened, or any areas in which the soil is in any way disturbed.

Section 15. Approval Authority for an IWEF

An IWEF proposal is only approved if permission is granted in writing by at least two-thirds (sixty six and two-thirds percent) vote of each of the following Town bodies: in the following order:

1. The five voting members of the Planning Board and:
2. The Board of Select Persons and:
3. The town citizens voting at a special town meeting convened solely for that purpose, but only if the number of votes cast is equal to at least twenty percent of the total number of votes cast in the Town of Sumner at the most recent, prior election for the office of the Governor of Maine.

If any one of the above town bodies fails to approve the IWEF, permission for the IWEF shall be immediately deemed to have been denied and may not be considered again, if requested by the same Owner/Operator, for a period of one year following the date of denial.

Section 16. Permit and Applications

- A. No person may construct or locate an IWEF or a MET tower within the Town of Sumner without a permit issued in accordance with this Ordinance.
- B. Any physical modification to an existing IWEF that materially alters the location or increases the area of development on the site, increases the number, type, design or size of wind turbines or otherwise increases the generating capacity, increases wind tower or

turbine height or may increase the level of sound emissions from any wind turbine requires an amended permit under this ordinance.

C. No person may lease, sell, assign or otherwise transfer an IWEF or portion thereof without a permit under this ordinance from the Town of Sumner. Such a permit shall be granted only if the applicant or transferee demonstrates to the satisfaction of the planning board that: the transferee has sufficient title, right or interest in the facility; the transferee has the technical capacity and financial ability to fully comply with the provisions of the permit issued for the Wind Energy Facility and this ordinance; and the facility is in complete compliance with all applicable ordinances and permits.

D. The Planning Board may approve, reject, or conditionally approve applications in accordance with the standards of this Ordinance.

E. The Town of Sumner Planning Board and/or its designated agents or representatives shall have the right to access and inspect IWEF sites and MET Sites at any time at its own discretion.

F. Only one application for a MET or IWEF permit will be accepted for processing at any given time.

G. The Maine Department of Environmental Protection (DEP) may be required to review MET and IWEF applications within the Town of Sumner. When making its own determination about such applications, the Planning Board shall consider, to the extent applicable, findings in the DEP review.

H. An Application to erect and operate a MET tower for the purposes of assessing meteorological conditions prior to submission of an application for a WEF is subject to the submission and review standards for an Industrial Wind Energy Facility, as applicable, except that no tower height limitation shall apply. A permit issued for a MET tower is valid for 30 months from the date of issuance after which the applicant shall remove the MET tower within 30 days and restore the site to its pre-existing condition. For MET Permit Criteria see Appendix (--).

Section 17. IWEF Pre-Application Meeting

Prior to filing an application for an IWEF, the applicant will meet with the Planning Board to discuss the application requirements. At such a pre-application meeting, the Planning Board can explain the ordinance's provisions, application forms, and submission requirements. At that time, the applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot number. See Appendix for Details (---

Such discussions with the Planning Board are informational only and may not be construed to decide, formally or informally, the merits of any substantive aspects of proposal under discussion.

Section 18. IWEF Application Criteria

See Appendix (--- for Details

Section 19. Setbacks, Noise Restrictions and Acoustical Hazards

A. General

1. This section addresses the interrelated standards of setbacks and noise restrictions.
2. Setbacks provide, in conjunction with noise restrictions, a primary means of eliminating potential and unforeseen noise complaints and potentially serious harm to both human and animal health due to the potential acoustical hazards posed by IWEFs. Setbacks also provide a margin of safety for nearby people, property and animals from the dangers of IWT blade throw, ice throw, tower collapse and forest fires. The primary goal of this section is to protect the health, safety and **welfare** of the people of Sumner by requiring precautionary measures to guard people and animals against all the potential hazards from IWTs. In addition, setbacks and noise restrictions protect nearby properties from possible serious loss in value due to the presence and operation of IWEFs. Although larger wind turbines may cause greater low frequency disturbance, poorly designed smaller turbines can also cause serious noise.
3. Property owners may waive any of the **setback and noise restrictions in this ordinance with a written Mitigation Waiver that conforms to the requirements of this ordinance.**

B. Setback Requirements:

1. The Minimal Fixed Distance of **"1.25 - 1.75 miles as determined by public input"** is required from the base of each IWT and the closest point on any property line of any non-participating property owner.
2. This distance shall be measured in a 360 degree radius, horizontally between the outer edge of the base of each IWT within the IWEF and the closet point on any non-participating Landowner's Property Line.
3. Turbines shall be spaced both between turbines within rows and between rows a minimum of ten (10) rotor diameters apart, using the largest proposed or existing rotor diameter for the spacing calculation. This distance can be lengthened but not shortened, if deemed necessary by the Planning Board to prevent harmful turbulence, on the advice of an independent acoustical consultant of the Planning Board's choice at the applicant's expense.
4. **Setback to Public Roads – All IWT will be set back from any public road, both in Sumner and in any adjacent town, a distance no less than 2,500 feet, measured horizontally from each IWT of an IWEF to any point on the center of such road.**

C. Noise Restriction Requirement:

1. **Audible Noise Restrictions:** not to exceed thirty-five (35) dBA day and night, anywhere in the Town of Sumner. No IWEF shall be located to cause it to exceed (35) dBA day or night, or the pre- construction L90A+5dB whichever is lower. L90 results are valid when L10 results are no more than 15 dBA above L90 for the same time period. Pre-construction ambient noise studies for audible noise shall be conducted by a

qualified independent acoustical consultant selected by the Planning Board, at the applicant's expense, for all properties any part of whose property lines are located within two (2) miles of the IWEF Property Line, whether in Sumner or in adjacent towns. Such ambient noise studies shall also be conducted before a new owner/operator's application is approved by the Planning Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) months.

2. Inaudible Noise Restrictions: (Low Frequency "Infrasound" & Vibration) Sumner baseline background noise levels (separate dBA numbers for day & night) plus fifteen (15) equals maximum dBC levels allowed, but never to exceed 50 dBC. Pre-construction ambient noise studies for infrasound shall be conducted by a qualified independent acoustical consultant selected by the Planning Board, at the applicant's expense, for all properties any part of whose property lines are located within two (2) miles of the IWEF Property Line, whether in Sumner or in adjacent towns. Such ambient noise studies shall also be conducted before a new owner/operator's application is approved by the Planning Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) months.

D. Noise Measurement Standards and Procedures

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 applicant shall conduct and present to the Planning Board for its review, any predictive sound modeling required in this ordinance. The acoustical consultant shall be hired by and report to the Planning Board. The Applicant shall pay for the studies. Prior to the granting of the initial operational license a pre-construction ambient noise level study to include A-weighting (dBA) and low frequency C-weighting (dBC) shall be conducted at each occupied building located on any property with any part of its property lines within two (2) miles of the Property Line of any proposed IWEF.
2. The IWEF Applicant/Licensee shall provide all technical information and IWEF data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.
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" (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.
4. Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure".

5. Along with information about the make, model, and name plate capacity of all turbines potentially used in the proposed IWEF, the Applicant will also supply their sound power levels (Lw) for each 1/3 octave band from 6.3 Hz to 10k Hz.
6. The applicant shall provide a sound propagation model predicting the sound levels emitted into the community computed using at minimum 1/1 octave band sound power levels to compute the L_{Ceq} and L_{Aeq} levels to generate L_{Aeq} and L_{Ceq} contours in 5 dB increments overlaying an aerial view and property survey map from the IWEF Property Line out to a distance to include all residential property lines within two (2) miles measured horizontally from the IWEF Property Line, including properties in Sumner and in adjacent towns.
7. Predictions and testing shall be made at all property lines within two (2) miles of the IWEF measured horizontally from the IWEF Property line, including properties in Sumner and in adjacent towns, for the wind speed, direction and operating mode that would result in the worst case IWEF nighttime sound emissions.
8. Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum, one set of tests shall be performed during the middle of each of the four (4) calendar seasons of the year. These seasonal tests shall be conducted during:
 - a. the first twelve months of a new IWEF's operation, or the first twelve months of operation by a new owner/operator; and
 - b. the twelve months prior to the expiration of an Operational License; and
 - c. the first twelve months following the expansion of an IWEF through additional IWT's, or an increase in the height, blade length or nameplate capacity of existing IWTs. Whenever an operational license is renewed, this four season testing will be conducted. During those years when four season testing is not required, noise studies will be conducted on the anniversary of the approval date of the operational license. Also, during those years when four season testing is not required, at least one unannounced test will be conducted at a time and date determined by the Planning Board.
9. All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the IWEF site.
10. When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to:
 - a. the unique aspects of the mountainous contours, ponds and terrain of the area and its effect on noise predictability and;
 - b. line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.

11. Measurements should be obtained during representative weather conditions when the IWT noise is most noticeable, including periods of temperature inversion most commonly occurring at night.
12. Each measurement shall be replicated during the same time period over three different days within the same season for a total of nine (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 time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.
13. A comparison of the expected sound levels from the proposed IWEF 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 help determine compliance with the standard.
14. 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 IWTs. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.
15. A 5 dBA 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 a more serious nuisance than broadband noise.
16. Outdoor noise levels must be taken at 1.2 – 1.8 meters above the ground and at least 25 ft. from any reflective surface.
17. Each measurement shall include, at a minimum:
 - a. Lmax, Leq, L10, L90 in both dBA and dBC
 - b. wind speed and direction at the time of measurement
 - c. and weather conditions at the time of measurement
 - d. description of topography and contours relative to proposed or actual IWEFs
 - e. a narrative description of any intermittent noises registered during each measurement
18. Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.
19. The duration of each measurement shall be ten continuous minutes for each test at each location. Multiple ten minute samples over longer periods may be used to improve the reliability, in which the quietest ten minute sample will be used.
20. For sites being measured with existing Wind Turbines see Appendix (---).

21. When testing for IWEF 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 IWEF and nearer to it. See Appendix (---)

22. For noise complaints after the IWEF is 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.

See Appendix For Supporting Details of the following:

Establishing LongTerm Background Noise

Sound Measuring Instrument – Requirements

Level Meter Standards

Reporting Testing Results – Requirements

Sites with Existing IWEFs

Written Reports Provided by the Testing Firm – Requirements

Post Construction Measurements -- Requirements

Wind Turbine Siting Acoustical Measurements - Requirements

Sound Regulations Compliance

Complaints

Complaint Resolution

Violations and Enforcement

Section 20. Inspections

A. 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 IWEF and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

B. Wind Turbines shall be inspected 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 chosen by the Planning Board, and the Owner/Operator and/or Licensee shall submit ten copies of the written report and five digital versions of the inspection report to the Planning Board. These inspections are also to be conducted coincidentally with Decommissioning, re-valuation and also on an unannounced basis as determined by the Planning Board.

C. If the report recommends that repairs or maintenance are to be conducted, then the Owner/Operator and/or Licensee shall provide the Planning Board with 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 and subject to fines deemed appropriate by Maine Statute Title 30-A, Section 4452, Subsection 5, § 5, or to shut down such IWT(s) responsible or the entire IWEF if deemed appropriate or the immediate decommissioning by the Planning Board of the Town of Sumner.

Section 21. Environmental Impact Standards

The site and construction of any Wind Energy Facility (WEF) within the town of Sumner shall meet all the applicable standards of the Comprehensive Plan and Site Plan Review Ordinance of the Town of Sumner.

The applicant must submit a site plan showing the proposed location of each wind turbine, the ground area occupied by the turbine, and associated facilities.

A. Environmentally Sensitive Areas

The design, construction and maintenance of an IWEF shall protect all environmentally sensitive areas that may be affected by its siting. Such areas shall include but not limited to wetlands, vernal pools, seeps or springs, steep slopes (equal to or greater than 15%), watersheds, flood plains, significant habitat for wildlife, fish and plants. An application for any IWEF permit shall demonstrate appropriate measures for protecting all such areas during both construction and operation of the IWEF.

Given that areas within the Town of Sumner are wildlife management areas and that protected bird species and migratory birds are regularly observed within the boundaries of the Town, the applicant must comply with the "Guidelines for Wind Project Ecological Study" by the Maine Department of Environmental Protection and Maine Department of Inland Fisheries and Wildlife.

B. Wildlife Protection

The Applicant will demonstrate that the wind turbines 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 wind turbines will have no significant adverse effect on rare, threatened or endangered wildlife, including rare plant species or old growth tree stands.

The applicants may not apply for DEP variance on taking endangered species. The 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 Sumner and paid for by the Applicant. In making its determination under this section the Planning Board shall also consider the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife.

Post Construction field studies will be conducted using the most advanced techniques available. If the post construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Planning Board, the Owner/operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) 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 the Sumner Planning Board. After implementation, the Planning Board will review the mitigation plan to determine its effectiveness and if they believe it is not adequate, can revoke the project permit.

C. Raptor Habitat

To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

D. Erosion Control

The wind turbines 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 or as revised. 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. Any watercourses within the drainage basin of the site will be monitored by the town code enforcement officer from the start of the road installation to the finish of the turbine installation.

E. Water Quality Protection

An IWEF must be designed, constructed, maintained and decommissioned so as to avoid adverse impacts to groundwater bedrock, sand and gravel aquifers.

Applicants for an IWEF permit shall finance through the IWEF Ordinance Escrow Account set up with the Town of Sumner, a pre-construction baseline study of all wells, springs, and public water sources within a two mile radius of the proposed IWEF site by an environmental firm chosen by the Sumner Planning Board.

The applicant must, through said escrow account, monitor the said wells, springs and public water sources at four month intervals during the construction. After completion of construction of the approved IWEF monitoring of said wells will be conducted at 12 month intervals for the life of the project.

If contamination or degradation is found to have occurred, then compensation 10% greater than remediation costs will be paid by the IWEF owner/operator to those affected within 90 days or less, while supplying adequate fresh drinking water to the homes affected. All water testing results shall be submitted to the Town of Sumner Planning Board within 3 business days of the applicants' receipt of test results.

F. Hazardous Wastes

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 Planning Board shall require that a detailed plan be submitted by the Applicant demonstrating the ability and intent to meet such compliance. The planning board reserves the right to hire a hazard waste expert to review the detailed plan at the expense of the owner/operator. The detailed plan will include procedures for the mitigation of adverse effects from the potential contamination of the project area, abutting properties, and properties located downstream.

G. Light Pollution

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

H. Relation to DEP Certification and Permitting

If the Maine Department of Environmental Protection (DEP) has issued a Site Location of Development Act permit for an IWEF there is a rebuttable presumption that the development meets the requirements of this Ordinance. If a DEP Site Location of Development permit is required, the Planning Board will require the permit to be issued before the application is deemed complete and may take the recommendations under advisement to determine compliance with this Ordinance.

