

Fort Kent Commercial Wind Energy Facility Ordinance

Enacted: March 22, 2010.

Certified By: _____ Dated: _____ Town Clerk

1.0 Title

This Ordinance shall be known as the Fort Kent Commercial Wind Energy Facility Ordinance.

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.A. §3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S.A. § 4312 et. seq.

3.0 Purpose

The purpose of the Ordinance is to provide for the construction and operation of Commercial Wind Energy Facilities in the Town of Fort Kent, 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.

Commercial Wind Energy Facility means a facility that uses one or more turbines to convert wind energy to electrical energy and has a maximum generating capacity in excess of 100 kw. A Commercial Wind Energy Facility includes Generating Facilities and Associated Facilities.

Commercial Wind Energy Facility Type 1 means a Commercial Wind Energy Facility having a maximum generating capacity in excess of 100 kw.

Commercial Wind Energy Facility Type 2 means a Commercial Wind Energy Facility having a maximum generating capacity in excess of 100 kw and requiring Maine Department of Environmental Protection Siting Certification for Small-Scale Wind Energy Developments pursuant to 35-A M.R.S.A. § 3456.

Commercial Wind Energy Facility Type 3 means a Commercial Wind Energy facility having a maximum generating capacity in excess of 100 kw and requiring a State of Maine Site Location of Development permit.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to 35-A M.R.S.A.. § 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.

Generator Lead Line means a “generator interconnection transmission facility” as defined by 35-A.M.R.S. § 3132 (1-B). 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.

Municipal Reviewing Authority means the Fort Kent Planning Board.

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 Fort Kent.

Occupied Buildings 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.

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.

Short Duration Repetitive Sounds means a sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

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 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 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 Commercial Wind Energy Facility proposed for construction in the Town of Fort Kent after the effective date of this Ordinance. This Ordinance does not apply to Associated Facilities unless the Generating Facilities are located within the Town of Fort Kent, in which case this Ordinance applies to both the Generating Facilities and the Associated Facilities.

5.2 A Commercial Wind Energy Facility that is the subject of an application determined to be complete by the Fort Kent 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 8.2.

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 Town of Fort Kent 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 March 23, 2010.

8.0 Administration

8.1 Review and Approval Authority

1. The Code Enforcement Officer is authorized to review all applications for Commercial Wind Energy Facilities for completeness prior to submission to the Fort Kent Planning Board.
2. The Fort Kent Planning Board is authorized to review all applications for Commercial Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with this Ordinance.

8.2 Permit Required

1. No Commercial Wind Energy Facility shall be constructed or located within the Town of Fort Kent without a permit issued in accordance with this Ordinance.
2. Any physical modifications to an existing Commercial 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.

8.3 Permit Applications

1. Application Components

A Commercial 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. Applications Fees Application fees shall be assessed and paid upon submission of the application in accordance with Appendix A of this Ordinance, which shall be revised by the Fort Kent Town Council as necessary.

c. **Supporting Documents** The applications shall include all additional documents necessary to satisfy the applicable submission requirements under Section 9 of this Ordinance.

2. Application Submission. The Applicant shall submit its application for a Commercial 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 Fort Kent Planning Board 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 Fort Kent 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 Fort Kent 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 Fort Kent Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

8.4 Permit Application Procedures

1. Commercial 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. Within 30 days after receipt of the application by the Code Enforcement Officer, the Fort Kent 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 Fort Kent 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.

c. The Fort Kent Planning Board shall hold a public hearing for a Commercial Wind Energy Facility application within 60 days after determining that the application is complete.

d. Within 90 days after determining that an application for a Commercial Wind Energy Facility is complete, the Fort Kent Planning Board shall issue a written order:

- 1) denying approval of the proposed Commercial Wind Energy Facility,
- 2) granting approval of the proposed Commercial Wind Energy Facility or,
- 3) granting approval of the proposed Commercial Wind Energy Facility with conditions. In making its decision, the Fort Kent Planning Board shall make findings on whether the proposed Commercial Wind Energy Facility meets the applicable criteria described in sections 11 and 12.

e. With the agreement of the applicant, the Fort Kent Planning Board may extend the procedural time frames of this section.

