

9/23/09 draft

## **Town of Camden**

### **Proposed Comprehensive Wind Energy Facility Ordinance**

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## 1.0 Title

This Ordinance shall be known as the Wind Energy Facility Ordinance for the Town of Camden.

## 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 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 MRS section 4312, et seq.

## 3.0 Purpose

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

## 4.0 Definitions

ANABAT detector means a system designed to help users identify and survey bats by detecting and analyzing their echolocation calls.

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

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.

Decibel means a logarithmic unit of measurement that expresses the magnitude of a physical quantity (usually power or intensity) relative to a specified or implied reference level. dBA means a decibel measurement using an A filter to approximate the human ear's response to sound.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. Section 3456 for a Wind Energy Development.

Generating Facilities means wind turbines and electrical lines, not including generator lead lines, that are immediately associated with the wind turbines.

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 the Town of Camden.

Occupied Building means a residence, school, hospital, church, 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.

Protected Location means any location, accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or 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; or any location within a State Park, National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Nature Conservancy, federally designated wilderness area, state wilderness area designated by statute, municipal park or locally designated by rule by the Bureau of Public Lands as a Protected Location.

Scenic Resource means either a resource of state or national significance, as defined in Title 35-A M.R.S.A. section 3451(9) or a 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.

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

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

Substantial Start means that construction shall be considered to be substantially commenced when any work beyond excavation has begun, 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.

Tower means the free-standing structure on which the 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 100kW, 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 100kW and either more than one wind turbine, or one or more wind turbines with a turbine height greater than 80 feet.

Wind Energy Facility, Type 2 means a wind energy facility having a generating capacity greater than 100 kW and which does not require a state Site Location of Development permit.

Wind Energy Facility, Type 3 means a wind energy facility having a generating capacity greater than 100kW and which requires a state Site Location of Development permit.

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

This Ordinance applies to any wind energy facility proposed for construction in the Town of Camden after the effective date of the Ordinance. This Ordinance does not apply to associated facilities unless generating facilities are located within the Town of Camden, in which case this Ordinance applies to both the generating facilities and Associated facilities.

## 6.0 Conflict and Severability

### 6.1 Conflicts

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 the Town of Camden ordinance, the provision of this Ordinance shall apply.

### 6.2 Severability

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 \_\_\_\_\_.

## 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

with

### Corresponding Local Review and Approval Authority

Facility Type	Aggregate Capacity	Turbine Height	Max. # of Turbines	DEP Site Location Permit Required	Local Review and Approval
1A	≤ 100 kW	≤ 80'	1	No	Code Enforcement Officer
1B	≤ 100 kW	> 80'	NA	No	Site Plan Review
2	> 100 kW	NA	NA	No <sup>1</sup>	Site Plan Review
3	> 100 kW	NA	NA	Yes <sup>2</sup>	Site Plan Review

<sup>1</sup> Per Title 35-A MRS section 3456. DEP Certificate required if energy generated is for sale or use by a Person other than the generator.

<sup>2</sup> Per Title 38 MRS section 482(2)

## 9.0 Administration

### 9.1 Review and Approval Authority

#### 1. Code Enforcement Officer

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. Planning Board

The Planning Board is authorized to review all applications for Type 1B, Type 2, and Type 3 Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with this Ordinance.

### 9.2 Permit Required

1. No Wind Energy Facility shall be constructed or located within the Town of Camden 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 Submission / Application Components

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. An application includes the application form, application fee, and supporting documents, as described below.

#### 2. 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.

#### 3. Application Fees

Application fees shall be assessed and paid upon submission of the application in accordance with the schedule of application and permit fees as set annually by the Select Board.

#### 4. Supporting Documents

Applications shall include all documents necessary to satisfy the applicable submission requirements of this Ordinance.

#### 5. Changes

- 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 are

### 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, Type 2 and Type 3 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 15 days prior to the meeting.

c. Within 30 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 3 Wind Energy Facility application within 30 days after determining that the application is complete. The Planning Board may decide to hold a public hearing for a Type 1B or a Type 2 Wind Energy Facility application. If it decides to hold a public hearing for a Type 1B application, the Planning Board shall hold that hearing within 30 days after determining that application is complete. If it decides to hold a public hearing for a Type 2 application, the Planning Board shall hold that hearing within 30 days after determining that the application is complete.

e. Within 60 days after determining that an application for a Type 1B Wind Energy Facility is complete or within 90 days after determining that an application for a Type 2 or Type 3 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**

