

TOWN OF SEDGWICK, MAINE, WIND ENERGY FACILITIES ORDINANCE

1.0 Title

This Ordinance shall be known as the Town of Sedgwick, Maine, Wind Energy Facilities Ordinance.

2.0 Purpose; Permit Required

The purpose of this Ordinance is to establish reasonable and uniform regulations for the construction and operation of potential Wind Energy Facilities (WEF) in Sedgwick that will protect the public health, safety, and general welfare.

2.1 Permit: No new Wind Energy Facility, and no alteration or expansion of an existing Wind Energy Facility, for either residential or commercial use, shall be constructed in the Town of Sedgwick without the owner or operator first obtaining a permit from the Sedgwick Planning Board pursuant to the Ordinance. As provided in Section 16 a person who violates this provision may incur penalties.”

3.0 Authority, Conflicts, and Validity

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

3.2 Conflicts: If there is a conflict between provisions in this Ordinance or between a provision in this Ordinance and a provision of any other ordinance, regulation, or statute from any jurisdiction, the more restrictive provision shall apply.

3.3 Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such a decision shall not invalidate any other section or provision of the Ordinance.

4.0 Effective Date

This Ordinance shall become effective on the date of its passage. If this Ordinance is enacted within 90 days after the expiration of an Ordinance entitled “Wind Power Development Moratorium Ordinance, Sedgwick, Maine” (the Moratorium) adopted November 2, 2010, the effective date of this Ordinance shall be retroactive to the expiration date of the Moratorium.

5.0 Applicability

This Ordinance applies to all Wind Energy Systems and Meteorological Towers in the Town of Sedgwick proposed to be constructed or operated after the effective date of this Ordinance.

6.0 Definitions

6.1 Acoustic Hazard: Annoyance and hazard (health, environment, and property values) owing to the sound produced by a WEF.

6.2 Ambient Sound: Ambient sound is all sound present in a given environment, which is a composite of sounds from many sources, near and far, intermittent and steady, including the facility of interest once it is constructed and operating.

6.3 ANSI: American National Standards Institute

6.4 Applicant: Person, or persons or entity applying for a Meteorological Tower permit or Wind Energy Facilities permit to the Town of Sedgwick Planning Board.

6.5 CEO: Town of Sedgwick Code Enforcement Officer

6.6 Community-owned Wind Facilities: A WEF planned with wide community participation that meets any one of the following criteria: 1) a municipality owning 51% or more of the project, 2) the majority of the direct financial benefits of the project accruing to all of the residents of the municipality, exclusive of any tax considerations. Community-owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community-owned Wind does not include partial or minority municipal ownership of WEFs without the municipality (or municipalities in the case of joint municipal ownership) being the managing partner, and does not include WEFs located in Sedgwick having majority ownership or control by private individuals, private businesses, or non-profit organizations not under direct control of the municipality (or municipalities).

6.7 Covenant: A legal agreement, convention or promise by two or more parties by deed in writing, signed, and delivered, by which one of the parties pledges himself to the other that something is done, or shall be done, or shall not be done, or stipulates the truth of certain facts. For this Ordinance this legal agreement shall contain stipulations required and put forth herein and shall be a covenant running with land.

6.8 Comprehensive Plan: Town of Sedgwick Comprehensive Plan, adopted 1993

6.9 D: Distance measured in feet

6.10 Debris and Falling Hazard: Hazard owing to the possibility that the parts of a WEF, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property

6.11 Decibel (dB): Unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB"

6.12 dB(A) or dBA: Abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the A-weighting of a sound level meter

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

6.14 DEP Certification: Certification issued by the Maine Department of Environmental Protection (MDEP) pursuant to 35-A MRSA §3456 for construction or operation of a wind energy facility.