I. Scenic or Special Resource Standards

In keeping with the "The Town of Sumner's Goal is to preserve and protect natural resources and scenic views in Sumner as well as those it shares with Neighboring communities (Sumner Comprehensive Plan 2006:pg 5). See Appendix (---) Scenic or Special Resource Standards

J. Geological Stability

Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.

Section 22. General Performance Standards

All Industrial Wind Turbines shall be operated and maintained consistent with current Good Utility Practice for comparable facilities.

See **General Performance Standards** in Appendix (---) for Details

Section 23. Blasting Plan and Requirements

The Owner/Operator of an IWEF shall not ever undertake any blasting without notifying the Town of Sumner and submitting a pre-blast survey of all non-participating property owners within a minimum of a 3 mile radius (measured horizontally) from the blast site. The survey shall include Baseline Radon Levels and Air & Water quality baseline levels and subsequent blasting plan in accordance with the latest State and Federal DEP Standards. The blasting plan shall be reviewed and approved by the Sumner Planning Board before any blasting takes place. If the Planning Board deems necessary, they may engage an Independent Licensed Engineer to review the blasting plan at the Owner/Operator's expense. In addition, the Owner/Operator shall at their expense provide for Post-Blast testing and mitigation. A seventy-two hour notice shall be given to all residents within a three mile radius of the blasting area (measured horizontally) before blasting can begin. **See Blasting Plan in Appendix (---)**

Communications and Electromagnetic Interference Standards

See Appendix (---)

Risk Assessment for Road and Property Use

An application for an IWEF Site Permit shall include a road and property use and risk assessment plan See Appendix (---) for Road & Property Use

Section 24. Emergency Shutdown Plan and Requirements

An Application for an Industrial Wind Energy Facility 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. See Appendix (---)

Section 25. Complaints, Violations, Enforcement

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.

A. Enforcing Authority

The Planning Board will serve as the Enforcing Authority for IWEF's. The Planning Board will:

1. Have the authority to conduct investigations, resolve complaints, ensure compliance with and enforce standards, and levy penalties if required.

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, lawyers and other professionals.

3. The planning Board shall have the authority under this ordinance to propose amendments to this Ordinance. To propose amendments to be added to a Warrant to be voted on at the Annual Town meeting or a Special Town meeting to this Ordinance deemed necessary to address health or safety concerns not currently addressed in this Ordinance.

4. Have access to legal counsel as required and paid for by the Owner/Operator of the IWEF.

B. Enforcement

Standards in this Ordinance will be enforced through a series of enforcement options. See Appendix (---)

C. Penalties

Any Person or Applicant who fails to comply with any provision of this Ordinance by failing to reach agreement with the Planning Board shall be penalized. See Appendix (---).

Section 26. Appeals

A. 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.

B. 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. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Appeals Board 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's proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

C. For the purposes of hearing appeals, at a minimum, all property owners and residents within the Town of Sumner 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. A final Town vote as outlined in this Ordinance shall not be subject to Appeals Board review.

Section 27. Decommissioning Standards

(See Appendix H)

Decommissioning is expected to be completed by the Owner/Operator within six months of reaching the end of useful life. 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.

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.

Proof of Financing:

See Appendix

Section 28. Property and Business Value Guarantee (See Appendix G)

A. Any IWEF, to be located within the Town of Sumner, shall enter into a "Property Value Guarantee" agreement with any/all Non-Participating Property Owners who:

1. own property within a two and one half mile (2 ½) (measured horizontally) radius from the base of each proposed IWT to be constructed, or who have a direct line-of-sight and can argue that this has impacted the value of their property or business, and
2. have not signed any mitigation waivers.

This shall be a legally binding contract with the Owner/Operator or its designees and Property Owners. Each of these contracts must be submitted with the application of the IWEF.

B. The Applicant, at their costs, shall provide written notification no less than thirty (30) days to all Property Owners (within 2.5 miles) (measured horizontally) regarding the Property Value Guarantee Agreement prior to submission of a permit application to the Town of Sumner Planning Board.

C. Written notification shall be sent via certified mail, return receipt requested, and must include a detailed description of the Property Value Guarantee Agreement, as well as clearly defined instructions regarding the Property Owners participation.

D. Additional certified written notification also requiring return receipt confirmation (at Applicant's costs) must be sent within 14 days of the issuance of a Development Permit and/or notification, advising that any/all participating Property Owners must enter into a Property Value Guarantee Agreement within 180 days of the Development Permit and/or notification.

E. Notice must include a clear and concise description of the process that will be used in establishing a pre-development baseline of property values. Notice shall also include but is not limited to all Property Owners legal rights and obligations under the Property Value

Guarantee Agreement and a copy of the Property Value Guarantee. Property Value Guarantee shall be legal and binding for both the Applicant (Guarantor) and the Property Owners and shall be as follows: (See Appendix)

Section 29. Tax Valuation Agreement and Tax Impact Statement

A. Tax Valuation Agreement

1. IWEFs 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 Sumner and the Owner/operator designating the financial methodology that will be used for tax valuation purposes (“Tax Valuation Agreement”).
2. The Tax Valuation Agreement must be in a format approved by the Town of Sumner Select Board, with advice of legal counsel, and comply with all applicable state and federal tax codes and laws.
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.

B. Tax Impact Statement

A Tax Impact Statement must be prepared and presented to the Town. It will contain year-by-year for 10 years estimates of Sumner’s resident’s tax burden using the following data: 1) re-appraised values for all residents within 3 miles of the IWEF, 2) State re-assessment for school tax amounts (assume constant school budget and constant contributions from Towns other than Sumner), 3) other residents properties are presumed to stay at their same value. This Tax Impact Statement will be prepared by an Accountant hired by the Town at Owner/operator’s expense. The Tax Impact Statement will be presented to the Town for information.

Section 30. Jurisdiction across Multiple Municipalities

This section addresses issues unique to the geography of the Town of Sumner and its neighboring towns with which it shares a common boundary. In the event that potential sites for IWEF’s share multiple municipal jurisdictions, project permits should be coordinated to the fullest extent possible across town boundaries, while at the same time maintaining each individual Town’s right to individual Home Rule.

This Ordinance applies to IWEF’s located wholly or partially in the Town of Sumner to the fullest extent allowable by municipal, state, and federal law.

Approval to build or operate an IWEF applies only to that portion of the IWEF located within the boundaries of the Town of Sumner. However, the application must take into account the entire IWEF across municipal boundaries, including but not limited to the total number of Wind Turbines, Turbine

Height, Wind Turbine location and all other relevant facts and data that may directly or indirectly effect the operation and viability of that portion of the IWEF located in the Town of Sumner.

Setback, Noise, Shadow Flicker and Mitigation Waiver standards for IWEF's located and operated in the Town of Sumner shall apply to property lines and roads irrespective of Town boundaries. For the purpose of this section a resident of such abutting towns is afforded the same protections as a resident of Sumner.

This subsection applies to IWEF's that are located partially in Sumner and partially in neighboring Towns. To receive a permit from the Town of Sumner for that portion of the IWEF located in the Town of Sumner, the Owner/Operator shall agree in writing that the most protective setback and noise ordinance standard from any Town located within the IWEF area shall control. The controlling ordinance must be in effect at the time the permit is granted.

The Town Clerk shall forward notice of IWEF permit applications within ten (10) days of receipt, and notice of hearings and public meetings 14 days in advance, to the Selectmen and Planning Boards of adjacent communities for all IWEF if the neighboring community is located within a defined Setback of this Ordinance.

Section 31. Ethical Standards

A. Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding IWEF's will be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

B. Public Access

All deliberations concerning IWEF's, whether in writing or conducted verbally, by the Planning Board, Selectmen, Appeals Board, and any subcommittees or working groups of the aforementioned 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 IWEF's between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings, which have been duly posted. 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. Detailed minutes of deliberations and decisions concerning IWEF's will be recorded and posted. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to "attorney-client privilege". All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

C. Conflicts of Interest

The process to develop, permit and administer IWEF's shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly

or indirectly involved in the planning process or decision-making process for IWEF's. Conflicts of interest include but are not limited to:

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 development company including a signed Mitigation Waiver with financial remuneration,
3. serving as a paid representative of a wind development company, or a written or verbal promise for future employment or contracts from a wind development company;
4. being directly or indirectly affiliated or related to an Applicant with a pending application for a IWEF, and
5. knowing there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than \$1,000 on behalf of 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 IWEF's, with the exception of voting and debating as a private citizen at any public meetings and public hearings.

D. Code of Ethics for Wind Companies and Municipal Employees

1. Wind companies will not hire municipal employees or their relatives, give gifts of more than \$10 during a one-year period, or provide any other form of compensation that is contingent on any action before a municipal agency
2. Wind companies will not solicit, use, or knowingly receive confidential information acquired by a municipal officer in the course of his or her official duties.
3. Wind companies will establish and maintain a public Website to disclose the names of all municipal officers or their relatives who have a financial stake in IWEF development.
4. Wind companies will submit, in writing to the municipal clerk for public inspection, and additionally will publish in the local newspaper, the nature and scope of the municipal officer's financial interest.
5. All wind easements and leases will be in writing and filed with the County Clerk for public Inspection.

Section 31. Mitigation Waivers

Non-participating Landowners may modify or waive specified protections in this Ordinance by executing a written, legally enforceable, Mitigation waiver negotiated between the Applicant and a Non-participating Landowner. Notarized copies of all executed Mitigation Waivers must be included when the IWEF application is submitted to the Planning Board.

Copies of executed Mitigation Waivers must be included with the application. The Mitigation Waiver must be recorded in the Registry of Deeds office appropriate for the affected property. The deed must advise all subsequent owners of the burdened property.

The requirements permitted in Mitigation Waivers are:

- a. Property line setbacks
- b. Audible noise levels
- c. Low frequency noise levels
- d. Shadow Flicker and Blade Reflection
- e. No Mitigation Waivers or other requirements set forth in this Ordinance are permitted.

The Mitigation Waiver must contain a separate paragraph for each specific requirement being modified or waived. Each paragraph must specify:

- a. The requirement as set forth in this ordinance.
- b. The modified requirement to which the affected property owner is now agreeing.

Definitions

Acoustical Hazard -- Annoyance, nuisance and/or potential threat of serious harm to the health of humans and animals living near IWEFs, with a resulting threat of a substantial decline in nearby property values, all owing to short term and long term exposure to the continuous and fluctuating noise, both audible and inaudible, produced by an IWEF.

Aerodynamic Sound – a noise that is caused by the flow of air over and past the blades of an Industrial Wind Energy Facility (IWEF).

Ambient Sound – Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying overhead, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. Ambient sound also includes insect and other nearby sounds from birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

American National Standards Institute (ANSI) –

A private non-profit company that oversees the development of products, services, processes, systems, and personnel in the United States and coordinates [U.S.](#) standards with international standards. All of the Standardized acoustical instrumentation and sound measurement protocols conducted under this Ordinance shall meet all the requirements of the following ANSI Standards, or their most recent updated versions:

ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)

ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)

ANSI S1.40 Verification Procedures for Sound Calibrators

ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound

ANSI S12.18 Measurement of Outdoor Sound Pressure Level

IEC 61400-11 WTG systems – Part 11: Acoustic noise measurements

Amplitude Modulation -- unpredictable fluctuations in noise, both audible and inaudible, which often characterize sound emitted from IWTs and which cause an acoustical hazard.

Anemometer – a device for measuring the speed and force of the wind.

Applicant – an owner/operator that seeks to secure a Permit to Build or an initial or renewed Operational License or any other permission regarding an IWEF required under this Ordinance.

Application -- a written request, which conforms to all of the requirements of this Ordinance, by an owner/operator, for a Permit to Build or to expand an IWEF or for an initial or renewed Operational License regarding an IWEF, or for any other matter for which the owner/operation is seeking any kind of approval from the Planning Board.

A-Weighted Sound Level (dBA) –

A-Weighted Sound Level (dBA) is a measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low frequencies with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be "A-weighted" and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI

Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type 1 instruments, and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this document dBA means LAeq unless specified otherwise.

Background Sound (L90) –

Background Sound (L90) refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night.

Because IWEFs operate 24 hours a day, seven days a week, 365 days a year over a period of decades, the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the IWEF of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data.

Background sound level (dBA and dBC (as L90)) is the sound level present 90% of the time during a period of observation that is representative of the quiet time for the soundscape under evaluation and with duration of ten (10) continuous minutes. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment.

Measurement periods such as at dusk when bird and insect activity is high or the early morning hours when the 'dawn chorus' is present are not acceptable measurement times. Longer term, unobserved/unmonitored, sound level averaging tests, such as those conducted over a 24 hour period or over multiple days, are also totally inappropriate because they can result in highly inaccurate, grossly inflated, measurements of the true background sound levels which are actually much lower.

Such inappropriate noise testing includes the measurement of intermittent, loud, noise events that skew the numbers and gives the false impression that background sound levels are much higher than they actually are. Proper noise testing measures the quiet time background sound level that characterizes the true, deep quiet of a rural town such as Sumner. That quiet time background sound level is defined by the LA90 and LC90 descriptors. It may be considered as the quietest one (1) minute during a ten (10) minute test. LA90 results are valid only when LA10 results are no more than 10 dB above LA90 for the same period. LC10 less LC90 are not to exceed 10 dB to be valid.

The background noise environment consists of a multitude of distant sources of sound. When a new nearby source is introduced the new background noise level would be increased. The addition of a new source with a noise level 10 dB below the existing background would increase the new background 0.4 dB. If the new source has the same noise level as the existing background then the new background is increased 3.0 dB.

If the new source is 3.3 dB above the existing background then the new background would have increased 5 dB. For example, to meet the requirement of L90A + 5 dB = 31 dBA if the existing quiet nighttime background sound level is 26 dBA, the maximum wind turbine noise immission contribution independent of the background cannot exceed 29.3 dBA Leq at a dwelling. When adding decibels, a 26 dBA background combined with 29.3 dBA from the turbines (without background) results in 31 dBA.

Background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/microphone location 1.5 m height.

All of the above measurements and testing must be conducted by a Qualified Independent Acoustical Consultant selected and hired by the Planning Board and paid for by the owner/operator.

Blade Passage Frequency (BPF) – the frequency at which the blades of a turbine pass a particular point during each revolution (e.g. lowest point or highest point in rotation) in terms of events per second. A three bladed turbine rotating at 28 rpm would have a BPF of 1.4 Hz. [E.g. ((3 blades times 28 rpm)/60 seconds per minute = 1.4 Hz BPF)]

Blade Reflection – the intermittent reflection of the sun off the surface of the blades of an IWT.