<b>Facility Type</b>	<b>Application Completeness</b>	<b>Public Hearing</b>	<b>Final Decision</b>
1A	≤10 days <sup>1</sup>	NA	<30 days <sup>2</sup>
1B	≤30 days <sup>1</sup>	<30 days <sup>2</sup>	≤60 days <sup>2</sup>
2	≤30 days <sup>1</sup>	≤30 days <sup>2</sup>	≤60 days <sup>2</sup>
3	≤30 days <sup>1</sup>	≤30 days <sup>2</sup>	≤90 days <sup>2</sup>

<sup>1</sup> Days after receipt of the application by the Code Enforcement Officer

<sup>2</sup> 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, Type 2, or Type 3 Wind Energy Facility is to be considered, the Code Enforcement Officer 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:

- a. Published at least once in a newspaper having general circulation within the municipality.
- b. Mailed by first class mail to the applicant and to owners of property within 500 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) one year after the date of approval unless a substantial start on construction has occurred and; 2) two years after the date of approval unless construction of the wind energy facility has been completed. If a permit for a Type 2 or Type 3 Wind Energy Facility expires, the applicant shall implement pertinent provisions of the approved decommissioning plan. Upon the applicant's written request, the municipal entity responsible for review and approval of the permit application under section 9.1 may grant a one-year permit extension.

### 9.9 Access

The municipality 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 related to the project.

### 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 Town of Camden 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 Town of Camden determines, in its reasonable discretion, that the parties have not resolved the alleged violation, the Town of Camden may institute civil

enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit.

#### 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 Zoning Board of Appeals, as provided by Article VII, Section 3, (9).

### 10.0 Application Submission Requirements

#### 10.1 General Submission Requirements

1. Application form with applicant and participating landowner(s)' name(s), contact information and applicant's signature.
2. Receipt showing payment of application fee in accordance with Appendix A.
3. Location of the proposed wind energy facility including tax map numbers, existing uses, zoning, and acreage of the parcel and identification of adjacent properties and their existing uses.
4. A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the subject property.
5. Location map showing the site of the proposed development, boundaries of all contiguous property under total or partial control of the participating owner or applicant and any scenic resource or recognized historic site within 2500 feet of the proposed development.
6. 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, and noise emission levels) and a description of associated facilities.
7. Site plan showing the proposed location of each wind turbine and associated facilities (including meteorological towers) and any of the following features located within 500 feet of any wind turbine: property boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, driveways, rights-of-way, overhead utility lines, buildings (identified by use), tree cover, wetlands, streams, water bodies and areas proposed to be cleared of vegetation, replanted and/or re-graded.
  - a. In addition to the information in 6, above, site plans for Type 1B, Type 2 and Type 3 Wind Energy Facilities shall show the location and average height of tree cover to be retained and the location, variety, and planting size of proposed trees.

8. 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 of the pending application and the location and Turbine Height of all proposed Wind Turbines.
9. Description of emergency and normal shutdown procedures.
10. 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.
11. Photographs of existing conditions at the site.
12. Applications for Type 1A and 1B Wind Energy Facilities shall also include the wind turbine manufacturer's noise emission specifications.
13. Applications for Type 1A and 1B Wind Energy Facilities shall also include structural drawings of the tower foundation and anchoring system prepared by the wind turbine or tower manufacturer or in accordance with the manufacturer's specifications, or stamped by a Maine-licensed professional engineer.
14. Applications for Type 1B, Type 2 and Type 3 Wind Energy Facilities shall include the following site line, photographic, and elevation information, provided that an Applicant for a Type 3 Wind Energy Facility may provide this information as part of a visual assessment if required pursuant to section 14.5:
  - a. A sight line representation shall be drawn from representative locations that show the lowest point of the tower visible from such location. These locations shall include the closest occupied building to each of the turbines. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. There shall be at least two sight lines from the closest occupied building or public roads or scenic resources located within 500 feet of a turbine.
  - b. Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of the current view.
  - c. Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the Wind Energy Facility when built.
  - d. Elevations of the top of any and all structures on the subject property relative to the elevation of the Wind Turbine(s).
  - e. The height and elevation relative to the wind turbine(s) of trees, both existing and proposed, that are proposed to provide visual buffering. In the case of trees to be

planted, the proposed height at time of planting as well as the projected mature height is to be provided.

15. Applications for Type 2 Wind Energy Facilities that generate energy primarily for sale or use by a person other than the generator, shall also include, if issued at the time of application, certification from the Department of Environmental Protection pursuant to Title 35-A M.R.S. section 3456 that the Wind Energy Facility:
  - a. Will meet the requirements of the noise control rules adopted by the Board of Environmental Protection pursuant to Title 38 M.R.S.A. Chapter 3, subchapter 1, article 6;
  - b. Will be designed and sited to avoid unreasonable adverse shadow flicker effects; and
  - c. Will be constructed with setbacks adequate to protect public safety.