6.15 Engineering Drawing: Rendering of an object or land area using drafting instruments or computer automated design (CAD) showing all critical features and appropriate dimensions to describe the subject, to include engineering design drawings representing the proposed facility and engineering as-built drawings representing the facility as actually constructed

6.16 Flicker Hazard: Annoyance and hazard (health, environment, and property values) owing to the shadows and reflections produced by the rotating elements of a WEF

6.17 Geological Instability: Can include possible fault lines, areas of potential landslides, heavily fractured or unstable bedrock that would cause the tower and/or structure to fall or collapse

6.18 Historic Area: An Historic Site administered by the Bureau of Parks and Lands, Maine Department of Conservation, with the exception of the Arnold Trail

6.19 Historic Site: Any site, structure, district, or archaeological site that is included on the National Register of Historic Places or on the Maine Historic Resource Inventory or that is established by qualified testimony as being of historic significance

6.20 Ho (Height overall): Height of a Meteorological Tower or wind energy facility turbine from the base of the tower pad to the highest point on the structure or the highest point of any rotating element, whichever is higher

6.21 kW: Power expressed in kilowatts

6.22 LAeq: Energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" response over a measurement period; expressed as LAeq or Leq in dBA

6.23 Lc: Criterion sound level in dBA, set to 30 dBA for this Ordinance consistent with the World Health Organization's Night Noise Guideline 2009, to prevent biological effects, to protect public health in risk groups including children, elderly and those with disease or pre-existing health conditions and to minimize sleep disturbance at night

6.24 LCeq: Energy-equivalent sound pressure level measured in decibels with a sound level meter set for C-weighting an "Fast" response over a measurement period; expressed as LCeq or Leq in dBC

6.25 Lp: Sound pressure level measured in dBA in accordance with ANSI Standards S12.9 – Part 3, "Quantities and Procedures for Description and Measurement of Environmental Sound" or ANSI S12.18

6.26 Ls: Safety factor to account for variations in meter total instrument response; shall be 2 dBA unless otherwise authorized by the Planning Board

6.27 Lu: Uncertainty factor; shall be 5 dBA unless otherwise authorized by the Planning Board, based on measured maximum hourly sound levels at wind turbine facilities compared to predicted sound levels and the resulted required corrections of 5 dB.

6.28 Lw: Manufacturer's guaranteed maximum sound power level, in dBA re 1pW, under any operating conditions, including high winds, yawing, furling, and power outages, whether electrically loaded or unloaded

6.29 Maximum Sound Level (also Lmax): Maximum sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" meter response over a measurement period; expressed as Lmax in dBA

6.30 Measurement Point: Location where sound measurements are taken, such that no significant obstruction blocks sound from being measured in the line of sight between the measurement point and the location of the nearest wind turbine. Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement points should be at quiet locations remote from local noise sources, to the extent possible.

6.31 Meteorological Tower (MT): Tower constructed to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data

6.32 MW: Power expressed in megawatts

6.33 Nameplate Capacity: Electrical power rating of an individual wind turbine, as certified by the turbine manufacturer, normally expressed in watts, kilowatts (kW), or megawatts (MW)

6.34 N: Number (quantity) of wind turbines, where the expression $4\log(n)$ represents the change in sound level due to the increase in the number of turbines based on independent analysis of measured noise levels around wind turbine facilities in Maine, and -0.5 dB is required when converting from sound power level to sound pressure level assuming spherical spreading, for dimensions in feet

6.35 Owner/Operator: Person or entity that is the legal owner of the WEF, including successors and assigns, and that has the authority and responsibility to operate the WEF on a day-to-day basis; must have the legal authority to represent and bind

6.36 Planning Board: Town of Sedgwick Planning Board

6.37 Property Line: Imaginary line along the ground surface and the vertical extension of that line which constitutes a legally enforceable boundary which separates real property owned or controlled by owner(s) from contiguous real property owned or controlled by another person

6.38 Residence: Building or structure including manufactured housing, but excluding recreational vehicles, tents, and watercraft, that is maintained for permanent or seasonal residential occupancy and having living, cooking, sleeping facilities, and permanent indoor or outdoor sanitary facilities

6.39 Resident: User of a property adjacent to, or within the area affected by, the WEF. This may be either a permanent resident or a temporary resident, without respect to ownership of the property in question