CEO -- means Town of Sumner Code Enforcement Officer

Covenants -- A legal agreement, convention or promise by two or more parties by deed in writing, signed, recorded and delivered, by which one of the parties pledges himself to the other that something is done, or shall be done, or shall not be done, or stipulates the truth of certain facts. In order to comply with this Ordinance, this legal agreement shall contain the stipulations required and set forth in these regulations and shall be a covenant running with the land.

C-Weighted Sound Level (dBC) –

Similar in concept to the A-Weighted sound Level (dBA) but C- weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum.

Sound level meters have a C-weighting network for measuring C- weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type I instruments. In this document dBC means L_{Ceq} unless specified otherwise.

D -- Distance measured in feet.

Decibel (dB) – A dimensionless unit which denotes the ratio between two quantities that are proportional to power, energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (L_p) in decibels is equal to 10 times the logarithm (to the base 10) of the ratio between the pressure squared divided by the reference pressure squared. The reference pressure used in acoustics is 20 MicroPascals.

dBA -- means the abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the A-weighting of a sound level meter.

dB(C) or dBC means the abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the C-weighting of a sound level meter.

DEP Certification – a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a wind turbine that is subject to this Ordinance.

Emission – Sound energy transmitted by an IWT to a receiver where it is imitted, received (see “imission”).

Enforcing Authority – the Code Enforcement Officer (CEO) designated by the Town of Sumner. The CEO is responsible for enforcing the standards of this Ordinance.

Engineering drawing -- Rendering of an object or land area using drafting instruments or Computer Assisted Drawing (CAD) showing all critical features and appropriate dimensions to describe the subject.

Frequency – The number of oscillations or cycles per unit of time. Acoustical frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

Height – the total distance measured from the grade of the property as existed prior to the construction of the IWT, facility, tower, or related facility, at the base to its highest point of the arc of the blade. (See Turbine Height definition below)

Hertz (Hz) – Frequency of sound expressed by cycles per second.

Ice Throw – accumulated ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

Immission – Noise received at a defined point after being transmitted from an IWT

Immission spectra imbalance – (see definition of “Spectrum” below)

The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA.

The C- weighted sound level is defined as the L_{Ceq} measured during the operation of the wind turbine operated so as to result in its highest sound output. A Complaint Test provided later in this document is based on the immission spectra imbalance criteria.

Industrial Wind Energy Facility (IWEF) --

Industrial Wind Energy Facility” (IWEF) means all of the following -- any wind energy installation:

1. consisting of one or more industrial wind turbines with a combined tower and blade height of more than 150 feet (from ground to blade tip at its highest point); and
2. with a nameplate capacity of more than 100 kilowatts of power a year; and
3. not requiring a Site Location of Development permit from the Maine Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456; and
4. the purpose of which facility is to primarily generate electricity using ambient wind as a source of motive power in order to supply electricity to off-site customers; and
5. includes, but is not limited to, any associated installations such as meteorological towers, substations and any other structures accessory to such facility including but not limited to, cables/wires, and generator lead lines, fences, lighting systems, access roads, parking lots, and any areas to be stripped, cleared, grubbed, blasted or graded, landscaped or screened, or any areas in which the soil is in any way disturbed.

Industrial Wind Turbine (IWT) – a wind energy conversion system that converts wind energy into electricity and which meets the height, nameplate capacity and other criteria cited in the definition of an IWEF above.

Infrasound –

Sound with energy in the frequency range of 0-20 Hz is considered to be infrasound. It is normally considered to not be audible for most people unless in relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of sound and perception of infrasound is not limited to stimulus of the auditory senses. Scholarly works suggest that exposure to infrasound may cause serious harmful effects to the health of humans and animals, especially in the long term. In addition, infrasound can be transmitted at great distances and cannot be excluded from dwellings and other buildings.

The most significant exterior noise induced dwelling vibration occurs in the frequency range between 5 Hz and 50 Hz. Moreover, levels below the threshold of audibility can still cause measurable resonances inside dwelling interiors. Conditions that support or magnify resonance may also exist in human body cavities and organs under certain conditions.

Although no specific test for infrasound is provided in this ordinance, the test for immission spectra imbalance will limit low frequency sound and thus, indirectly limit infrasound. See low-frequency noise (LFN) for more information

Inhabitant -- means one who resides actually whether permanently or seasonally or infrequently in a given place, and has a domicile there.

LAeq -- means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, “Fast” response over a measurement period; expressed as LAeq or Leq in dBA.

Lc -- Criterion sound level, dBA, set to 30 dBA, consistent with the World Health Organization’s Night Noise Guideline 2009, to prevent biological effects, to protect public health in risk groups including children, elderly and those with disease or pre-existing health conditions and, to minimize sleep disturbance at night; a criterion level of 30 decibels (LAeq) for continuous intrusive noise as the level above which biological effects, medical impacts on sensitive populations, and sleep disturbance were found with sufficient evidence under comprehensive medical and scientific peer review by the World Health Organization.

LCeq -- means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for C-weighting, “Fast” response over a measurement period; expressed as LCeq or Leq in dBC.

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 15 decibels at any measurement point inside or outside a residence or other occupied structure.

Lp -- Sound Pressure Level measured in dBA in accordance with American National Standards S12.9 – Part 3, “Quantities and Procedures for Description and Measurement of Environmental Sound” or ANSI S12.18.

Ls -- Safety Factor, shall be one dBA unless otherwise authorized by the Town Planning Board, to account for variations in meter total instrument response.

Lw -- Manufacturer's Guaranteed Maximum Sound Power Level, in dBA re 1pW, under any operating conditions, including high winds, yawing, furling, and power outages, whether electrically loaded or unloaded.

Maximum sound level (also Lmax) -- means the maximum sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" meter response over a measurement period; expressed as Lmax in dBA.

Measurement Point (MP) –

The location where sound measurements are taken such that no significant obstruction blocks sound from the IWEF. The Measurement Point should be located so as to not be near large objects such as buildings and should be in the line-of-sight to the nearest IWT.

Proximity to large buildings or other structures should be no closer than twice the largest dimension of the structure, if possible. If this cannot be accomplished, that fact must be noted in the reporting of the measurements taken by the Town's Qualified Independent Acoustical Consultant and a professional estimate made of how much, and how the sound level may have been skewed as a result.

Measurement Points should be monitored at quiet times and locations remote from street lights, transformers, street traffic, flowing water, agricultural machines and all other local noise sources.

Measurement Wind Speed –

For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid IWEF noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 4m/s (9mph).

The wind speed at the IWT blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the IWT blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the IWEF to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case LAeq and LCEq sound levels at the nearest non-participating properties to the IWEF. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

Mechanical Noise – sound produced as a byproduct of the operation of the mechanical components of an IWT(s) such as the gearbox, generator and transformers.

Meteorological Tower (MET Tower) – a structure used for the measurement of wind force and speed and constructed as a Tower to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data.

Mitigation Waiver -- the formal relinquishing of certain protections under this ordinance by a property owner in the Town of Sumner or in an adjacent town, which is only valid if all of the requirements of this Ordinance relating to such Mitigation Waivers are fully adhered to.

Nameplate Capacity – the electrical power rating of an individual IWT as certified by the manufacturer and normally expressed in watts, kilowatts (kW), or megawatts (MW).

Noise – any unwanted sound. Not all noise needs to be excessively loud or even audible to represent an annoyance, nuisance or interference or short or long-term health hazard to humans or animals.

Non-participating Landowner – any landowner other than a Participating Landowner.

Notice -- a written communication sent with proof of delivery by registered mail or a major messenger service such as Fedex or UPS, and received within the time limits specified in this Ordinance.

Occupied Building –

Any structure used as a human dwelling, shelter, business, farm, or place where people congregate for whatever purpose, or where livestock or other domestic animals are sheltered, confined, or maintained, including all of the following aspects of the above uses:

1. full time, part-time, or on an infrequent basis,
2. current, or past during the five years prior to the date on which the owner/operator filed any type of application for an IWEF with the Planning Board, or future uses which may reasonably be contemplated.

For use by people such structures include, but are not limited to, houses, manufactured homes, camps, places of business, town offices, meeting halls, museums, places of worship, playgrounds, and schools.

For use by animals, such structures include but are not limited to, kennels, pens, corrals, fenced areas, barns and other agricultural buildings.

Owner/operator – the person(s) or entity(s) with legal ownership of the IWEF, including successors and assigns, that either had, has or is attempting to obtain, permission from the Town of Sumner to build, operate on a daily basis, expand, decrease, change the use of, or decommission an IWEF. An Owner/operator is the entity which has full legal authority to represent and bind itself to fulfill all of the provisions of this Ordinance.

Operational License -- final permission in writing from the Planning Board to run an IWEF on a daily basis in the Town of Sumner for a period of three years, after which the permission must be renewed according to the provisions of this Ordinance or the IWEF will be shut down. The initial operational license

shall not be considered or approved by the Planning Board until such time as the IWEF has been fully built, inspected and approved according to the provisions of this Ordinance.

Participating Landowner –

One or more persons that hold legal title in fee to any property in Sumner, or in an adjacent town, in which the IWEF owner/operator has acquired any kind of legal property interest, including but not limited to:

1. ownership interest, either whole or in part; or
2. placement of any part of the IWEF; or
3. leasehold, either whole or in part; or
4. mitigation waivers, easements or rights of way.

Agreements to grant any such property interest must be agreed to in writing by both the owner/operator and the property owner, duly recorded, and copies promptly provided in writing with proof of recording to the Planning Board.

Such participating landowners include those landowners whose properties are required under this Ordinance to be encompassed within an IWEF Boundary Line as defined above.

Permit to Build -- final, written permission to construct an IWEF, which is only valid if-granted in writing by a two-thirds vote of each of the following town bodies, in the following order:

1. The five voting members of the Planning Board, and
2. The Board of Selectpersons, and
3. The citizens voting at a Special Town Meeting convened solely for that purpose, but only if the total number of votes cast is equal to at least twenty (20) percent of the total number of votes cast in the Town of Sumner at the most recent, prior election for the office of Governor of Maine.

If any one of the above town bodies fails to grant permission, that Permit to Build shall be immediately deemed to have been denied and may not be considered again, if requested by the same owner/operator, for a period of one year following the date of denial.

Without such Permit to Build, no owner/operator shall conduct any construction, excavation, grubbing, clearance of trees or vegetation, landscaping or physical disturbance of the soil or any other activities related to the establishment of an IWEF in the Town of Sumner.

Person – an individual, corporation, partnership, firm, organization or other legal entity.

Property line -- The imaginary line along the ground surface and the vertical extension of that line which constitutes a legally enforceable boundary separating real property owned or controlled by one person(s), from contiguous real property owned or controlled by another person(s).

Qualified Independent Acoustical Consultant –

Qualifications for persons conducting baseline and other measurements and reviews related to the application for an IWEF or for enforcement actions against an operating IWEF include, at a minimum, demonstration of competence in the specialty of community noise testing.

This person must have Full Membership in the Institute of Noise Control Engineers (INCE). There are scientists and engineers in other professional fields that have been called upon by their local community for help in the development of an IWEF Noise Ordinance.

Many of these scientists and engineers have recently spent hundreds of hours learning many important aspects of noise related to the introduction of an IWEF into their communities. Then with field measurement experience with background data and wind turbine noise emission, they have become qualified independent acoustical consultants for IWEF siting.

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 document.

The Independent Qualified Acoustical Consultant must be hired by the Town of Sumner at the discretion of the Planning Board and can have no financial or other involvement with a wind company or any related conflicts of interest.

Sensitive Receptor –

Sensitive Receptors are 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, campgrounds and other non-agricultural state or federal licensed businesses.

These areas are more likely to be sensitive to the exposure of the noise, shadow or flicker, etc. generated by IWEFs. These areas include, but are not limited to: schools, daycare centers, elder-care facilities, and hospitals, places of seated assemblage, non-agricultural businesses and residences.

Setback-The Minimal Fixed Distance of *("1.25 - 1.75 miles as determined by public input")* is required from the base of each IWT and the closest point on any property line of any non-participating property owner.

This distance shall be measured in a 360 degree radius, horizontally between the outer edge of the base of each IWT within the IWEF and the closet point on any non-participating Landowner's Property Line.

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

Shadow Flicker – alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object or occupied structure. (Shadow Flicker may be related to health issues in some people).

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 area surrounding schools, churches and public buildings, and public roads.

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

Sound – is a fluctuation of air pressure which is propagated as a wave through air.

Sound level meter -- means an instrument for the measurement of sound levels conforming to ANSI type I or type II standards.

Sound power level -- calculated from a sound pressure level at a given distance by the formula $L_w = L_p + 20 \log D + 0.5$, dB re 10⁻¹² W where L_p is measured in accordance with American National Standards S12.9 – Part 3, “Quantities and Procedures for Description and Measurement of Environmental Sound” or ANSI S12.18, or $L_w = L_p - 6 + 10 \log(4\pi(D^2))$, dB re 10⁻¹² W where L_p is measured in accordance with AWEA/IEC 61400-11 using a 1-meter flat ground board. D is the distance from the source (typically the hub height plus ½ the rotor diameter).

Sound Power –

Sound Power is the total sound energy radiated by a source per unit time. The unit of measurement is the watt. Abbreviated as L_w . This information is determined for the IWT manufacturer under laboratory conditions specified by IEC 61400-11 and provided to the local developer for use in computer model construction.

There is a known measurement error in this manufacturer’s 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 L_w 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 (L_w) requirement (at present) in IEC 61400-11. This Ordinance requires wind turbine certified acoustic power (L_w) 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 1 dB. 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 $SPL (dB) = 20 \log p/p_r$.

Sound pressure level -- means the level of a sound measured in dB units with a sound level meter which has a uniform (flat) response over the band of frequencies measured. Sound pressure levels are referenced to 20 micropascals; expressed as [sound level] dB re 20uPA.

Spectrum –

Spectrum is the description of a sound wave's resolution into its components of frequency and amplitude. The IWT manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine sound emission at 90% of rated power.

The published sound spectrum is often presented as A-weighted values but C-weighted values are preferred. This information is used to construct a model of the wind farm's sound immission levels at locations of interest in and around the IWEF. The frequency range of interest for wind turbine noise is approximately 6 Hz to 10k Hz.

Statistical Noise Levels –

Statistical Noise Levels are sounds that vary in level over time, such as road traffic noise and most community noise. They are commonly described in terms of the statistical exceedance levels LNA, where LNA is the A-weighted sound level exceeded for N% of a given measurement period.

