

## Wind Energy Facility Ordinance for Denmark, Maine

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- 1.0 Title

This Ordinance shall be known as the Wind Energy Facility Ordinance for Denmark, Maine.
- 2.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of 30-A M.R.S. § 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. § 4312, *et seq.*
- 3.0 Purpose

The purpose of the Ordinance is to provide for the construction and operation of Wind Energy Facilities in Denmark, Maine, subject to reasonable conditions that will protect the public health, safety, and welfare.
- 4.0 Definitions

Applicant is the legal entity, including successors and assigns, that files an application under this Ordinance.

Approved Residential Subdivision means a residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Associated Facilities means elements of a Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

CEO. Code Enforcement Officer of the Town of Denmark.

Generating Facilities means Wind Turbines and electrical lines, not including Generator Lead Lines immediately associated with the Wind Turbines.

Historic Area means a Historic Site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation, with the exception of the Arnold Trail.

Locally-Designated Passive Recreation Area means any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of the Applicant's Wind Energy Facility permit application.

Meteorological Tower (MET Tower) means a Tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

Nacelle means the frame and housing at the top of the Tower that encloses the gearbox and generator.

Non-Participating Landowner means any landowner, other than a Participating Landowner whose land is located within Denmark, Maine.

Occupied Building means a residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

Participating Landowner means one or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right, title and interest in such property.

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

Planned Residence means a Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Protected Location means any location that is:

- 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Facility is submitted under this Ordinance;
- 2) within a State Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
- 3) a hotel, motel, campsite or duly licensed campground that the municipal authority responsible for review and approval of the pending application under 9.1 has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under section 13.1.3(b).

Residence means a building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

Scenic Resource means either a Scenic Resource of state or national significance, as defined in 35-A M.R.S § 3451(9) or a scenic resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

Sight Line Representation means a profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

Significant Wildlife Habitat means a Significant Wildlife Habitat as defined in 38 M.R.S. § 480-B(10).

Substantial Start means that construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a Tower on a foundation has begun.

Tower means the free-standing structure on which a wind measuring or energy conversion system is mounted.

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

Wind Energy Facility means a facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

Wind Energy Facility, Type 1A means a Wind Energy Facility having a maximum generating capacity of less than 10kW, a maximum of one Wind Turbine and a maximum Turbine Height of 80 feet.

Wind Energy Facility, Type 1B means a Wind Energy Facility having a maximum generating capacity of less than 20kW per turbine or, multiple Wind Turbines with a combined maximum capacity of less than 100kW per site, with a Turbine Height less than 100 feet.

Wind Energy Facility, Type 2 means a Wind Energy Facility having a maximum generating capacity of 100 kW or greater and which does not require a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.* **Type 2 Wind energy Facilities are not allowable under this ordinance.**

Wind Energy Facility, Type 3 means a Wind Energy Facility having a generating capacity of 100kW or greater and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.* **Type 3 Wind energy Facilities are not allowable under this ordinance**

Wind Turbine means a system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

## 5.0 Applicability

- 5.1 This Ordinance applies to any Wind Energy Facility proposed for construction in Denmark, Maine after the effective date of this Ordinance. This Ordinance does not apply to Associated Facilities unless the Generating Facilities are located within Denmark, Maine, in which case this Ordinance applies to both the Generating Facilities and the Associated Facilities.
- 5.1 A Wind Energy Facility that is the subject of an application determined to be complete by the Planning Board prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modifications after the effective date of the Ordinance shall be subject to the permitting requirements of Section 9.2.

## 6.0 Conflict and Severability

- 6.1 If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Denmark, Maine ordinance, the provision of this Ordinance shall apply.
- 6.2 The invalidity of any part of this Ordinance shall not invalidate any other part of this ordinance.