If such certification has not been issued at the time of application, the applicant shall include written evidence that the certification has been requested.

#### 10.2 Additional Submission Requirements for Type 2 and 3 Wind Energy Facilities

1. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.
2. A Decommissioning plan in conformance with the Department of Environmental Protection's submission requirements for a Site Location of Development permit [not cited elsewhere]
3. A written summary of operation and maintenance procedures for the wind energy facility and a maintenance plan for access roads, erosion and sedimentation controls and storm water management facilities.
4. A standard boundary survey of the subject property stamped by a Maine-licensed surveyor. The Planning Board may waive this requirement if it determines that the applicant has provided information sufficient to identify property boundaries to the extent necessary.
5. A visual impact assessment, if required, pursuant to section 14.5.
6. A storm water management plan stamped by a Maine-licensed professional engineer.
7. A sound level analysis, prepared by a qualified engineer that addresses the standards of section 14.1.
8. A shadow flicker analysis based on modeling software approved by the Department of Environmental Protection.

9. Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.
10. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Planning Board to ensure compliance with this Ordinance.

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

Applications for Meteorological (MET) towers shall be subject to the same submission and review standards as a Type 1A Wind Energy Facility, as applicable, except that no height limitation shall apply. A permit for a MET tower shall be valid for 1 year. 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 Facilities applications.

## **12.0 General Standards**

### **12.1 Safety Setbacks**

Wind turbine towers shall be set back from property boundaries, public and private rights-of-way and overhead utility lines a horizontal distance equivalent to 110% of the turbine height. The required setback distance from an abutting property may be reduced by an agreement with an abuttor, which shall be recorded in the Knox County Registry of deeds.

### **12.2 Natural Resource Protection**

A wind energy facility shall not have an undo 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 codes.

### **12.4 Controls and Brakes**

Each wind turbine shall be equipped with 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.

## 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.

## 12.7 Blade Clearance

The minimum distance between the ground and all blades of a wind turbine shall be 15 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 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.

## 12.10 Visual Appearance

1. A wind turbine shall be a non reflective 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.

## 12.11 Visibility of Wind Turbine

The following requirements apply, to the extent practicable, to Type 1B and Type 2 Wind Energy Facilities:

1. Each wind turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the wind turbine(s) from occupied buildings, scenic resources and public roads.
2. When existing features do not screen views of a wind turbine from occupied buildings, scenic resources and public roads, screening shall be provided, where feasible and effective, through the planting of trees and/or shrubs. Generally, such plantings should be of native varieties. 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 occupied buildings, scenic resources and/or public roads.

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

13.1 Sound Limits

Sound levels, measured at the property line of the subject property shall not exceed the limits for the applicable zone in accordance with Table 3. If the applicant demonstrates that it is not practicable to meet noise limits in a suburban residential zone or next to a protected location in a village or commercial zone a waiver of up to 5 dBA may be granted.

**Table 3**

Zone	Maximum dBA measured at property boundary
RU – 1, RU – 2, C-R	55 dBA Except 50 dBA at boundaries of abutting Protected Locations and 45 dBA if night time ambient sound level is 35 dBA or less
V, V-E B-1, B-2, B-3, B-4, B-TR, B-R, B-H, B-TH	50 dBA Except 45 dBA if night time ambient sound level is 35 dBA or less

**Sound Level Limits**

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 municipality, 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 Type 1A or Type 1B 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 the 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 Planning Board.

## **14.0 Special Standards for Type 2 and Type 3 Wind Energy Facilities**

### 14.1 Sound

Sound emissions shall comply with sound-level limits and other requirements described in Chapter 375, Section 10 of the rules promulgated by the Board of Environmental Protection concerning the Site Location of Development Law.

### 14.2 Use of Public Roads

1. The applicant shall identify all state and local public roads to be used within the Town of Camden to transport equipment and parts for construction, operation or maintenance of a Type 2 or Type 3 Wind Energy Facility.
2. The Town Engineer, Road Commissioner or a qualified third-party engineer reasonably acceptable to both the Planning Board and the applicant and paid for by the applicant pursuant to Section 9.7 of the Ordinance, shall document road conditions prior to construction. The Town Engineer, Road Commissioner or third-party engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
3. The applicant shall demonstrate, to the satisfaction of the Planning Board, that it has financial resources sufficient to comply with subsection 4, below, and the Planning Board may require the applicant to post a bond or other security in order to ensure such compliance.
4. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