For example, L10 is the noise level exceeded for 10% of the time. Of particular relevance, are: LA10 and LC10 the noise level exceeded for 10% of the ten (10) minute interval. This is commonly referred to as the average maximum noise level. LA90 and LC90 are the A-weighted and C-weighted sound levels exceeded for 90% of the ten (10) minute sample period.

The L90 noise level is defined by ANSI as the long-term background sound level (i.e. the sounds one hears in the absence of the noise source under consideration and without short term or near-by sounds from other sources), or simply the "background level." Leq is the A or C-weighted equivalent noise level (the "average" noise level). It is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

Structure –

Regarding IWEFs, the total constructed aspects and footprint of all of the physical attributes of the entire IWEF as defined in Title 38 M.R.S.A. § 482.

Regarding non-IWEFs, any type of construction built for any kind of use involving either humans or animals.

Tonal sound or tonality – Tonal audibility. A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch. Tonal sound can be simple or complex.

Tower – the freestanding structure on which the wind measuring or energy conversion system (IWT) is mounted.

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

W -- means power in Watts.

Waiver -- the formal permission to relinquish any requirement of this Ordinance by the Town of Sumner which is only valid if granted in writing by at least a two-thirds (66 and two-thirds percent) vote of each of the following Town bodies, in the following order:

1. The five voting members of the Planning Board; and
2. The Board of Selectpersons; and
3. The Town citizens voting at a Special Town Meeting convened solely for that purpose, but only if the total number of votes cast is equal to at least twenty (20) percent of the total number of votes cast in the Town of Sumner at the most recent, prior election for the office of Governor of Maine.

If any one of the above town bodies fails to grant the waiver, it shall be immediately deemed to have been denied and may not be considered again, if requested by the same owner/operator, for a period of one year following the date of denial.

Any request for a waiver shall be made in writing to the Planning Board by the owner/operator and must include all of the reasons justifying the waiver. Such request must also include the owner/operators express agreement to hold in abeyance, until the waiver issue has been decided by the Town, any time constraints for the consideration of IWEF applications imposed by this Ordinance or other statutes.

APPENDICES

APPENDIX A

SAFETY STANDARDS

Design Safety Certification

1. The design of each IWT shall conform to the best of the latest, applicable industry standards regarding IWT size, classification, safety features and all other operating characteristics. These industry standards shall be selected from among, including but not be limited to, those standards promulgated by the American National Standards Institute (ANSI), Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies and/or any other reputable certifying organization selected by the Planning Board.
2. Whenever the Planning Board receives an application for a Permit to build, or expand and/or change the number or makes and models of IWTs in an IWEF, it shall hire, at applicant's expense, whatever type and number of expert consultants, including but not limited to attorneys and engineers, it deems necessary to review the latest industry standards and make recommendations to the Planning Board as to which standards the applicant shall adhere to in proposing the manufacturers, models and configuration of IWTs for the IWEF. The Planning Board, in consultation with its experts, shall make the final decision as to which manufacturer, model and number of IWTs shall be allowed.

3. In making its decisions as to which industry standards shall be followed and which manufacturer and models of IWTs will be permitted, the Planning Board, in consultation with its experts, shall pay special attention to the following design measures which will:

- a. ensure maximum structural integrity of IWTs, and
- b. ensure immediate, automatic shutdown of any IWT prior to its causing blade glint or shadow flicker, and
- c. ensure immediate, automatic shutdown of IWTs in the event of any catastrophic event, including but not limited to: fire, tower collapse, blade throw, ice throw, lightning strike, injury to maintenance or other personnel or to visitors or passersby, terrorism or vandalism, and
- d. ensures that the quietest and most reliable types of IWTs are required.

Amendments & Enforcing Authority

The Planning Board shall serve as the Enforcing Authority for this ordinance. In all matters regarding IWEFs, the CEO shall act as the agent of the Planning Board which will supervise the actions of the CEO. Such supervision by the Planning Board shall not be construed to in any way to diminish the lawful overall authority of the Select Board to supervise the CEO.

The Planning Board shall have full authority to:

- conduct investigations, and
- hire such experts as it deems necessary at the expense of the owner/applicant to include, but not limited to, attorneys, qualified acoustical consultants, engineers, biologists, hydrologists, physicians or other medical experts, court stenographers, videographers, and:
- resolve complaints and questions, and
- ensure compliance with this ordinance, and
- levy penalties if required, and
- propose amendments to this ordinance by a two-thirds (66 and two-thirds percent) vote of the voting members of the Planning Board. Such proposed amendments shall then be placed expeditiously on a warrant by the Select Board which will then call a Special Town Meeting within sixty (60) days to consider the amendment(s). (If an annual Town Meeting is scheduled to be conducted within sixty (60) days of the date of the amendment's passage by the Planning Board, the Amendment(s) may be placed on a warrant for that Annual Meeting.)

PERMIT and LICENSE REQUIREMENTS

A permit is required for each IWEF built in the Town of Sumner after the effective date of this Ordinance.

The Planning Board is authorized to review all IWEF applications and may approve, reject, or conditionally approve, such applications in accordance with the standards of this ordinance. The Planning Board or its designated agents, including but not limited to, the CEO, qualified independent acoustical consultants, other experts, citizens or stakeholders in Sumner or any other persons it deems useful, shall have the right to access and inspect all IWEF sites at any time at its own discretion without prior notice. The Planning Board shall have the above authority to inspect all IWEF sites for any reason it deems necessary, including but not limited: evaluating the owner/operator's applications or proposals, reviewing progress of construction of any kind, and ensuring compliance with the conditions of this Ordinance. The Planning board shall have the authority to inspect all IWEF records and documents that relate to design, construction, operation, performance and compliance of the IWEF with this ordinance.

Only one IWEF application, proposal, or permit will be accepted or processed at any given time. No further such items will be accepted or considered by the Planning Board until the current item is completely disposed of.

The Escrow Account

The planning Board will aggregate, to the fullest and most practical extent possible, all IWTs held under common or related ownership into a single IWEF. With the exception of projects owned by the Town of Sumner, separate corporate legal structures under common or joint ownership or under common or joint control will be deemed to be a single project for the purposes of permit and licensing notwithstanding separate corporate legal ownership.

The IWTS will conform to the Safety Standards section of the appendix

MET Permit Criteria

Meteorological Tower (MET). The application for a permit for an MET shall be submitted in at least ten hard copies and electronic format acceptable to the Planning Board and shall include the following information:

- Applicant and property owner name address and contact information.
- Proposed location of the MET including lot designation.
- Engineering drawing of proposed tower structure, instrument package, and guy system, if any.
- Engineering drawing of proposed tower base.
- Engineering drawing of tower location showing property lines and setback requirements (as specified in this Ordinance)
- Any building, use or construction permits required by other authorities because of the size or construction of the tower.
- Intended period of data collection and date MET will be removed.
- Plans for mitigation of Environmental Hazard to wildlife for towers requiring guy systems.

- Description of intention.
- Decommissioning Bond for MET.
- A legally enforceable agreement that the applicant shall pay in advance for the services of all consultants that the Planning Board deems necessary to evaluate the application.
- **Fee: ESCROW ACCOUNT -- To be determined by the Select Board.**

Within 30 days of the Planning Board's receiving a Meteorological Tower (MET) application the Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

IWEF Permit Criteria

Prior to filing an application for an IWEF, the applicant will meet with the Planning Board to discuss the application requirements. At such a pre-application meeting, the Planning Board can explain the ordinance's provisions, application forms, and submission requirements. At that time, the applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot area. Such discussions with the Planning Board are informational only and may not be construed to decide, formally or informally, on the merits of any substantive aspects of proposal under discussion.

IWEF Application Criteria

An Industrial Wind Energy Facility permit application shall consist of a permit application fee, completed application form and all supporting documents as described below:

Application Form. The application form provided by the Town of Sumner that shall be signed and dated by the applicant. The signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the provisions of this ordinance, permit(s) issued and all conditions of approval, if any.

Application Fee. Submission of the full amount of the application fee at the time of submission of the application.

3. **Demonstration of Community Benefit.** For an application for Industrial Wind Energy Facility, an applicant must demonstrate that substantial community benefits will accrue to the town as a result of the construction and operation of the facility. In addition to any other demonstration of community benefits, including significant tangible benefits provided for in a community benefits agreement entered into by the Applicant and the town, the applicant must identify the tax value, direct payments or other financial ben-

efits to be realized and the form and duration of such benefits, and the short-term and long-term jobs to be created for residents of Sumner, telecommunication infrastructure enhancements or other economic benefits to be realized and the duration of such benefits.

4. The applicant shall submit ten (10) complete copies of the application in paper format including all supporting documents, such documents being titled and sequentially numbered. For IWEF applications, the applicant shall also submit one complete copy in an electronic format determined by the planning board. The submissions must be made to the town office c/o the planning board.
5. The applicant shall promptly notify the Planning Board in writing of any changes the applicant proposes to make to information contained in the application. The Planning Board may require an application to be resubmitted and the review periods restarted if it determines the changes modify the applicant's proposal materially.
6. If an applicant proposes modifications to a pending application during or after a public hearing on the application has been held, the Planning Board must continue the hearing to another date or reopen the public hearing if it determines the proposed modifications materially alter the proposal.
7. The applicant and Participating Landowner(s)' name, principal place of business, physical and mailing addresses, telephone number, fax number and email address.
8. The tax map number, current use, deed book and page number and the name and address of the owner(s) of the proposed facility site and of any contiguous parcels owned by Participating Landowners.
9. The tax map number, current use, deed book and page number and the name and address of the owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site.
10. A narrative description of the proposed IWEF, including an overview of the project, project schedule, project location, elevation of land upon which the wind tower(s) will be placed, number of wind towers and their height, generating capacity of the IWEF, area affected, prevailing winds at the project location, road access to the site and receiving transmission line location.
11. Evidence of the applicant's technical and financial ability to construct and operate the project as proposed during the expected period of operation.

12. A copy of a deed, easement, lease, purchase option or other comparable legal documentation demonstrating that the applicant has right, title or interest in the proposed facility site.
13. Location map, drawn to scale, showing the boundaries of the proposed facility site and all contiguous property under total or partial control of the applicant or Participating Landowner(s) 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 2 miles of the proposed development.
14. Detailed description of the proposed Industrial Wind Energy Facility that includes the number, aggregate generating capacity of all wind turbines, manufacturer's specifications for each Wind Turbine, including but not limited to the make, model, maximum generating capacity, sound emission levels and types of overspeed controls, wind tower heights and tower footprint, a description of associated Facilities, type and design of brakes for flicker and other safety devices such those for emergency shut-down.
15. Site plan showing the proposed location of each wind turbine, the ground area occupied by the turbine, and Associated Facilities and any of the following features located within 2 miles; parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be re-graded, cleared of vegetation or otherwise altered, the location and average height of tree cover to be retained and the location, variety, planting height and mature height of proposed trees, if any.
16. Written evidence that the Environmental Coordinator for the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Areas Program (MNAP) have both 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 or other group recommended by either agency.
17. Written evidence that the provider of electrical service to the property has been notified of the applicant's intent to connect an electric generator to the electricity grid, if such connection is proposed, and the provider's agreement to accept such electricity when generated by the IWEF.

18. Detailed description of the proposed emergency and normal shutdown procedures for the IWEF, including notifications to the provider of electrical service, the town and the public.
19. Photographs in sufficient quantity and detail that fairly represent pre-construction conditions at the site, an aerial photograph depicting the project parcels, participating landowner parcels and all Non-Participating parcels located within 2 miles of the proposed facility.
20. The application for IWEF must include the following sight line, photographic and screening information as part of a visual assessment plan.
21. Sight line representations of each IWEF from the nearest occupied building, from all nonparticipating property borders within the setback area, and at least 5 other representative locations within 2 miles of the IWEF, such as a scenic resource or another occupied building. Each sight line representation must be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as trees, shrubs or fencing, must be depicted on the drawing along with the sight line as altered by the screening.
22. A current four-inch by six-inch or greater color photograph of the proposed site of the IWEF taken from viewpoints corresponding to each of the sight line representations, or a computer-generated image if the owner of the subject property does not allow the applicant to access the property
23. One copy of each of the photographs described above, onto which is superimposed an accurately-scaled and sited representation of the IWEF.
24. Standard boundary survey of the subject property, giving complete descriptive data by bearings and distances, made and certified by a Maine-licensed surveyor chosen by the Planning Board.
25. An application for an IWEF that generates energy primarily for sale or use by offsite customers or persons must include certification from the Department of Environmental Protection pursuant to 35-A MRSA. §3456 that the IWEF will meet the requirements of the noise control rules.
26. The applicant will meet the requirements of the noise control rules as outlined by this ordinance.

27. The IWEF will be designed and sited to avoid adverse shadow flicker or blade reflections falling on a sensitive receptor, as provided in this Ordinance. An exception to this standard may be made only if the flicker or reflection does not exceed ten (10) hours per year for any given receptor or if the applicant enters into a binding agreement with an affected land owner waiving this standard for property controlled by the land owner; and will be constructed with setbacks adequate to protect neighboring properties and public safety and mitigate adverse noise effects from operation of a wind turbine.
28. The IWEF shall be constructed with setbacks as outlined in this ordinance. The Planning Board shall postpone its decision on the application until it receives written evidence that this has been fully incorporated into the plan of the IWEF.
29. All information as outlined in the sound prediction propagation model, under acoustical and noise standards in the appendix of this ordinance shall be submitted and will be completed as detailed in the Sound Propagation Model under the Acoustical & Noise Standards in this Ordinance.
30. The decommissioning plan shall be in conformance with this Ordinance, including provisions for financial surety to ensure completion of decommissioning and site restoration.
31. The applicant shall provide a written summary of operation and maintenance procedures and a maintenance plan for access roads, erosion and sedimentation controls, and storm water management facilities.
32. The applicant shall develop a visual impact assessment.
33. The applicant will provide a storm water management plan stamped by a Maine-licensed professional engineer chosen by the Planning Board.
34. The applicant shall provide shadow flicker analysis based on modeling software approved by an acoustical engineer of the Planning Boards choosing.
35. The applicant shall provide foundation and anchoring system drawings that are approved and stamped by a Maine-licensed professional engineer chosen by the Planning Board.