6.40 Sf/d: Falling and Debris Hazard setback requirement (ft)

6.41 Sc: Flicker Hazard setback requirement (ft)

6.42 Ss: Acoustic Hazard setback requirement (ft)

6.43 Scenic Resource: Scenic Resource of state or national significance, as defined in 35-A MRSA §3451(9) or a scenic resource of local significance located within the Town of Sedgwick and identified as such in the Comprehensive Plan

6.44 Sensitive Receptor: Residence or other place or structure intended for human habitation, whether inhabited or not, public park, state or federal wildlife area, school, daycare center, elder care facility, place of seated assemblage, nonagricultural business, or manicured area of a recreational establishment designed for public use, including but not limited to a golf course, campground, natural area with maintained hiking trails, or other planned nonagricultural use

6.45 Sound Level Meter: Instrument for the measurement of sound levels conforming to ANSI Type I or type II standards

6.46 Sound Pressure Level: Level of a sound measured in dB made with a sound level meter that has a uniform (flat) response over the band of frequencies measured

6.47 Sound Power Level: Calculated from sound pressure level at a given distance in accordance with ANSI Standard S12.9 – Part 3 or ANSI S12.18, or in accordance with AWEA/IEC 61400-11

6.48 Setback Area: Entire land base that falls within the Setback for a particular MT or WEF

6.49 Setback: Distance measured horizontally in feet from the center axis of any WEF turbine or Meteorological Tower radially for 360 degrees

6.50 Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind

6.51 Turbine: A rotating device used to convert the physical energy exerted by wind passing across its blades into electrical energy.

6.52 Type 0 – Micro Wind Energy Facilities: A single wind turbine with a nameplate capacity of 10 kW or less and a turbine height (measured to the top of an upright blade) of 35 feet or less. With the exception of braking requirements described in Section 8 (Design, Manufacture, and Construction Standards), acoustic hazard setbacks described in Section 9 (Public Health and Safety Standards), and the requirements described in Section 15 (Permit and Operational License Requirements), the restrictions of this Ordinance do not apply to Type 0 wind energy facilities.

6.53 Type 1 – Small Wind Energy Facilities: One or more wind turbines, with a nameplate capacity of 100 kW or less and a turbine height (measured to the top of an upright blade) of 80 feet or less, and with a construction disturbance area of less than 20 acres. With the exception of braking requirements described in Section 8 (Design, Manufacture, and Construction Standards), acoustic hazard setbacks described in Section 9, (Public Health and Safety Standards), and Section 15 (Permit and Operational License Requirements), the restrictions of this Ordinance do not apply to Type 1 wind energy facilities.

6.54 Type 2 – Intermediate/Mixed Use Wind Energy Facilities: One or more wind turbines, each with an individual nameplate capacity of less than 100 kW and or a turbine height (measured to the top of an upright blade) of between 80 and 150 feet, with a construction disturbance area of greater than 20 acres and with a total post-construction un-revegetated land disturbance of less than 3 acres per Maine Department of Environmental Protection guidelines. All restrictions of this Ordinance apply to Type 2 wind energy facilities.

6.55 Type 3 – Large/Commercial Wind Energy Facilities: One or more wind turbines, each with an individual nameplate capacity of greater than 100 kW or a turbine height (measured to the top of an upright blade) of more than 150 feet or that would require DEP site plan review pursuant to 38 M.R.S.A §482(2)(A) or (C). All restrictions of this Ordinance apply to Type 3 WEFs.

6.56 Visual Impact Assessment: As defined in 35-A M.R.S. Section 3452

6.57 W: Power expressed in watts

6.58 Waiver: A legal decision that may be made by the Planning Board that grants the Covenantees and the Covenantors of a Covenant presented to the Board a right of waiving or relinquishing protection for them in this Ordinance.