### 14.3 Warnings

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

### 14.4 Artificial 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.

#### 14.5 Effect on Scenic Resources

1. Except as otherwise provided in this subsection, if a Type 2 or Type 3 Wind Energy Facility is proposed for location in or is visible from a Scenic Resource, the Applicant shall provide the Planning Board a visual impact assessment that addresses the evaluation criteria in subsection 14.5.3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a Type 2 or Type 3 Wind Energy Facility that are located more than 3 miles, measured horizontally, from a Scenic Resource. The Planning Board may require a visual impact assessment for portions of the Type 2 or Type 3 Wind Energy Facility located more than 3 miles and up to 8 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 Resource. Information intended to rebut the presumption must be submitted to the Planning Board by any interested person within 30 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.
2. The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 14.5.3, whether the Type 2 or 3 Wind Energy Facility significantly compromises views from a scenic 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 resource.
3. In making its determination pursuant to subsection 14.5.2, and in determining whether an Applicant for a Type 2 or 3 Wind Energy Facility located more than 3 miles from a scenic resource must provide a visual impact assessment in accordance with subsection 14.5.1, the Planning Board shall consider:
  - A. The significance of the potentially affected scenic resource;
  - B. The existing character of the surrounding area;
  - C. The expectations of the typical viewer;
  - D. The Type 2 or Type 3 Wind Energy Facility's purpose and the context of the proposed activity;
  - E. The extent, nature and duration of potentially affected public uses of the scenic resource and the potential effect on the public's continued use and enjoyment of the scenic resource; and

F. The scope and scale of the potential effect of views of the wind energy facility on the scenic resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the scenic resource, the distance from the scenic resource and the effect of prominent features of the wind energy facility on the landscape.

A finding by the Planning Board that the Type 2 or Type 3 Wind Energy Facility is a highly visible feature in the landscape is not a solely sufficient basis for determination that it has an unreasonable adverse effect on the scenic character and existing uses related to scenic character of a Scenic Resource. In making its determination under subsection 14.5.2, the Planning Board shall consider insignificant the effects of portions of a Type 2 or Type 3 Wind Energy Facility located more than 8 miles, measured horizontally, from a scenic resource.

#### 14.6 Shadow Flicker

Wind turbines shall be sited and designed to avoid unreasonable adverse shadow flicker effects on any occupied building located on a non-participating landowner's property as demonstrated by modeling software approved by the Department of Environmental Protection.

#### 14.7 Relationship to DEP Certification and Permitting

1. For a Type 2 Wind Energy Facility for which a DEP Certification has been submitted in accordance with section 11.1.17, the Planning Board shall consider, to the extent applicable, pertinent findings in that certification when making its determination under sections 13.1, 15.1, and 15.6. There is a rebuttable presumption that a wind energy facility that has obtained DEP Certification meets the requirements of sections 13.1, 15.1, and 15.6. The Planning Board may, as a condition of approval of a Type 2 Wind Energy Facility that generates energy, deem DEP's issuance of a certificate for the development sufficient to meet, in whole or in part, as applicable, the requirements of sections 13.1, 15.1, 15.6.
2. If DEP has issued a Site Location of Development Act permit for a Type 3 Wind Energy Facility pursuant to Title 38 MRS section 484, subsection 3, there is a rebuttable presumption that the development meets the requirements of sections 13.1, 13.2, 15.1, 15.6, 15.11 and, as it pertains to scenic resources of state or national significance as defined by Title 35-A MRS section 3451(9), section 15.5. The Planning Board may, as a condition of approval of a Type 3 Wind Energy Facility, deem DEP's issuance of a permit for the development sufficient to meet, in whole or in part, as applicable, the requirements of sections 13.1, 13.2, 15.1, 15.6, 15.11 and, as it pertains to Scenic Resources of state or national significance, section 15.5.

#### 14.8 Local Emergency Services

1. The applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s).
2. Upon request, the applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Type 2 or Type 3 Wind Energy Facility.
3. A wind turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine.

#### 14.9 Liability Insurance

The applicant or an applicant's designee acceptable to the Planning Board shall maintain a current general liability policy for the Type 2 or Type 3 Wind Energy Facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the facility. The applicant or its designee shall make certificates of insurance available to the Planning Board upon request.

#### 14.10 Design Safety Certification

Each wind turbine shall conform to applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.

#### 14.11 Public Inquiries and Complaints

1. The applicant or its designee shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the wind energy facility.
2. The applicant or its designee shall make reasonable efforts to respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolution upon request.

#### 14.12 Decommissioning

The applicant shall prepare a decommissioning plan in conformance with Department of Environmental Protection's submission requirements for a permit pursuant to the Site Location of Development Law, 38 M.R.S.A. Sections 481-490.