36. The applicant will develop a blasting plan prepared in accordance with all applicable state laws and rules and with the standards set forth in the Appendix of this Ordinance. Blasting may occur only after the applicant has received approval for such operations and must comply with the provisions established by the Department of Environmental Protection under 38 MRSA, Chapter 3, Subchapter 1, Article 8-A, § 490-Z(14) and those cited in the appendix of this Ordinance
37. A sound study shall be prepared by an independent acoustical engineer chosen and hired by the Planning Board and having expertise in noise and acoustical assessments. The study must include pre-construction background sound levels at representative key receptor sites over multiple periods and a computer modeling that projects post-construction noise levels in each direction for a distance of two miles from the IWEF as stipulated in this Ordinance.
38. The applicant will develop a fire prevention and emergency response plan as stipulated in this Ordinance, including provisions for annual training for local and regional fire and emergency response personnel.
39. The applicant will develop a facility security plan that prevents unauthorized access to the Industrial Wind Energy Facility, as stipulated in the safety section of this ordinance, see appendix.
40. The applicant shall provide other relevant studies, reports, certifications, and approvals as requested by the planning board to assure compliance with this Ordinance, including but not limited to a meteorological assessment of the wind resources and speed in the project area, sound analysis and land uses within 2 miles of the project area.
41. The applicant shall provide to the Planning Board, on a monthly basis, all results of MET testing. Such results will be submitted in writing, with ten (10) hardcopies and in an electronic version acceptable to the Planning Board.
42. The applicant shall only construct IWEFs that conform to the provisions relating to Design Safety Certification in this ordinance.
43. The applicant shall provide the Planning Board with ten (10) hardcopies of and proof of receipt and filing of all required notifications regarding the IWEF to the Department of Defense, the Federal Aviation Administration, and all other federal and state agencies as required by law. The applicant shall also provide an electronic copy of the above information in an electronic format acceptable to the Planning Board.

44. The applicant shall provide to the Planning Board written proof of all liability insurance required by this ordinance with ten (10) hardcopies and an electronic copy of the above information in a digital format acceptable to the Planning Board.

Operational License

An operational license is required for the operation of all IWEF applications for an IWEF Operational License shall be submitted to the Planning Board. An Operational License shall be valid for 3 years.

The granting of an initial Operational License is conditional on the following criteria.

1. Demonstration by the applicant of compliance with performance standards of the Ordinance.
2. IWEF must successfully pass a series of phased inspections for structural and operational integrity conducted by the appropriate independent Maine Licensed professional Engineers chosen by the Planning Board, all fees and expenses to be paid by the applicant.

The IWEF will not be allowed to operate until all such inspections are completed and the IWEF is certified in writing by the Planning Boards Engineer(s) as completely satisfying all requirements of this ordinance. Once the Planning Board has reviewed the engineering reports and accepted them, construction may commence after the Planning Board is satisfied that all other requirements of this ordinance have been met, and applicable State and Federal regulations and statutes have been certified by all appropriate agencies.

The inspections shall be conducted during construction in predetermined phases as determined by the Planning Board

Engineer(s). Final inspection occurs once all construction is completed and the owner/operator states in writing to the Planning Board that the IWEF is ready to function, but before actual operations begin. Successful inspections will be demonstrated by submission of a copy of the engineers written inspection report to the Planning Board.

If the report specifies that repairs, shutdown, maintenance, changes to safety procedures, or any other actions are necessary to ensure the completely safe operations of the IWEF, 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 or other actions cited as necessary in the inspection report.

The engineer will then re-inspect the IWEF to determine whether or not all problems have been eliminated and necessary changes made. If any problems remain, the applicant will then address them followed by re inspection. This process will continue until the planning board is fully satisfied that all problems noted by the engineer have been eliminated. The Applicant will assume all costs related to the inspection process, including, but not limited to the Engineer's fees and expenses.

3. The Applicant's name, street address, email address and telephone number, and the name, street address, email address and telephone number of the Owner/Operator, if different.
4. An emergency contact directory for the Owner/Operator completed to the satisfaction of the Planning Board, to allow the Town to immediately contact the Owner/ Operator at any time of the day or night, an everyday of the year, by both telephone and email. This directory, once

accepted by the planning Board, will be available to all Town of Sumner Officials. Every 6 months this directory must be fully updated in writing to the CEO and the Planning Board.

5. The Operational License shall automatically terminate upon any amendment to a permit.

6. Failure to comply with the provisions of this ordinance will result in the suspension or revocation of the Operational License.

7. An Operational License shall be deemed abandoned if the IWEF operation has completely ceased for 6 consecutive months. An Operational License expires immediately upon abandonment.

8. All sound measurements will be made by an independent acoustical engineer. Sound studies by this engineer, chosen by the planning board, shall be conducted immediately after construction and before initial operation of the IWEF running and then after shut down. A comparison with previous background sound studies completed before construction will be done. See appendix A

9. Granting of the operational license depends on sound levels being within the stated limits of this Ordinance.

10. The owner/operator must provide a signed, notarized statement to the effect that they understand all of the provisions of the Ordinance and agree to abide by all of them.

11. An Operation License shall be valid for 3 years. A renewal of the Operational License shall be submitted 90 days before expiration of the original license.

12. Operational License shall be revoked and the IWEF will be required to cease operations if the Planning Board determines that the IWEF has violated any of the standards and requirements of this Ordinance. The operational license shall not be reinstated until the Planning Board is satisfied that all problems have been corrected.

13. An Operational License shall automatically terminate upon the transfer of Ownership of the IWEF. The new owner operator shall apply for a new Operational License and shall not operate the IWEF until a new license has been issued. The proposed new Owner or Operator shall be required to obtain a new operational license, which must be in place at least 3 months prior to the transfer of ownership or operation of the IWEF.

14. In the case of renewal of the Operational License, a new License, or reinstatement or modification of a previous Operational License, the applicant shall include the following:

An updated fire prevention and emergency response plan.

An updated emergency shutdown plan.

An updated decommissioning and site restoration plan.

Updated liability insurance information.

A signed statement from the Applicant agreeing to assume full responsibility for complying with the provisions of this ordinance, to include agreeing to continue and/or complete any duties and obligations of the Operational License requirements.

An updated Emergency contact directory for the Owner/Operator.

16. The Process for renewal of an Operational License should begin 6 months prior to the expiration of the current Operational License.

Time Line

1. MET Tower Time Line

- a. Pre-Application Meeting for MET Tower
- b. MET Tower Application
- c. Application Review by Planning Board
- d. Vote on MET Tower by:
 1. Planning Board
 2. Select Board
 3. Town of Sumner voters at a Special Town Meeting
- e. (If approved by all 3 bodies, then....)
- f. Construction of MET Tower
- g. Phased Inspections of Construction
- h. If MET Tower passes Final Inspection
- i. MET Tower Data Collection
- j. Developer determines Project Viability
- k. Removal of MET Tower
- l. Developer elects to continue:

2. IWEF Time Line

- a. Pre-Application Meeting
- b. Initial Application
- c. Review of IWEF Application by the Planning Board
- d. Public Hearing(s)
- e. Vote on IWEF by:
 1. Planning Board
 2. Select Board
 3. Town of Sumner voters at a Special Town Meeting
- f. (If approved by all 3 bodies, then....)
- g. Construction of IWEF
- h. Phased Inspections of Construction
- i. If IWEF passes Final Inspection:
 1. Application for an Operational License
 2. Review by Planning Board
 3. If Planning Board Approves....then
- j. IWEF commences operation

- k. Continuous Inspections
- l. Renewal of License Every 3 years
- m. Citizen Complaint Process
- n. Problems Eliminated, if not, than possible IWEF shutdown
- o. Further Licenses required:
 - a. before IWEF re-started
 - b. for IWEF Expansion/Modification
 - c. for transfer of Ownership
- p. Operational Life of IWEF ends...(approximately 20 years)
- q. Decommissioning of IWEF

APPENDIX B

Noise Measurement Standards and Procedures

1. A qualified independent acoustical consultant who is a Full Member of the Institute of Noise Control Engineering (INCE) shall conduct all noise studies, except that the applicant shall conduct and present to the Planning Board for its review, any predictive sound modeling required in this ordinance. The acoustical consultant shall be hired by and report to the Planning Board. The Applicant shall pay for the studies. Prior to the granting of the initial operational license a pre-construction ambient noise level study to include A-weighting (dBA) and low frequency C-weighting (dBC) shall be conducted at each occupied building located on any property with any part of its property lines are within two (2) miles of the Boundary Line of any proposed IWEF.
2. The IWEF Applicant/Licensee shall provide all technical information and wind farm data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.
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" (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.
4. Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure".
5. Along with information about the make, model, and name plate capacity of all turbines potentially used in the proposed IWEF, the Applicant will also supply their sound power levels (Lw) for each 1/3 octave band from 6.3 Hz to 10k Hz.
6. The applicant shall provide 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 L_{Ceq} and L_{Aeq} levels to generate L_{Aeq} and L_{Ceq} contours in 5 dB increments overlaying an aerial view and property survey map from the IWEF Boundary Line out to a distance to include all residential property lines

within two (2) miles measured horizontally from the IWEF Boundary Line, including properties in Sumner and in adjacent towns.

7. Predictions and testing shall be made at all property lines within two (2) miles of the IWEF measured horizontally from the IWEF Boundary, including properties in Sumner and in adjacent towns, for the wind speed, direction and operating mode that would result in the worst case IWEF nighttime sound emissions.

8. Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum, one set of tests shall be performed during the middle of each of the four (4) calendar seasons of the year. These seasonal tests shall be conducted during:

a. the first twelve months of a new IWEF's operation, or the first twelve months of operation by a new owner/operator; and

b. the twelve months prior to the expiration of an Operational License; and

c. the first twelve months following the expansion of an IWEF through additional IWTs, or an increase in the height, blade length or nameplate capacity of existing IWTs. Whenever an operational license is renewed, this four season testing will be conducted. During those years when four season testing is not required, noise studies will be conducted on the anniversary of the approval date of the operational license. Also, during those years when four season testing is not required, at least one unannounced test will be conducted at a time and date determined by the Planning Board.

9. All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the IWEF site.

10. When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to:

a. the unique aspects of the mountainous contours and terrain of the area and its effect on noise predictability and;

b. line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.

11. Measurements should be obtained during representative weather conditions when the IWT noise is most noticeable, including periods of temperature inversion most commonly occurring at night.

12. Each measurement shall be replicated during the same time period over three different days within the same season for a total of nine (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 time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.

13. A comparison of the expected sound levels from the proposed IWEF 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 help determine compliance with the standard.

14. 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 IWTs. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.

15. A 5 dBA 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, buzz-

ing). Per Maine TA Bulletin #4, noise over a narrow frequency is a more serious nuisance than broad-band noise.

Establishing Long-Term Background Noise Level

General Requirements

1. Required instrumentation: ANSI or IEC Type 1 Precision Integrating Sound Level Meter plus meteorological instruments to measure wind velocity, temperature and humidity near the sound measuring microphone. Measurement procedures must meet ANSI S12.9, Part 3
2. From the Nearest point on the Boundary Line of an IWEF measured horizontally to the nearest point on the property line of any non-participating property within two miles either in Sumner or in an adjacent town.
3. Time of measurements and prevailing weather: The atmosphere must be classified as stable with no vertical heat flow to cause air mixing. Stable conditions occur in the evening and middle of the night with a clear sky and very little wind near the surface. Sound measurements are only valid when the measured wind speed at the microphone is less than 2 m/s (4.5 mph).
4. Requirements for Long Term Background sound measurements: All data recording shall be a series of contiguous ten (10) minute measurements. The measurement objective is to determine the quietest ten minute period at each location of interest. Nighttime test periods are preferred unless daytime conditions are quieter. The following data shall be recorded simultaneously for each ten (10) minute measurement period: dBA data includes LA90, LA10, LAeq and dBC data includes LC90, LC10, and LCEq. Record the maximum wind speed at the microphone during the ten minutes, a single measurement of temperature and humidity at the microphone for each new location or each hour whichever is oftener shall also be recorded. A ten (10) minute measurement contains valid data provided: Both LA10 minus LA90 and LC10 minus LC90 are not greater than 10 dB and the maximum wind speed at the microphone is less than 2 ms during the same ten (10) minute period as the acoustic data. Basic measurement period: Ten (10) minutes L90(10 min)

Sound Measuring Instrument – Requirements

1. Type 1 Precision meeting ANSI S1.43 or IEC 61672-
2. The sound level meter shall cover the frequency range from 6.3 Hz to 20k Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low-level background sounds down to 20 dBA.
3. Windscreen: Required
4. Required: An anemometer accurate to $\pm 10\%$ at 2ms to full-scale accuracy. The anemometer shall be located 1.5 to 2 meters above the ground and orientated to record maximum wind velocity.
5. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within 5 m. of the measuring microphone.

6. Measuring microphone with windscreen shall be located 1.2m to 1.8m (1.5 preferred) above the ground and greater than 8 m. from large sound reflecting surface.
7. All meteorological observations required at both (not either) microphone and nearest 10 m. weather reporting station.
8. For a ten (10) minute background sound measurement to be valid the wind velocity shall be less than 2ms (4.5 mph) measured less than 5 m. from the microphone. Compliance sound measurements shall be taken when winds are less than 4m/s at the microphone.
9. In addition to the required acoustic calibration checks, the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. The microphone shall be inserted into the acoustic calibrator with the calibrator signal off. The observed dBA and dBC reading on the sound level meter shall be recorded to determine an approximation of the instrument self-noise. This test shall be performed before leaving the background measurement location.
10. The calibrator covered microphone must demonstrate the results of this test are at least 5 dB below the immediately previous ten (10) minute acoustic test results, for the acoustic background data to be valid. This test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise. As a precaution sound measuring instrumentation shall be removed from any air conditioned space at least an hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self-noise and void the measured background data.
11. All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound.

Level Meter Standards.

1. The principle standard reference for this document is ANSI 12.9/Part 3 with important additional specific requirements for the measuring instrumentation and measurement protocol.
2. All measurement points (MPs) shall be located with assistance from the Planning Board's independent acoustical expert and property owner(s) and positioned such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the nearest proposed IWEF site.
3. Duration of measurements shall be a minimum of ten (10) continuous minutes for all criteria at each location. The duration must include at least six (6) minutes that are not affected by transient sounds from near-by and non-nature sources. Multiple ten (10) minute samples over longer periods such as 30 minutes or one (1) hour shall be used to improve the reliability of the LA90 and LC90 values. The ten (10) minute sample with the lowest valid L90 values will be used to define the background sound.
4. The tests at each site selected for this study shall be taken during the expected 'quietest period of the day or night' as appropriate for the site. For the purpose of determining background sound characteristics the preferred testing time is from 10pm until 4 am. If circumstances indicate that a different time of the day should be sampled the test may be conducted at the alternate time if approved by the Planning Board. Sound level measurements shall be made on a weekday of a non-holiday week. Weekend measurements may also be taken at selected sites where there are weekend activities that may be affected by IWT noise. Measurements must be taken with the microphone at 1.2 to 1.8 meters above the ground and at least 25 feet from any reflective surface following ANSI 12.9 Part 3 protocol including selected

options and other requirements outlined later in this Section. Measurements must be taken with the microphone at least ten (10) feet away from all small reflectors of sound such as trees, posts and bushes.