8.5 Notice of Meetings. Fourteen days prior to any meeting at which an application for a Commercial Wind Energy Facility is to be considered, the Fort Kent Planning Board shall send notice by first class mail, to the applicant and all owners of property abutting the property on which the Commercial Wind Energy Facility is proposed to be located. The notice shall state the date, time and place of the meeting and the proposed location of the Commercial Wind Energy Facility.

8.6 Public Hearings. The Fort Kent Planning Board shall have notice of the date, time, and place of any public hearing and the proposed location of the proposed Commercial Wind Energy Facility:

a. Published at least once in a newspaper having general circulation within the municipality. The date of the first publication shall be at least 14 days before the hearing.

b. Mailed by first class mail to the applicant and to owners of property abutting the property on which the Commercial Wind Energy Facility is proposed to be located, at least 14 days before the public hearing. The Fort Kent 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 Fort Kent Planning Board to schedule another hearing.

8.7 Professional Services

Applicants shall pay all costs associated with the review and processing of the application, and shall submit a fee with the application in an amount as set by the Fort Kent Town Council. In addition to such application fees as set by the Councilors, the Town of Fort Kent shall require the applicant to pay extra fees incurred to cover the Town's costs of reviewing and processing the application. This shall include, but is not limited to, the Town's ordering additional scientific

studies, and the Town engaging the services of one or more professional engineers and others including, but not limited to an attorney or consultant with required professional expertise to independently review on the behalf of the Town the technical information provided in the application and to assist the Town in processing the application. The applicant, upon request, shall promptly submit such extra fee(s). Following action on the application, any unused amount of the extra fee(s) shall be returned to the applicant with a summary of the costs incurred.

8.8 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 Commercial Wind Energy Facility has been completed. If a permit for a Commercial Wind Energy Facility expires, the applicant shall implement pertinent provisions of the approved decommissioning plan. Upon the applicant's written request, the Fort Kent Planning Board may extend either or both expiration time limits by one year.

8.9 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

8.10 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 Fort Kent 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 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 a stop work order proceedings or any other remedy at law to ensure compliance with the Ordinance or permit, or assess any applicable fines as established by the Fort Kent Town Council as set forth in Appendix B of this Ordinance, which shall be revised by the Fort Kent Town Council as necessary.

8.11 Appeals Any Person aggrieved by a decision of the Code Enforcement Officer or Fort Kent Planning Board under this Ordinance may appeal the decision to the Fort Kent Zoning Board of Appeals, as provided by Section 12 of the Town of Fort Kent Zoning Ordinance.

9.0 Application Submission Requirements

9.1 General Submission Requirements

1. A completed application form including:
 - a. The Applicant and Participating Landowner(s)' names(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.
 - d. An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Commercial 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 subject property.
4. Location map showing the boundaries of the proposed facility site and of all contiguous property under total or partial control of the Participating Owner or Applicant or Participating Landowner(s).
5. Description of the proposed Commercial 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 sound emission level and types of over speed 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 500 feet of any Wind Turbine: parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, driveways, 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.
7. 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. Description of emergency and normal shutdown procedures.
9. 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.
10. Photographs of existing conditions at the site.

11. Applications shall also include the Wind Turbine manufacturer's noise emission specifications.

12. Applications 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 licensed structural engineer.

13. Applications shall also include, if applicable and 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.

9.2 Additional Submission Requirement for Type 2 and 3 Commercial Wind Energy Facilities.

1. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations.
3. 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. Standard boundary survey of the subject property stamped by a Maine- licensed surveyor. The Fort Kent 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. Storm water management plan stamped by a Maine-licensed professional engineer.
6. Sound level analysis, prepared by a qualified engineer that addresses the standards of section 12.1.
7. Shadow Flicker analysis based on modeling software approved by the Department of Environmental Protection.
8. Foundation and anchoring system drawings that are stamped by a Maine- licensed professional engineer.
9. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Fort Kent Planning Board to ensure compliance with this Ordinance.