## 7.0 Effective Date

This Ordinance becomes effective on **January 1, 2017.**

## 8.0 Classification of Wind Energy Facilities

All Wind Energy Facilities shall be classified in accordance with Table 1 below:

**Table 1: Classification of Wind Energy Facilities and  
Corresponding Local Review and Approval Authority**

<b>Facility Type</b>	<b>Aggregate Capacity</b>	<b>Turbine Height</b>	<b>Max. # of Turbines</b>	<b>DEP Site Location Permit Required</b>	<b>Local Review and Approval</b>
1A	<10kW	≤ 80'	1	No	Code Enforcement Officer
1B	<20kW per turbine <100 kW per site	< 100'	NA	No	Planning Board
2	≥100 kW	NA	NA	Not Allowed	Not Allowed
3	≥ 100 kW	NA	NA	Not Allowed	Not Allowed

## 9.0 Administration

### 9.1 Review and Approval Authority

1. The Code Enforcement Officer is authorized to review all applications for Type 1A Wind Energy Facilities and MET Towers pursuant to section 11.0, and may approve, deny or approve such applications with conditions in accordance with the standards of the Ordinance.
2. The Planning Board is authorized to review all applications for Type 1B, Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with this Ordinance.
3. Type 2 and Type 3 Wind Energy Facilities are not allowable within the boundaries of the Town of Denmark.

### 9.2 Permit Required

1. No Wind Energy Facility shall be constructed or located within Denmark, Maine without a permit issued in accordance with this Ordinance.
2. Any physical modification to an existing Wind Energy Facility that materially alters the location or increases the area of development on the site or that increases the Turbine Height or the level of sound emissions of any Wind Turbine shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

### 9.3 Permit Applications

1. Application components. A Wind Energy Facility permit application shall consist of the application form, application fee, and supporting documents, as described below:
  - a. Application Forms. The municipality shall provide the application form which shall be signed by: 1) a Person with right, title and interest in the subject property or; 2) a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and 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 standards of this ordinance and all approval and permit conditions, if any.
  - b. Application Fees. Application fees shall be assessed and paid upon submission of the application in accordance with Appendix A of this Ordinance.
  - c. Supporting Documents. The application shall include all additional documents necessary to satisfy the applicable submission requirements under section 10 of this Ordinance.
2. Application Submission. The Applicant shall submit its application for a Wind Energy Facility permit to the Code Enforcement Officer who shall note on the application the date on which it was received.
3. Changes to a Pending Application
  - a. The Applicant shall promptly notify the municipal entity responsible for review and approval of a pending application under section 9.1 of any changes the Applicant proposes to make to information contained in the application.
  - b. If changes are proposed to a pending application after a public hearing has been held, the Planning Board may consider those changes and continue with the review and approval process without a renewed public hearing if it determines that the changes do not materially alter the application. If the Planning Board determines that the proposed changes do materially alter the application it shall schedule and conduct another public hearing within 30 days of that determination. In making its determination, the Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

### 9.4 Permit Application Procedures

1. Type 1A Wind Energy Facility Application
  - a. Within 10 days after receiving an application, the Code Enforcement Officer shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Code Enforcement Officer may waive any submission requirement if the Code Enforcement Officer issues a written finding

that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.

- b. Within 30 days after determining the application to be complete, the Code Enforcement Officer shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making the decision, the Code Enforcement Officer shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in sections 12 and 13.
- c. With the agreement of the applicant, the Code Enforcement Officer may extend the procedural time frames of this section.

## 2. Type 1B, Wind Energy Facility Applications

- a. The Applicant is strongly encouraged to meet with the Code Enforcement Officer before submitting an application. At this pre-application meeting, the Code Enforcement Officer will explain the Ordinance's provisions, application forms, and submission requirements. 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.
- b. An application shall be eligible for consideration at a regularly-scheduled meeting of the Planning Board only if the applicant submits it at least 14 days prior to the meeting.
- c. Within 35 days after receipt of the application by the Code Enforcement Officer, the Planning Board shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Planning Board may waive any submission requirement if it issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.
- d. The Planning Board shall hold a public hearing for a Type 1B Wind Energy Facility application. The Planning Board shall hold that hearing within 35 days after determining that application is complete.
- e. Within 60 days after determining that an application for a Type 1B Wind Energy Facility is complete the Planning Board shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making its decision, the Planning Board shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in sections 12, 13, and 14.
- f. With the agreement of the applicant, the Planning Board may extend the procedural time frames of this section.

**Table 2:**  
**Procedural Time Frames**

Facility Type	Application Completeness	Public Hearing	Final Decision
1A	≤10 days <sup>1</sup>	NA	<u>&lt;30 days</u> <sup>2</sup>
1B	≤35 days <sup>1</sup>	<u>&lt;35 days</u> <sup>2</sup>	≤60 days <sup>2</sup>

1 Days after receipt of the application by the Code Enforcement Officer

2 Days after the application is determined to be complete

9.5 Notice of Meetings

Ten days prior to any meeting at which an application for a Type 1B Wind Energy Facility is to be considered, the Planning Board shall send notice by first class mail, to the applicant and all owners of property abutting the property on which the Wind Energy Facility is proposed to be located. The notice shall state the date, time and place of the meeting and the proposed location and the classification of the proposed Wind Energy Facility.