Reporting Testing Results – Requirements

1. For each Measurement Point and for each qualified measurement period, each of the following measurements shall be provided:
 - a. LAeq, LA10, and LA90, and
 - b. LCeq, LC10, and LC90
2. A narrative description of any intermittent sounds registered during each measurement shall be provided. This shall be augmented with video and audio recordings.
3. A narrative description of the steady sounds that form the background soundscape shall be provided. This shall be augmented with time stamped video and audio recordings.
4. Wind speed and direction at the microphone (Measurement Point), humidity and temperature at time of measurement shall be included in the documentation. Corresponding information from the nearest 10 meter weather reporting station shall also be obtained. Measurements taken only when wind speeds are less than 2m/s (4.5 mph) at the microphone location will be considered valid for this study. A windscreen of the type recommended by the monitoring instrument's manufacturer must be used for all data collection.
5. A map and/or diagram shall be provided clearly showing all of the following: (Using a plot plan provided by the Applicant):
 - a. The layout of the project area, including topography, the project boundary lines, and property lines and
 - b. The locations of the Measurement Points (MPs), and
 - c. The distance between any Measurement Points and the nearest IWT(s), and
 - d. The location of significant local non-IWEF sound and vibration sources, and
 - e. The distance between all MPs and significant local sound sources, and
 - f. The location of all sensitive receptors including but not limited to: schools, day-care centers, businesses, hospitals, camps, residences, residential neighborhoods, places of worship, playgrounds, museums, meeting halls, town offices, fire stations, elderly care facilities and any other locations where people tend to congregate, and
 - g. The location of all sensitive receptors concerning animals and livestock, including but not limited to, kennels, pens, corrals, fenced areas, barns, chicken coops and other agricultural buildings.

Sites with Existing IWEFs

1. Two complete sets of sound level measurements must be taken as defined below:

a. One set of measurements with the wind generator(s) off unless the Planning Board elects to substitute the sound data collected for the background sound study. Wind speeds must be suitable for background sound tests as specified elsewhere in this ordinance.

b. One set of measurements with the wind generator(s) running with wind speed at hub height sufficient to meet nominal rated power output or higher and less than 2 m/s below at the microphone location. Conditions should reflect the worst case sound emissions from the IWEF project. This will normally involve tests taken during the evening or night when winds are calm (less than 2m/sec) at the ground surface yet, at hub height, sufficient to power the turbines. Sound level measurements and meteorological conditions at the microphone shall be taken and documented as discussed above.

2. Sound level Estimates for Proposed IWEFs are required when adding more IWTs to an existing IWEF. In order to estimate the sound impact of the proposed Wind project on the existing environment, an estimate of the sound produced by the proposed IWEF under worst-case conditions for producing sound emissions must be provided. This study will be conducted by a firm chosen by the Planning Board and paid for by the Owner/operator.

3. The qualifications of the firm should be presented along with details of the procedure that will be used, software applications, and any limitations to the software or prediction methods as required elsewhere in this ordinance for models. The firm chosen by the Planning Board shall provide all of the following:

a. Provide the manufacturer's sound power level (L_{Aw}) and (L_{Cw}) characteristics for the proposed IWEF operating at full load utilizing the methodology in IEC 61400-11 Wind Turbine Noise Standard, and

b. Provide one-third octave band sound power level information from 6.3 Hz to 10k Hz, and

c. Furnish the data using no frequency weighting. A-weighted data is optional, and

d. Provide sound pressure levels predicted for the IWEF in combination and at full operation and at maximum sound power output for all areas where the predictions indicate LA_{eq} levels of 30 dBA and above, and

e. Use the same area for reporting the predicted LC_{eq} levels, and

f. Furnish Contour lines in increments of 5 dB, and

g. Present tables with the predicted sound levels for the proposed IWEF as LA_{eq} and LC_{eq} and at all octave band centers (8 Hz to 10k Hz) for distances of 500, 1000, 1500, 2000, 2500 and 5000 feet from the center of the area with the highest density of IWTs, and

h. For projects with multiple IWEFs, the combined sound level impact for all IWEFs operating at full load must be estimated, and

i. The above tables must include the impact (increased dBA and dBC (L_{eq}) above baseline L₉₀ background sound levels) of the IWEF operations on all residential and other noise sensitive receiving locations within the IWEF boundary line. To the extent possible, the tables should include the sites tested (or likely to be tested) in the background study, and

j. Provide a contour map of the expected sound level from the new IWEF, using 5dB LA_{eq} and LC_{eq} increments created by the proposed IWEF extending out to a distance of two (2) miles from the IWEF boundary line, or other distance necessary, to show the 25 LA_{eq} and 50 LC_{eq} boundaries, and

k. Provide a description of the impact of the proposed sound from the IWEF project on the existing environment. The results should anticipate the receptor sites that will be most negatively impacted

by the IWEF project and to the extent possible provide data for each MP that are likely to be selected in the background sound study (note the sensitive receptor MPs):

Written Reports Provided by the Testing Firm – Requirements

1. Report expected changes to existing sound levels for LAeq and LA90.
2. Report expected changes to existing sound levels for LCeq and LC90.
3. Report the expected changes to existing sound pressure levels for each of the 1/1 or 1/3 octave bands in tabular form from 8 Hz to 10k Hz.
4. Report all assumptions made in arriving at the estimate of impact, any limitations that might cause the sound levels to exceed the values of the estimate, and any conclusions reached regarding the potential effects on people living near the project area. If the effects of coherence, worst case weather, or operating conditions are not reflected in the model a discussion of how these factors could increase the predicted values is required.
5. Include an estimate of the number of hours of operation expected from the proposed IWEF and under what conditions the IWEF would be expected to run. Any differences from the information filed with the Application shall be addressed.

Post-Construction Measurements -- Requirements

1. Post Construction Measurements shall be conducted by a qualified noise consultant selected by and under the direction of the Planning Board, and paid for by the owner/operator. All of the requirements of this Ordinance for Sites with Existing IWEFs shall apply to such testing.
2. Within twelve months of the date when the initial operational license is granted, preferably within two weeks of the anniversary date of the pre-construction background sound measurements, the measurements shall be repeated. Post-construction sound level measurements shall be taken both with all IWTs running and with all IWTs off except as provided in this Ordinance.
3. Post-construction measurements shall be reported to the Planning Board using the same format as used for the background sound study.

Wind Turbine Siting Acoustical Measurements - Requirements

1. For the purposes of this ordinance, specific options provided in ANSI S12.9-Part 3 (2008) Selected Options and Requirement Amendments shall apply along with all of the additional following requirements to Sections in ANSI S12.9/Part 3:
 - a. background sound: Use definition (1) 'long-term', and
 - b. long-term background sound: The L90 excludes short term background sounds, and
 - c. basic measurement period: Ten (10) minutes L90(10 min)

Sound Regulations Compliance

1. An IWEF shall be considered in violation of an existing Operational License, or unqualified for the initial operational license, or unqualified for a renewal of the operational license, unless the applicant demonstrates that the IWEF complies with all sound level limits using the procedures specified in this ordinance. Any sound level found to be in excess of the limits established in this ordinance shall be grounds for the Planning Board to order the immediate shut down of the entire IWEF, even if only one IWT of two or more in a particular IWEF is considered by the Planning Board to be emitting excess noise. A violation occurs when:

- a. Audible Noise: the limit of 35 dBA is exceeded by 1.1 or more dBA, or
- b. Inaudible Noise: the dBC limit is exceeded by 1.1 or more dBC

2. (The requirement above that a violation of this Ordinance only occurs when the dBA or dBC limit is exceeded by 1.1 or more takes into account the usual machine error margin of 1.0 or less of the measurement device.)

Complaint Resolution

1. If a Complaint is made, the presumption shall be that it is reasonable. The Planning Board shall undertake an investigation of the alleged operational violation by hiring a Qualified Independent Acoustical Consultant of its own choice and paid for by the owner/operator.

a. Costs and fees incurred by the Planning Board in retaining such qualified individuals shall be reimbursed by the owner/operator.

b. After the investigation, if the Planning Board concludes, based on the advice of its expert(s), that operational violations have occurred and have not been completely corrected, the owner/operator/owner shall then make every possible effort, at its own expense, to eliminate all such problems. If the problems are not completely eliminated by the owner/operator, the Planning Board shall, on a case-by-case basis, with the advice of its qualified consultant, take appropriate action to eliminate the problems. Such actions include, but are not limited to, ordering the entire IWEF to be shut down or ordering such measures as not allowing the IWEF to operate during the nighttime or other noise sensitive period if such operation was the cause of the complaints.

c. ensure immediate, automatic shutdown of IWTs in the event of any catastrophic event, including but not limited to: fire, tower collapse, blade throw, ice throw, lightning strike, injury to maintenance or other personnel or to visitors or passersby, terrorism or vandalism, and

d. ensures that the quietest and most reliable types of IWTs are required.

2. The owner/operator of the IWEF shall respond in writing to the Planning Board within five (5) business days after receiving notice of a noise complaint by any property owner in Sumner or in an adjacent town. The affected property owner shall also provide a copy of the complaint to the Planning Board.

3. The tests shall be performed by a qualified independent acoustical consultant acceptable to the complainant and the Planning Board, and paid for by the owner/operator.

4. Testing shall commence within thirty (30) working days of the request. If testing cannot be initiated within that period, the Planning Board may order the IWEF in question to be immediately shut down, or order other appropriate measures until the testing can be started.

5. A copy of the test results shall be sent to the property owner, the owner/operator and the Planning Board within thirty (30) days of test completion.
6. After the investigation, if the Planning Board concludes, based on the advice of its noise expert(s), that operational violations have occurred and have not been completely corrected, the owner/operator shall make every possible effort, at its own expense, to eliminate all such problems. The Planning Board shall order an immediate Emergency Shutdown of the IWEF if the owner/operator has not eliminated all such problems within a thirty-day repair period commencing on the date the owner/operator receives notice from the Planning Board that the cited operational problems have not been eliminated.

Complaints “Noise”

General Statement

The following specific protocol shall apply to Noise Complaints

1. When testing for IWEF noise compliance, all measurements at the test location must be at the pre-IWEF background noise measurement location nearest to the home of the complainant and in a direct line of sight with the IWEF. 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.
 - a. Conditions -- All requirements in ANSI S12.18 Method #2, Precision, must be met to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S12.18 may not be applicable for some complaint tests. For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.
 - b. Sound Measuring Instrument: Type 1 Integrating Meter meeting ANSI S1.43 or IEC 61672-1.
2. The sound level meter shall cover the frequency range from 6.3 Hz to 20k Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low-level background sounds down to 20 dBA.
3. The appropriate Windscreen is required.
4. An anemometer accurate to $\pm 10\%$ at 2m/s. to full scale accuracy. The anemometer shall be located 1.5 to 2m above the ground and orientated to record maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within 5 m. of the measuring microphone.
5. Long-term background sound shall be measured.
6. Data collection Methods: Method with observed samples to avoid contamination by short term sounds (purpose: to avoid loss of statistical data)
7. Source(s) Data Collection: All requirements in ANSI S12.18 Method #2 precision shall be met to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S12.18 may not be applicable for some complaints. For sound measurements in response to a complaint, the compliance sound measurements shall be made under conditions that rep-

licate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.

8. Measuring microphone with windscreen shall be located 1.2m to 1.8m (1.5m preferred) above the ground and greater than 8m from large sound reflecting surface.

9. All meteorological observations required at both (not either) microphone and nearest 10m weather reporting station.

10. For a 10 minute background sound measurement to be valid the wind velocity shall be less than 2m/s (4.5 mph) measured less than 5m from the microphone. Compliance sound measurements shall be taken when winds shall be less than 4m/s at the microphone.

11. In addition to the required acoustic calibration checks, all of the following are required:

a. the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series of ten minute measurements and no less frequently than once per day, and

b. Insert the microphone into the acoustic calibrator with the calibrator signal off, and

c. Record the observed dBA and dBC reading on the sound level meter to determine an approximation of the instrument self-noise, and

d. Perform this test before leaving the background measurement location. This calibrator-covered microphone must demonstrate the results of this test are at least 5 dB below the immediately previous ten-minute acoustic test results, for the acoustic background data to be valid -- this test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise, and

e. As a precaution sound measuring instrumentation should be removed from any air-conditioned space at least an hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self-noise and void the measured background data.

12. For noise complaints after the IWTs are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner and the Planning Board. If requested by the property owner, the Planning Board shall order continuous measurements to be taken for longer periods of time to capture intermittent nuisance noise patterns.

APPENDIX C

Environmental Scenic Vistas

" Scenic Vistas identified in the Town of Sumner Comprehensive plan include "Route 219 which travels through the center of Sumner, east and west, is listed as a scenic route. Upper Sumner Hill Road offers scenic views of the Presidential Range in New Hampshire, Black Mountain, and East Sumner Village. Morrill Farm Road, Heath Hill Road, and Tuell Hill Road also offer pleasant views (Sumner Comprehensive 2006: pg. 12)." Scenic vistas are also found on, but are not limited to: the Bradeen Road, Labrador Pond Road, Valley Road, Fields Hill Road and Redding Road, as well as, from many private residences and hill tops located within the Town of Sumner.

In keeping with the Town Goal "To highlight and conserve the historic and archaeological resources

of Sumner, and identify how best to manage change so that the valued characteristics of the town's inheritance from the past are preserved and enhanced (Sumner Comprehensive 2006: pg. 15)." Historic and Archaeological Special

Resources consist of, but are not limited to: "houses, churches, cemeteries, farms, grange halls, mill sites, and two or three intact villages, all of which contribute to the rural New England character of the town (Sumner Comprehensive 2006:pg. 15)."

If an IWEF is proposed for a site that is visible from a Scenic or Special Resource as defined by the State of Maine or by the Sumner Comprehensive Plan, the applicant shall provide the Planning Board with a Visual Impact Assessment and submit photos and maps from various points in Sumner (which the Planning Board will decide) that addresses the evaluation criteria set forth in the Department of Conservation Standards, Chapter 3, 04-056 dated April 4, 2010.

Except as otherwise provided in this subsection, if an IWEF is proposed for a location in, or is visible from, a Scenic or Special Resource, the Applicant shall provide the Planning Board with a visual impact assessment that addresses the evaluation criteria in subsection in this Ordinance.