10.0 Meteorological Towers (MET Towers)

Applications for Meteorological (MET) Towers shall be reviewed and permits issued by the Fort Kent Planning Board. 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.

11.0 General Standards

11.1 Safety Setbacks/Maximum Height

Wind Turbine Towers shall be set back from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed generating facility; a horizontal distance equivalent to 150% of the Turbine Height. Wind Turbine Towers shall be set back from occupied buildings on non-participating landowner property a horizontal distance equivalent to 250% of the turbine height.

The maximum turbine height (see Definitions) for any project constructed in the Town of Fort Kent shall be 450 feet. The total or maximum height will take into account the tower, generator, nacelle, rotor, and transformer.

11.2 Building Permit

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

11.3 Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that: 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a licensed civil engineer and found by the municipal entity responsible for review and approval of the application under 8.1, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

11.4 Electrical Components and Interconnections

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

11.5 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 fifteen (15) feet above ground surface.

11.6 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 Commercial Wind Energy Facility. A Commercial Wind Energy Facility shall not interfere with existing communication facilities for police and emergency services.

11.7 Structure Type With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires.

11.8 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, or its most current edition.

11.9 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 Commercial 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.

12.0 Special Standards for Commercial Wind Energy Facilities

12.1 Sound Limits

Sound levels of Commercial Wind Energy Facilities shall not exceed a maximum of 45 dBA measured at non-participating landowners property lines and shall not exceed a maximum of 42 dBA measured at occupied buildings on non-participating landowners property. Sound emissions shall comply with all 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 if applicable to applicant's project.

12.2 Discontinued Use

1. A Commercial 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 Fort Kent Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Commercial Wind Energy Facility is not removed within this time period, the municipality may remove the turbine(s) 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 Commercial Wind Energy Facility, the Applicant may apply to the Fort Kent Planning Board for release of the surety when the Commercial Wind Energy Facility has been removed to the satisfaction of the Code Enforcement Officer.

12.3 Use of Public Roads

1. The Applicant shall identify all state and local public roads to be used within the Town of Fort Kent to transport equipment and parts for construction, operation or maintenance of a Commercial Wind Energy Facility.

2. The Town Road Commissioner or a qualified third-party engineer reasonably acceptable to both the Fort Kent Planning Board and the Applicant and paid for by the Applicant pursuant to Section 8.7 of the Ordinance, shall document road conditions prior to construction. The Town 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 Fort Kent Planning Board that it has financial resources sufficient to comply with subsection 4, below, and the Fort Kent 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.

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

12.5 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 Fort Kent Planning Board shall consider comments and recommendations, if any provided by the Maine Department of Inland Fisheries and Wildlife.

12.6 Shadow Flicker. Commercial Wind Energy Facilities shall be sited and designed to avoid unreasonable adverse shadow flicker effect at any Occupied Building located on a Non-Participating Landowner's property.

12.7 Local Emergency Services

1. The Applicant shall provide a copy of the project summary and site plan to local emergency service providers.

2. Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Commercial 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 or shall otherwise address the issue of fire safety to the satisfaction of the Fort Kent Planning Board.

12.8 Liability Insurance

The Applicant or an Applicant's designee acceptable to the Fort Kent Planning Board shall maintain a current general liability policy for the Commercial 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 Fort Kent Planning Board upon request.

12.9 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, or other similar certifying organization.

12.10 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 inquires and complaints throughout the life of the Commercial 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.

12.11 Decommissioning The Applicant for a Type 3 Commercial Wind Energy Facility shall prepare and fund 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, as set forth in Appendix C.

APPENDIX A Application Fees

APPENDIX B Fines

APPENDIX C

Decommissioning Plan Pursuant to section 12.11, the Applicant shall provide a plan for decommissioning a Commercial Wind Energy Facility. The decommissioning plan shall include, but shall not be limited to the following:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

2. A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of 24 inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land request otherwise in writing.

[Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Code Enforcement Officer].

3. An estimate of the total cost of decommissioning of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.

4. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Fort Kent Planning Board that upon the end of the useful life of the Commercial Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Commercial Wind Energy Facility.