9.6 Public Hearings

The Planning Board shall have notice of the date, time, and place of any public hearing and the proposed location and the classification of the proposed Wind Energy Facility:

1. Published at least once in a newspaper having general circulation within the municipality. The date of the first publication shall be at least 10 days before the hearing.
2. Mailed by first class mail to the Applicant and to owners of property within **1000** feet of the property on which the Wind Energy Facility is proposed to be located, at least 10 days before the public hearing. The Planning Board shall maintain a list of property owners to whom notice is mailed in the application file. Failure of any of these property owners to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

9.7 Professional Services

In reviewing the application for compliance with this Ordinance, the Planning Board may retain professional services, including but not limited to those of an attorney or consultant, to verify information presented by the Applicant. The attorney or consultant shall first estimate the reasonable cost of such review and the Applicant shall deposit, with the municipality, the full estimated cost, which the municipality shall place in an escrow account. The municipality shall pay the attorney or consultant from the escrow account and reimburse the Applicant if funds remain after payment.



## 9.8 Expiration of Permits

Permits shall expire: 1) two years after the date of approval unless a substantial start on construction has occurred and; 2) three years after the date of approval unless construction of the Wind Energy Facility has been completed.

## 9.9 Access

The Code Enforcement Officer shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents directly related to the design, construction and operation of the facility.

## 9.10 Enforcement

1. It shall be unlawful for any Person to violate or fail to comply with or take any action that is contrary to the terms of the Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or to cause another to violate or fail to comply or take any action which is contrary to the terms of the Ordinance or any permit under the Ordinance.
2. If the Code Enforcement Officer or other Person charged with enforcement of municipal laws determines that a violation of the Ordinance or the permit has occurred, the Code Enforcement Officer shall provide written notice to any Person alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Code Enforcement Officer and the alleged violator shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation and, with the consent of the alleged violator, may be extended.
3. If, after thirty (30) days from the date of notice of violation or further period as agreed to by the alleged violator, the Code Enforcement Officer determines, in the officer's reasonable discretion, that the parties have not resolved the alleged violation, the Code Enforcement Officer may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit, as outlined in the Zoning Ordinance of the Town of Denmark, Article 7.6 and 7.7

## 9.11 Appeals

Any Person aggrieved by a decision of the Code Enforcement Officer or the Planning Board under this Ordinance may appeal the decision to the Board of Appeals, as provided by Zoning Ordinance of the Town of Denmark, Article 7.8.

## 10.0 Application Submission Requirements

### 10.1 General Submission Requirements

1. A completed application form including:
  - a. The Applicant and Participating Landowner(s) name(s) and contact information.
  - b. The address, tax map number, zone and owner(s) of the proposed facility site and any contiguous parcels owned by Participating Landowners.
  - c. The tax map number, zone, current use, owner(s) and addresses of owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site (Not required for Type 1A applications)
  - d. An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Wind Energy Facility, if approved and built, shall be constructed and operated in accordance with the standards of this ordinance and all conditions of approval, if any
2. Receipt showing payment of application fee in accordance with Appendix A.
3. A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the proposed facility site.
4. Location map 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 Scenic Resource or Historic Site within 2500 feet of the proposed development.
5. Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, the Turbine Height and 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) and a description of Associated Facilities.
6. Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within 1500 feet of any Wind Turbine: 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 or cleared of vegetation.
  - a. In addition to the information in 6, above, site plans for Type 1B Wind Energy Facilities shall show 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.
7. For Type 1B Wind Energy Facilities, written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and that 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.

8. Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.
9. Description of emergency and normal shutdown procedures.
10. Photographs of existing conditions at the site.
11. An application for a Type 1A or 1B Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system: a) prepared by the Wind Turbine or Tower manufacturer, b) prepared in accordance with the manufacturer's specifications or, c) prepared and stamped by a Maine-licensed professional engineer.
12. An application for a Type 1A or Type 1B Wind Energy Facility shall include:
  - a. a written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under section 13.1.3 and acknowledges the Applicant's obligation to take remedial action in accordance with section 13.1.6 if the Code Enforcement Officer determines those standards are not being met or;
  - b. a written request for review under section 14.1 along with information required under Appendix B, subsection B (Submissions).
13. An Application for Type 1B, Wind Energy Facility shall include the following:
 

Sight Line Representations of each Wind Turbine from the nearest Occupied Buildings. Each Site Line Representation shall 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, shall be depicted on the drawing along with the sight line as altered by the screening. A current four-inch by six-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Site Line Representations.