There is a rebuttable presumption that a visual impact assessment is not required for those portions of a IWEF that are located more than 5 miles, measured horizontally, from a Scenic or Special Resource. The Planning Board will require a visual impact assessment for portions of the IWEF located more than 5 miles and up to 10 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic or Special Resource. Any interested Person must submit information intended to rebut the presumption to the Planning Board within 60 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

The Planning Board shall determine, based on consideration of the evaluation criteria in this Ordinance, Whether the IWEF significantly compromises views from or of a Scenic or Special Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic or Special Resource.

In making its determination whether an Applicant for an IWEF located more than 3 miles from a Scenic Resource must provide a visual impact assessment the Planning Board shall consider:

- a. The significance of the potentially affected Scenic or Special Resource;
- b. The existing character of the surrounding area;
- c. the expectations of the typical viewer;
- d. The IWEF Project's purpose and the context of the proposed activity;
- e. The extent, nature and duration of potentially affected public uses of the Scenic or Special Resource and the potential effect on the public's continued use and enjoyment of the Scenic or Special Resource; and
- f. The scope and scale of the potential effect of views of the IWEF on the Scenic or Special Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic or Special Resource, the distance from the Scenic or Special Resource and the effect of prominent features of the IWEF Project on the landscape.

g. An archaeological assessment of the project area will be conducted to determine if the potential for intact archaeological resources is present. If a Maine Historic Preservation Commission approved archaeological consultant determines that there is the potential for intact archaeological resources within the project area, an archaeological survey will be completed prior to the approval of the permit by the planning board.

APPENDIX D

General Construction Standards

All IWEFs shall comply with the appropriate Standards of this Ordinance. No IWEF shall cause unreasonable health or safety conditions.

Building Codes

All components of the IWEF shall conform to local, state and national building codes.

Electrical Components and Interconnections

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

Controls and Brakes

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

Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 100 feet as measured at the lowest arc of the blades.

Signal Interference

IWEFs will be designed and sited to prevent the disruption or loss of radio, telephone, television, or similar signals.

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.

All Wind Turbines shall be constructed in compliance with Good Utility Practice for IWEF. 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 of Sumner Planning Board describing the reason for the delay and the time frame for the cure to be put in place.

Electrical Design Standard

On-site power and transmission lines shall be placed underground to a depth consistent with current Good Utility Practice. Wind Turbines shall be engineered according to current 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.

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 Sumner due to the IWEF. 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.

General Performance Standards

Repairs and Maintenance

The Owner/operator shall be required to repair and replace the IWEF and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

Warning Signs

Clearly visible warning signs concerning voltage must be placed and maintained at the gate entrance of the Industrial Wind Energy Facility and base of all pad-mounted transformers and substations. Warning signs must also be placed at the base of each turbine.

Fire Prevention & Emergency Response Standards

Fire Prevention and Emergency Response Plan and Requirements

An Application for an Industrial Wind Energy Facility Site Permit shall include a fire prevention and emergency response plan in consultation with the Town of Sumner Fire department containing the information and meeting the requirements in the Fire Prevention & Emergency Response Appendix. This plan shall address all activities at the Industrial Wind Energy Facility from the start of construction through the end of power generation and the final removal and restoration of the site.

The Owner/operator shall ensure that the Industrial Wind Energy Facility complies with the following control and prevention measures and assumes responsibility for all associated costs:

1. The plan shall describe the potential fire, rescue and hazardous materials scenarios that may require a response from fire, emergency medical services, HAZMAT response, police or other any other emergency responding agencies.
2. The plan will designate the specific agencies that would respond to potential fire and/or all other emergencies.
3. It will describe all emergency response training and equipment needed to respond to a fire or other emergency.
4. It must include an assessment of the training and equipment available to the designated agencies.
5. The study shall be conducted at Applicant's expense and the Applicant shall pay for the cost of any/all training or equipment required by local fire and emergency responders.
6. Provision for any additional firefighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the Industrial Wind Energy Facility that is beyond the current capabilities and duties of the local fire department.
7. All Wind Turbines shall be equipped with an appropriate fire detection (which is immediately signaled to OCES-Oxford County Emergency Services) and suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address any issue of fire safety to the satisfaction of the Planning Board.
8. The applicant will provide the Planning Board with a detailed list of all oil and chemicals which may be used during any construction and/or operation of wind turbines.
9. Use of fireproof or fire resistant building materials and buffers or fire retardant landscaping around all wind turbines as appropriate.
10. 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.

Access to the Industrial Wind Facility and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles.

APPENDIX E

BLASTING

Furthermore, the Applicant must execute this plan, and will bear the sole responsibility for the associated costs. Blasting shall be performed only after approval has been given to the Applicant for such operations and must comply with the following provisions set forth by the State of Maine Statute Title 38, Chapter 3, Subchapter 1, Article 8-A, § 490-Z(14).

1. The Owner/Operator or their contractor and/or subcontractor shall use sufficient stemming, matting or natural protective cover to prevent fly rock from leaving property owned or under control of the Applicant or from entering protected natural resources or natural buffer strips. Crushed rock or other suitable material must be used for stemming when available; native gravel, drill cuttings or other material may be used for stemming only if no other suitable material is available.
2. The maximum allowable air blast at any inhabited building not owned or controlled by the Applicant may not exceed 129 decibels peak when measured by an instrument having a flat response (± 3 decibels) over the range of 5 to 200 hertz.
3. The maximum allowable air blast at an uninhabited building not owned or controlled by the Applicant may not exceed 140 decibels peak when measured by an instrument having a flat response ± 3 decibels) over the range of 5 to 200 hertz.
4. Monitoring of air blast levels is required in all cases for which a pre-blast survey is required. The contractor may file a permit modification requesting a waiver of the monitoring requirement if the contractor and/or subcontractor secure the permission of abutting property owners to increase allowable air blast levels on their property and the Planning Board determines that no protected natural resources will be adversely affected by the increased air blast levels. The cost to prepare the permit modification and the effect of project delay while the Planning Board reviews the request shall be borne solely by the contractor and/or their subcontractor.
5. If a blast is to be initiated by detonating cord, the detonating cord must be covered by crushed rock or other suitable cover to reduce noise and concussion effects.
6. A pre-blast survey is required and must extend a minimum of three miles from the blast site. The information gathered by the survey must be satisfactory to the Planning Board and include photos, videos, diagrams and written reports for each property. Pre-blast surveys should include both the interior and exterior of each structure. The pre-blast survey must document any pre-existing damage to structures and buildings and any other physical features within the three mile survey radius that could reasonably be affected by blasting.

Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems may be limited to surface conditions and other readily available data, such as well yield and water quality. The pre-blast survey must be conducted 2-4 months prior to the initiation of blasting. The contractor and/or subcontractor shall retain a copy of all pre-blast surveys for at least six years from the date of the last blast on the development site. A copy of the pre-blast survey will also be provided to the Planning Board of the Town of Sumner and each home/property owner.
7. Notification that blasting will occur must be provided to all owners of structures to be surveyed 30, days prior to commencement of blasting. The results of the pre-blast survey must be provided to the property owner no later than the date on which this notification is given.
8. The contractor or the subcontractor is not required to conduct a pre-blast survey on properties for which the Applicant or operator documents the rejection of an offer by registered letter, return receipt requested, to conduct a pre-blast survey. Any person owning a building within a two mile pre-blast survey radius may voluntarily waive the right to a survey.
9. Blasting timeframes shall be coordinated with the local emergency responders, or as otherwise restricted by the local Fire Department. Blasting shall not occur between the hours of 7:00 p.m. and 7:00 a.m. No blasting shall be done on weekends or holidays.
10. Sound from blasting may not exceed the following limits at any protected location as defined in the MDEP Regulations, 06-096 C.M.R. Ch. 400, § 1:

Number of Blasts Per Day	Sound Level Limit
1	129 dB
2	126
3	124
4 or more	123

Communications and Electromagnetic Interference Standards

1. The IWT 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.
2. The Owner/operator of the IWEF shall respond within 24 hours to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within 48 hours of the request. The Owner/operator is responsible for mitigating within 48 hours from the determination of interference attributed to the operation of the Wind Turbine.
3. The Owner/operator of the IWEF shall respond within 48 hours to any request for communications interference investigation by a property owner or resident within a three-mile radius, measured horizontally, of the IWEF. Testing will commence within 72 hours of the request. The owner/operator is responsible for mitigating within five business days from the determination of interference attributed to the operation of IWEF.

Risk Assessment for Road and Property Use

1. An application for an IWEF Site Permit shall include a road and property use and risk assessment plan. Containing the following information and meeting the following requirements.
 - A. 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 Industrial Wind Energy Facility, including a description of how and when such ways and property will be used or affected.

The Town of Sumner may bond the road(s) in compliance within the State of Maine regulations.
 - B. 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 of Sumner.
 - C. A complete assessment of the proposed use of public ways in the Town in connection with the construction of the Industrial Wind Energy Facility, 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.

D. A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the Industrial Wind Energy Facility.

E. 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 IWEF.

2. The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a qualified third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The qualified third party engineer shall document all road conditions prior to the construction and again thirty (30) days after the construction is complete. 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 IWEF.

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.

4. The Applicant shall be responsible for paying for any damage to any public way with a pre-funded surety- bond. The Underwriters will evaluate the likelihood of risk and set a price. 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 obligations 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.

Emergency Shutdown Plan and Requirements

The Applicant will immediately cease operations and shutdown all wind turbines for the duration of any emergency. **"Emergency"** means any condition or situation caused or aggravated by a wind energy facility that presents a potential threat of physical danger to life or property. Emergency events shall include but are not limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, property damage or contamination, unauthorized entry into a tower base, extreme ice conditions, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, injury caused by the Industrial Wind Energy Facility, and/or any other event that affects the public health and safety of the Town of Sumner or its residents. An IWEF 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 IWT's to verify conditions and/or repair progress.

The applicant shall immediately notify the Town of Sumner Volunteer Fire Department, the Town of Sumner Select Board, Planning Board and the Town of Sumner EMA director of any emergency condition. The Owner/operator shall notify the Town of the occurrence and proposed remedial action.

The Town of Sumner shall be free from any and all costs or losses related to the shut-down or decrease in operations at the request of the Planning Board.

APPENDIX F

Financial Performance Standards

The Applicant must demonstrate that the IWEF is financially viable and that the Owner/operator has the financial ability to complete the project

DECOMMISSIONING

FUNDING GUARANTEE:

No aspect of Industrial Wind Energy Facility (IWEF) construction shall begin prior to: Planning Board approval of a detailed decommissioning plan by the Owner/Operator and,

An independent certified Professional Engineer, approved by the Planning Board, will be retained and paid by the Owner/Operator to do an initial estimate to set the Funding Guarantee level.

At the end of the first year of operations and every other year thereafter, a Professional Engineer, again approved by the Planning Board and retained and paid for by the Owner/Operator, will provide updated estimates of decommissioning costs.

The Planning Board shall re-underwrite the financial institution providing the Funding Guarantee coincident with each Professional Engineer revaluation. Within 30 days of receiving updated numbers the Owner/Operator must make any necessary adjustments to keep the Funding Guarantee at 100%.

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.

USEFUL LIFE: The Owner/Operator shall, at its own expense, decommission the IWC at the end of the useful life of the IWF.

The "end of useful life" is defined as: 30 days after the Owner/Operator decides to cease generating electricity at the IWF. Note: This decision must be communicated in writing to the Planning Board within 24 hours and documented with a copy of the Owner/Operator Board of Director's meeting minutes.

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 Owner/Operator 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. 180 days after the IWF has stopped generating electricity for any reason, including the Owner/Operator inability to have the units adequately serviced for safe operation.

Upon the Owner/Operator not restoring the Funding Guarantee to 100%. The Planning Board may consider alternative timelines based on a written request stating the reasons for such a change from the Owner/Operator.

If the applicant provides written evidence of plans for continued beneficial use of these components of the IWEF, and this evidence is approved by the Planning Board, a waiver to this provision may be issued.

FAILURE TO PERFORM: If the Owner/Operator 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.

RELEASE OF FUNDING GUARANTEE: The Planning Board shall release the Escrow Account or return the Performance Bond to the Owner/Operator upon the Planning Board accepting the decommissioning initiative as complete per the decommissioning plan, and as certified to be free of any environmental issues per III. b) above.

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 IWEF's.

APPENDIX G

PROPERTY VALUE GUARANTEE AGREEMENT

PROPERTY VALUE GUARANTEE AGREEMENT

This Property Value Guarantee Agreement ("Agreement") made and entered into on this ___ day of _____, by and between (Insert Developer Corp. Name) _____, having its principal offices at _____ ("Guarantor") and _____, residing at (Insert address) _____, ME (zip) _____, ("Property Owners").

RECITALS

WHEREAS, Property Owners own eligible Property as described herein ("Property") that Property having the legal description as follows:

 _____.

WHEREAS, Guarantor has been granted approvals by the Town of Sumner, for the construction and operation of an Industrial Wind Energy Facility consisting of up to # _____ turbines on properties located in the Town of Sumner, Oxford County, ME.

WHEREAS, Guarantor desires to alleviate concerns and guarantee preservation of Property values of all Property located in proximity to the Industrial Wind Energy Facility, specifically within two and one-half (2 ½) miles of any wind turbine (measured from the base of each turbine to the Property); and

WHEREAS, Guarantor desires to provide for either continued occupancy of existing residences by Property Owners or otherwise not financially impacting neighboring Property Owners as a result of the Industrial Wind Energy Facility project; and WHEREAS Property Owners are desirous of preserving equity in the Property, by ensuring that if the Property described herein is either diminished in value or sold at a price less than the ASKING PRICE as a result of proximity to the Industrial Wind Energy Facility, as determined by the procedures contained herein, the Guarantor will guarantee payment to the Property Owners of such difference; or if Property owner is unable to sell the Property following a reasonable marketing period, as defined herein, the Guarantor will guarantee payment to the Property Owners of the full Appraised value and purchase the Property, as defined herein.

WHEREFORE, GUARANTOR AND PROPERTY OWNER(S) HEREBY AGREE AS FOLLOWS:

1. EFFECTIVE DATE OF AGREEMENT

This Agreement shall become effective and binding upon Guarantor when signed by both parties. Notwithstanding the foregoing, if an administrative agency or court of competent jurisdiction rules or holds that the approvals or permits issued by the Town of Sumner for the Industrial Wind Energy Facility has been in excess of or in violation of said governmental body's authority or otherwise unlawful, and Guarantor has not constructed any of the wind turbines, then Guarantor's obligations under this Agreement shall be null and void. However, the construction of any or all of the proposed turbines shall render this agreement in full force and effect, and constitute the requirement of the Guarantor to fulfill all obligations to the Property owner, as defined herein.