6.59 Wildlife Protection Plan: A pre-construction field study designed in consultation with the Maine Department of Inland Fisheries and Wildlife, and carried out by a qualified wildlife biologist, that describes the possible adverse effects of the WEF on birds, bats, animals, and their habitats, and proposes remedies for these effects

6.60 Wind Energy Facilities (WEF): All equipment, structures, roads, and power lines that together form a system for the production of electrical power using ambient wind as a source of motive power

7.0 Documents

7.1 Documents Cited: The following documents are cited in this Ordinance:

7.1.1 American National Standards Institute (ANSI) Standard S1.4 “Specifications for General Purpose Sound Level Meters,”

7.1.2 ANSI Standard S12.9 – Part 3, “Quantities and Procedures for Description and Measurement of Environmental Sound” or ANSI S12.18

7.1.3 ANSI Standard S12.18-1994 “Outdoor Measurements of Sound Pressure.”

7.1.4 Bureau of Land and Water Quality, Site Location Development Law, 38 M.R.S.A. §§481-490, with regulations 06-096 CMR 371-377

7.1.5 Maine Erosion and Sediment Controls Best Management Practices, Bureau of Land and Water Quality, Maine Department of Environmental Protection, March 2003, DEP LW0588

7.1.6 Night Noise Guidelines for Europe, World Health Organization, October 2009, ISBN 9789289041737

7.1.7 Town of Sedgwick Comprehensive Plan, Adopted 1993; Town of Sedgwick Shoreland Zoning Ordinance; Town of Sedgwick Site Plan Review Ordinance, and any other applicable Town of Sedgwick ordinances

7.2 Potentially Useful Documents: The following documents may be of use to Applicants contemplating constructing and operating WEF facilities:

7.2.1 12 M.R.S., Sections 685-B,2-C, 4, and 4-B of the Commission’s statutes; 35-A M.R.S., Ch. 34-A, Sections 3451, 3452, 3454, and 3455, and other applicable provisions of the Legislature statute, 12 M.R.S., Sections 681 through 689

7.2.2 Maine Association of Wetland Scientists (MAWS): Vernal Pool Technical Committee (VPTC) 2010 Interim Vernal Pool Survey Protocol, April 2010

7.2.3 Maine Endangered Species Act, State of Maine, Inland Fisheries and Wildlife Laws, 12 MRSA Part 13, Chapter 925, Subchapter 3, Endangered Species

7.2.4 Federal Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended -- Public Law 93-205

7.2.5 Management Guidelines, for Land Use In or Adjacent to Spring Salamander and Roaring Brook Mayfly Habitat Maine Department of Inland Fisheries and Wildlife, dated March 4, 2010

7.2.6 Natural Resource Protection Act, 38 M.R.S.A. §§ 480-A through 480-BB, statute and application

7.2.7 Public Law, 123rd Legislature, Second Regular Session, Chapter 533, H.P. 1390-L.D. 1952, An Act to Streamline the Administration of Significant Vernal Pool Habitat Protection

8.0 Design, Manufacture, and Construction Standards

8.1 General Requirements: The design and manufacture of all meteorological towers, all wind turbines, and all other components of a WEF shall conform to applicable national, state, and local standards for the wind industry, such as those established by ANSI, Underwriters Laboratories, and similar certifying organizations. All MTs and all components of a WEF shall conform to local, state, and national building codes, as applicable.

8.2 Meteorological Towers: Meteorological towers (MTs) must be less than 200 feet in height, and must be designed so as not to require lighting. Guy wires are allowed, but must be designed to limit Environmental Hazard to wildlife, especially birds and bats. For MTs connected with the potential development of a commercial WEF, a Decommissioning Bond will be required to ensure timely removal of the equipment, as specified in Section 12.3.5.

8.3 Underground Power Transmission: Underground power and transmission lines shall be buried at a depth consistent with state public utility engineering standards to prevent transient ground currents and stray voltage. Utilities shall be installed underground except as otherwise approved by the Planning Board.

8.4 Public Grid Connections: An application for a permit for a Type 2 or Type 3 WEF that will be connected to the Public Utility Grid shall include a Public Utility Grid Impact Statement documenting all anticipated changes to the public utility grid within the Town of Sedgwick due to the WEF. The Statement shall be signed and approved by the Maine Public Utilities Commission and shall include proof of leases or rights of way for transmission lines, and an analysis of the residual capacity in the grid that will be available to other local generating projects after the construction of the WEF.