## **11.0 Meteorological Towers (MET Towers)**

Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Type 1A or Type 1B Wind Energy Facility, as applicable, except that a height limitation of 100 feet shall apply. A permit for a MET Tower shall be valid for 2 years and 2 months from the date of issuance. The Code Enforcement Officer may grant one or more one-year extensions of this permit period. Within 30 days following removal of a MET Tower, the Applicant shall restore the site to its original condition to the extent practicable. The provisions of this section do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Facility applications.

## **12.0 General Standards**

### **12.1 Safety Setbacks**

Wind Turbines shall be set back a horizontal distance equivalent to 300% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed

Generating Facility except that the entity responsible for review and approval of the application may allow a reduced setback if the Applicant submits, in writing: 1) a waiver of the property boundary setback signed by the pertinent abutting landowner or; 2) evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise and experience with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate.

#### 12.2 Natural Resource Protection

A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the municipal entity responsible for review and approval of the permit application under section 9.1 shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

#### 12.3 Building Permit

All components of the Wind Energy Facility shall conform to relevant and applicable local and state building Code.

#### 12.4 Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation and a manual service disconnect within reach of the ground.

#### 12.5 Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national Code.

#### 12.6 Access

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

#### 12.7 Blade Clearance

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

#### 12.8 Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

#### 12.9 Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application under section 9.1, that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

#### 12.10 Erosion Control

Erosion of soil and sedimentation shall be minimized by employing “best management practices” in the *“Maine Erosion Control Handbook for Construction: Best Management Practices”*, March 2003.

#### 12.11 Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

#### 12.12 Visual Appearance

1. A Wind Turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.
2. A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.
3. A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

#### 12.13 Visibility of Wind Turbine

The following requirements apply, to the extent practicable, to Type 1B Wind Energy Facilities:

1. To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Buildings and Scenic Resources.
2. When existing features do not screen views of a Wind Turbine from Residences and Scenic Resources, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

### **13.0 Special Standards for Type 1A and Type 1B Wind Energy Facilities**

#### 13.1 Sound Levels

1. A new wind energy facility shall not exceed 35dBA for any continuous five (5) minute period as measured anywhere beyond the property boundaries of the wind energy facility’s owner/ operator or on the adjoining properties, including adjoining property lines and habitable structures, except during

short term (12 hours or less) weather events, even if mitigation waivers are in effect for these adjoining properties. This section is not subject to waiver.

2. A new wind energy facility shall emit no additional dBC (low level) sounds beyond the property boundaries of the wind energy facility's owner/ operator at any time.
  
3. The Applicant shall operate the proposed Wind Energy Facility in conformance with the sound level limits of section 13.1. If, based on post-installation measurements taken in accordance with section 13.1.1, the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with the Denmark, Maine Wind Energy Facility Ordinance and in consultation with the Code Enforcement Officer, take remedial action deemed necessary by the Code Enforcement Officer to ensure compliance with those limits. Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:
  - a. modification or limitation of operations during certain hours or wind conditions;
  - b. maintenance, repair, modification or replacement of equipment;
  - c. relocation of the Wind Turbine(s); and,
  - d. removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines that there is no practicable alternative.

### 13.2 Discontinued Use

1. A Type 1A or Type 1B Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the Applicant within 120 days of receipt of notice from the Code Enforcement Officer, unless the Applicant provides information that the Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Wind Energy Facility is not removed within this time period, the municipality may remove the turbine at the Applicant's expense. The Applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.
  
2. If a surety has been given to the municipality for removal of a Type 1B Wind Energy Facility, the Applicant may apply to the Planning Board for release of the surety when the Wind Energy Facility has been removed to the satisfaction of the Code Enforcement Officer.

## **APPENDIX A**

### **Application Fees**

Application fee for a Type 1A Wind Turbine is \$100.00

Application fee for a Type 1B Wind Turbine is \$150.00

Application for a Meteorological Tower (MET Tower) is \$150.00