2. ELIGIBILITY: EXERCISE OF GUARANTEE

(a) Property that is within two and one-half (2 1/2) miles of the base of a turbine blade that is part of the Industrial Wind Energy Facility is covered by this guarantee, to the extent the property is developed or approved for development by the Town of Sumner Industrial Wind Ordinance. Owners of such Property, who were the owners of record as of the effective date of the Sumner Industrial Wind Ordinance, or their legitimate heirs or assigns as described in Paragraph 14, are eligible to exercise this guarantee. In the event that the Property Owners wish to sell their eligible Property, and exercise the guarantee set out in this Agreement, they shall notify Guarantor of same in writing by certified mail and thereafter they shall make a good faith effort to sell said Property by entering into a listing contract with a licensed real estate broker pursuant to the terms herein.

(b) Property Owners shall have a period of ten (10) years to invoke the terms of this agreement from the Ordinance date cited in paragraph 2.

3. QUALIFIED PROFESSIONAL APPRAISER

For the purposes of this Agreement, a “qualified professional appraiser” shall mean a person who is licensed by the State of Maine as a Certified General Appraiser or Licensed Residential Appraiser who:

(a) holds a valid Maine license,

(b) has not been subject to any suspension or revocation of their license for any prior disciplinary action regarding their State of Maine Real Estate Appraiser License by the State of Maine Office of Professional and Occupational Regulation and the State of Maine Board of Real Estate Appraisers or from any professional association to which an Appraiser is a member or affiliated with, and

(c) has not been previously retained by either the Industrial Wind Energy Facility or any Citizen or Citizen’s group to note in writing or in testimony as to wind energy projects effects on property values, hereafter deemed a “Qualified Professional Appraiser”

(d) is not related to the Property Owners, is not an employee or prior contractor of Guarantor or its affiliates and does not otherwise have a business relationship with Guarantor or Property Owners, and

(e) who is a member of at least one national appraisal association that subscribes to the requirements of USPAP,

(f) has a minimum of 5 years’ experience in appraising and has worked within Oxford County and/or any surrounding Counties during that period.

(g) All appraisal reports shall conform to the Uniform Standards of Professional Appraisal Practice (USPAP), as required by law.

(h) The appraisal fee shall be paid in advance by the Guarantor to the Town of Sumner, for retention of the Appraiser by the Town of Sumner Treasurer, who shall choose an Appraiser and will include a copy of this agreement to the Appraiser with the required fee, in addition a letter of retention advising the Appraiser that the Town of Sumner, as a neutral party, is retaining the Appraiser and they are instructed to be independent of any influence from either party to this agreement. Guarantor agrees to reimburse the Town of Sumner for any services required of the Town, its Officials or of the Appraiser subsequent to delivery of the Appraisal Report, including but not limited to time expended responding to subpoena for testimony at deposition or trial.

4. AGREED TO ASKING PRICE

The ASKING PRICE is the value of the Property at the time the Property Owner decides to sell, with Property Owner discretion to either increase or decrease the asking price by no more than 5% difference with the Appraised Value. The ASKING PRICE of the Property may, however, be mutually agreed to by the Property Owners and the Guarantor. The ASKING PRICE may be mutually amended by agreement of the Property Owners and Guarantor at any time, subject to agreement.

5. DETERMINATION OF ASKING PRICE BY APPRAISAL

If the parties are unable to agree on the ASKING PRICE of the Property prior to the Property Owner listing the Property for sale, then the Guarantor shall hire, at its expense, a second Appraiser and shall notify Property Owner of such Appraiser in writing with a resume or qualification summary for the Appraiser for review by the Property Owner. If the Property Owner objects to the Guarantor's choice of appraisers, it shall state those objections to Guarantor in writing within thirty (30) days of the notification of the choice of Appraiser. In the event Property Owner reasonably objects, the Guarantor shall choose another Appraiser, and proceed as described below. When a qualified professional appraiser is hired pursuant to this Paragraph 5, he or she shall be instructed to determine the market value which will become the ASKING PRICE, subject to Property Owner 5% discretion, of the Property as follows:

- a. Assume that no Industrial Wind Energy Facilities are located within two and one-half (2 ½) miles of the Property;
- b. Utilize comparable sale data of property, developed as the Property was developed as of the Ordinance Date and located a minimum of two and one-half (2 ½) miles distance away from the Industrial Wind Energy Facility, or further so that in the opinion of the appraiser the selling price of that comparable property was not influenced by the presence of the Industrial Wind Energy Facility or any other Industrial Wind Energy Facility project;
- c. Utilize a minimum of three (3) comparable sale properties, located approximately the same distance from major population centers (such as Lewiston/Auburn or Norway/Paris) so that in the opinion of the appraiser the selling price of the comparable property was not influenced by its closer or more distant proximity to new or existing population or employment centers.
- d. Establish the Fair Market Value which is based upon the Property as developed on the Appraisal inspection date, with consideration of any normal or typical maintenance, repairs or additions made during the effective term of this agreement;
- e. Prepare a written narrative appraisal or residential form report supplemented as needed with written descriptions, analysis or comments, and which conforms to the requirements of USPAP:

f. Prepare the appraisal in full compliance with any and all state standards and state regulations which pertain to the preparation of an appraisal of the Property except those standards and regulations which conflict with these instructions; and

g. The appraiser shall note the condition of the premises, both interior and exterior, at the time of the appraisal.

If Property Owner and Guarantor accept the appraised value, then such value shall constitute the ASKING PRICE, and the Property Owners shall offer the above-described Property for sale at no less or more than a 5% difference with that price. If either the Property Owner or the Guarantor does not accept the appraised value, the non-accepting party may retain a second qualified professional Appraiser, of its choice, who shall not be made aware of the first appraised value and who shall determine the market value of the above-described Property on the basis of Paragraph 5(a) through (g) above.

If both parties do not accept the original appraisal, they shall agree to the second qualified professional Appraiser and Guarantor shall pay the costs. In the event a second Appraisal is obtained pursuant to this paragraph and is within ten percent (10%) of the first Appraisal, the ASKING PRICE shall be the arithmetic average of the original appraised value and the second appraised value, unless the Guarantor or the Property Owner is unsatisfied with such Appraisal with specific reason(s) given in writing for disagreement with the Appraised value. In such event, the first two appraisers shall be instructed to agree on a third qualified professional Appraiser, at the sole expense of the Guarantor or the Property Owner, whichever is unsatisfied, unless both parties are unsatisfied in which case the expense shall be equally shared, and who

shall not be made aware of either the first or second appraised values, or who shall determine the market value of the Property on the basis of Paragraph 5 (a) through (g) above. The ASKING PRICE will then be the arithmetic average of the three appraised values if the lowest value is no more than fifteen percent (15%) lower than the highest appraised value. If the fifteen percent (15%) range is exceeded, the third Appraisal shall conclusively determine the ASKING PRICE for the purpose of this Agreement.

6. LISTING WITH BROKER

Property Owners shall utilize the services of a real estate broker/agent who shall be licensed, who is not financially affiliated with or related to the Appraiser, shall not be immediately related to the Property Owners or Guarantor as determined by being related no closer than second cousins and/or any history of sharing the same residence, and shall be a member of the Board of Realtor's Multiple Listing Service or Exchange (Broker), unless these requirements are waived by the Guarantor upon the request of a Property Owner.

Property Owners shall give Guarantor notice of the Broker with whom they wish to contract and shall obtain Guarantor's approval of said Broker within five (5) business days of written notice to Guarantor that Broker meets the no-relation requirement. Guarantor will not unreasonably withhold such approval and will confirm no relationship with Broker to the Property Owner. If the Guarantor objects to the

Property Owners' choice of Broker, it shall state those objections, in writing to Property Owners. In the event Guarantor reasonably objects, the Property Owners shall choose another Broker, and proceed as described above.

As sellers of the Property, Property Owners shall be responsible for the Brokerage Commission or fee UNLESS the Property is purchased by Guarantor pursuant to Guarantor purchase of the Property after 180 days as provided for herein. Nothing herein shall prevent the Property Owner from selling the Property at a value higher than the ASKING PRICE as determined herein.

7. TERM OF LISTING

Property Owners shall list the Property, at the ASKING PRICE as determined in Paragraphs 4, 5 and 6, or at a higher value if agreed by Guarantor. During the listing term, Property Owners shall accept any offer to purchase for the ASKING PRICE that is a bona-fide offer to purchase by a qualified buyer with a valid loan commitment or buyer otherwise acceptable to the Guarantor, provided that normal mortgage contingencies have been met or satisfied by buyer or waived by Property Owner and any home inspection contingency has been satisfied or waived by Property Owner.

Said listing contract shall provide:

(a) that the Broker shall list the Property in the multiple listing exchange service;

(b) that the Property will be so listed until the occurrence of either the

(i) closed sale of the Property or

(ii) expiration of a period of 180 days;

(c) that the broker shall not be entitled to any commission after the expiration of the listing contract.

The Property Owners shall cooperate with the Broker in obtaining a purchaser pursuant to the terms set forth in the listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to the said terms. However, this shall not be construed as a requirement that Property Owner conceals their own experience with living in the Property, inclusive of any audible or inaudible noise effect emanating from the wind turbines.

8. OFFERS TO PURCHASE

Property Owners shall provide the Guarantor with written notification of every written contract or Offer to Purchase that they receive for the Property and agree, for a period of 180 days, not to accept any of-

fer below the ASKING PRICE without the express and written approval of the Guarantor, provided that Guarantor responds within twenty four (24) hours of Notice from Property Owner. In no event shall the Property Owners entertain anything other than good faith, bona fide offers of purchase.

9. GUARANTOR'S CONSENT TO PURCHASE

Guarantor shall have the right to make a non-contingent counter offer(s) on any offers of purchase which are more than 5% below the ASKING PRICE, said counter offer to be tendered to the purchaser within twenty four (24) hours of notification by the Property Owner of the offer of purchase. In the event the buyer accepts or meets any such counteroffer made or requested by the Guarantor, or in the event the Guarantor otherwise consents to a sale of the Property more than 5% below the ASKING PRICE, the Guarantor shall pay the Property Owners, at closing, the difference between the ASKING PRICE and the sale price so established.

10. SALE WITHOUT GUARANTOR CONSENT

If the Property Owners have not received an offer of purchase at the ASKING PRICE within 180 days of listing the Property for sale, or the Guarantor has not consented to the sale of the Property below the ASKING PRICE, the Property Owners may sell the Property at the highest offer of purchase still pending or at the next good faith bona fide offer to purchase. It shall notify the Guarantor, in writing, of its intention to accept such offer.

11. PROPERTY OWNER'S CLAIM

(a) If the Property has sold for less than the ASKING PRICE, as determined herein, and Property Owner believes that the reason for such lowered value is because of the Industrial Wind Energy Facility's proximity to the Property, Property Owner shall make a claim to the Guarantor, requesting payment for the difference between the ASKING PRICE and the sales price. Within thirty (30) days of such request, Guarantor shall pay the Property Owner the difference unless Guarantor, within that time, has demonstrated that the sale is not a bona-fide transaction.

(b) If the Property Owner has not received an offer of purchase at the ASKING PRICE after 180 days of listing the Property for sale, Guarantor shall, within thirty (30) days of notification in writing, purchase the Property for the ASKING PRICE, unless Guarantor, within that time, has demonstrated conclusively that Property Owner did not reasonably cooperate with the terms of a bona-fide sale contract.

(c) If the Property has not sold within 180 days of the Listing agreement, and Guarantor provides Multiple Listing Service statistics that demonstrate a median Marketing Time for all Oxford County and adjacent jurisdiction residential properties is in excess of 180 days, as of the original Listing date, then Guarantor has the option of notifying the Property Owner that they must extend the Listing or enter into a separate listing agreement with a new Broker for a period of 180 days. If the extended Listing option pursuant to paragraph 11(c) does not result in a bona-fide sale agreement within the second (2nd) 180

day Listing term, then Guarantor must abide by the terms of paragraph 11(b) and buy the Property for an increased price as determined by the Appraised Value plus the most recent Consumer Price Index (CPI) multiplied by 50%.

12. TERMINATION OF GUARANTOR'S OBLIGATIONS

This Agreement shall terminate and Guarantor shall have no obligation to guarantee the Property value or purchase price once any Industrial Wind Turbines located within two and one-half (2 1/2) miles of the Property are decommissioned and demolished and operations at the Industrial Wind Energy Facility have been permanently terminated as the result of any corporate decision, order, judgment, or decree issued by a federal, state, or local agency, court, or unit of government having jurisdiction under administrative code, statute, law, or ordinances.

13. PROPERTY OWNER OPTION AND ALTERNATIVE TO RELOCATION

In the event that any Property Owner elects to remain in their home and not relocate pursuant to the preceding terms and conditions of the Property Value Guarantee, Property Owners located in the footprint or within one (1) mile of the perimeter of the footprint shall notify Guarantor within 3 years of commencement of operations of the Industrial Wind Energy Facility Project that they are exercising their option under paragraph 13, and shall be compensated by the developer in a cash amount equal to 25% of the Appraised Value, as set forth in paragraph 5 of this agreement.

Property Owners located between one (1) mile and two (2) miles of said footprint perimeter shall have 2 years to exercise the paragraph 14 option, and compensation shall be equal to 5% of the Appraised Value, as set forth in paragraph 5 of this agreement.

Any exercise of the paragraph 13 Property Owner Option and payment to Property Owner by Guarantor shall constitute a full waiver and release of any future property value diminution claim or right to sell to the Guarantor as otherwise provided for in this agreement.

14. ASSIGNMENT OR TRANSFER

Neither this Agreement nor the rights under it may be assigned, conveyed, or otherwise transferred by Property Owners. The guarantee given by Guarantor to guarantee the Property value and to purchase the Property is personal, and does not run with the land; however, said Agreement shall inure to the benefit of the Property Owners, their personal representatives, trustees, guardians, custodians or their heirs; but, in all events, shall terminate after any closed sale of the Property.

15. APPLICATION OF LAW DISPUTES

This Agreement shall be construed consistent with law in the State of Maine. Disputes concerning the application or terms of this Agreement shall be subject to the circuit court jurisdiction of Oxford County.

16. SEVERABILITY

If any term or provision of this agreement is held to be invalid, void or otherwise unenforceable by any court or arbitration panel of competent jurisdiction, then the same shall not affect the validity or enforceability of any other term or provision hereof, the terms and provisions hereof being severable.

GUARANTOR:

By _____

Name Title Date

PROPERTY OWNERS:

By _____

Name Date

Sworn to and subscribed before me, a notary public, this ___ day of _____, 20

Notary Public