8.5 Type 0 WEF Braking Requirements: A WEF with a nameplate capacity less than 10 kW shall be equipped with a braking system designed to limit rotor speed and prevent blade flutter.

8.6 Type 1 and Type 2 WEF Braking Requirements: A WEF with a nameplate capacity equal to or greater than 10 kW, but less than or equal to 100 kW, shall be equipped with a redundant braking system that includes stall regulation.

8.7 Type 3 WEF Braking Requirements: A WEF with a nameplate capacity of more than 10 kW shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection on WEFs with a nameplate capacity of more than 10 kW.

8.8 Electrical Interference: WEFs shall be designed and sited, at time of installation, to prevent the disruption or loss of emergency or private radio, telephone, television, internet connections, or similar signals. Interference with such communications shall be grounds for ordering the immediate shut down of the WEF until the interference has been remedied.

8.9 Blade Clearance: The minimum distance between the ground and the blades of a WEF, for horizontal axis turbine systems, shall be 25 feet as measured at the lowest point in the arc of the blades.

8.10 Mounting Requirements: WEFs shall be mounted on monopole towers with no guy wires, except that WEFs with a nameplate capacity of less than 1 kW may be mounted on structure roof tops.

8.11 Color: The color of WEFs and MTs shall be off-white or grey or some other unobtrusive color approved by the Planning Board.

8.12 Signage: WEFs shall not be used to display signs or advertising except for signs at ground level identifying the turbine manufacturer, the WEF Owner/Operator, emergency contact information, and appropriate warnings as required by national, state, and local laws.

8.13 Construction: All construction activities must conform to the approved site plan, including any conditions of approval and changes approved by the CEO and/or the Planning Board.

8.14 Modifications: If at any time it appears necessary or desirable to modify the approved plans before or during construction of MTs or WEFs, the CEO, with assistance at the Applicant's expense from such staff, consultants or experts as the CEO deems appropriate, is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc.

8.14.1 The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Selectmen and Planning Board.

8.14.2 Revised plans shall be filed with the Planning Board for the record.

8.14.3 For major modifications such as relocation, change in rights-of-way, relation of WEFs to one another, changes in grade by more than 1%, etc., the Applicant shall submit to the Planning Board an amended plan for review and approval.

9.0 Public Health and Safety Standards

9.1 Setback Standards: All MTs and WEFs must be sited so as to satisfy the Setback Standards calculated in Table 1 for the following hazards:

9.1.1 Falling and Debris Hazard

9.1.2 Flicker Hazard

9.1.3 Acoustic Hazard (See Table 2 for calculations of typical setback distances)

9.2 Setback Evaluation: The applicant shall compute or look up, as appropriate, and graph the required setback for each hazard as a circle for a single unit or as a series of connected arcs for multiple units centered on each turbine and submitted with the required setback graphically superimposed to scale on town maps identifying lot owners and lot property lines.

9.3 Operational Sound Evaluation: Sound levels due to the operation of the WEF shall not exceed 30 dBA at the WEF property lines and/or structures in the Town of Sedgwick. Owner/Operators may request a waiver of these standards by means of written Covenants as specified in section 15.16 of this Ordinance.

9.3.1 Sound measurements shall be carried out at appropriate property lines and/or structures as soon as possible after the Planning Board determines that a violation of the noise standards may have occurred.

9.3.2 All sound measurements shall be made by a professional acoustical engineer who is a Full Member of the Institute of Noise Control Engineering (INCE) or who possesses some comparable qualification. The engineer shall be chosen and paid by the Owner/Operator and approved by the Planning Board.

9.3.3 Except as specifically noted otherwise, sound measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure."

9.3.4 Sound level meters and calibration equipment shall comply with the latest version of ANSI Standard S1.4 "Specifications for General Purpose Sound Level Meters," and shall have been calibrated at a recognized laboratory within one year before the sound measurements are carried out.

9.4 Fire Prevention and Control: The Owner/Operator of a Type 2 or Type 3 WEF with one or more turbines shall include a Fire Prevention and Fire Fighting Plan that has been approved by the Town of Sedgwick Fire Department. The plan shall identify a response plan to address all potential WEF fire scenarios and include a list of hazardous materials that may be encountered. The Owner/Operator shall also ensure that the WEF complies with the following fire control and prevention measures and assumes responsibility for all associated incremental costs.

9.4.1 Use of fireproof or fire resistant building materials and buffers as required by state law or the Sedgwick Fire Department.

9.4.2 Incorporation of a self-contained fire protection system in the WEF turbine nacelle.

9.4.3 Maintenance of firebreak areas, cleared of vegetation, as required by state law or the Sedgwick Fire Department.

9.4.4 Provision for any additional fire fighting or rescue personnel, services, training, materials, and vehicles as may be required to deal with any emergency related to the WEF that is beyond the current capabilities of the Sedgwick Fire Department.

9.5 Compliance with Regulations: The Owner/Operator of any WEF shall be responsible for compliance with all ordinances, regulations, and laws applicable to the generation, storage, cleanup, and disposal of hazardous materials connected with the WEF.

9.6 Extraordinary Events: The Owner/Operator of any WEF shall notify the CEO of any "extraordinary event" within 24 hours after that event. Extraordinary events shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry into a tower base, thrown blade or hub, injury caused by the WEF, and any other event that affects the public health and safety of the town or its residents.

10.0 Road and Property Risk Assessment

An application for a permit to construct a Type 2 or Type 3 WEF shall include a Road and Property Risk Assessment that has been approved by the Town of Sedgwick Road Commissioner.

10.1 Roads and Driveways: The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

10.1.1 Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

10.1.2 Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

10.1.3 In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

10.1.4 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade Spacing (Percent) (Feet)
0-2 250
3-5 200-135
6-10 100-80
11-15 80-60
16-20 60-45
21 + 40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

10.1.5 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

10.2 Risk Assessment Evaluation: The Planning Board shall review the Public Road and Property Risk Assessment and require any changes to the plan that it deems appropriate to protect public safety, to protect public property, to protect private property of adjacent landowners, and to address anticipated costs to the town.

10.3 Engineering Review: A qualified third party engineer, chosen and paid by the Applicant and approved by the Planning Board, shall document road conditions prior to the construction of the WEF, and again within thirty days after construction is complete.

10.4 Mitigation of Construction Damages: Any road damage determined by the third party engineer to have been caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

11.0 Environmental Requirements

11.1 Compliance with Standards: The siting and construction of all WEFs shall meet all the applicable standards of the Site Plan Review Ordinance, and the Shoreland Zoning Ordinance of the town of Sedgwick, Maine, and be consistent with the Comprehensive Plan. Any other applicable local, state, and federal standards must also be met.

11.2 Site Development Permit: If required by the laws of the State of Maine, a Department of Environmental Protection Site Location of Development permit shall be obtained and submitted with an application for a WEF permit.

11.3 Environmentally Sensitive Areas: The design, construction, and maintenance of a WEF shall protect all environmentally sensitive areas that may be affected by its siting. Such areas shall include but not limited to wetlands, vernal pools, seeps or springs, steep slopes (equal to or greater than 15%), watersheds, flood plains, significant habitat for wildlife, fish, plants, and properties owned by public or private, not-for-profit organizations and protected by ownership restrictions and conservation easements. An application for a Type 2 or Type 3 WEF permit shall demonstrate appropriate measures for protecting all such areas during construction, operation, and decommissioning of the WEF.

11.4 Wildlife Protection Plan: The application for a Type 2 or Type 3 WEF shall include a Wildlife Protection Plan based on pre-construction field studies designed and carried out by a qualified wildlife biologist chosen and paid by the Applicant and approved by the Planning Board. Such studies shall describe the possible adverse effects of the WEF on birds, bats, animals and their habitats, and shall propose remedies for these effects.

11.5 Wildlife Protection Plan Validation: Within three years after completion of construction of a Type 2 or Type 3 WEF, studies to ascertain its actual effect on wildlife shall be designed and carried out by a qualified wildlife biologist chosen and paid by the Owner/Operator, and approved by the Planning Board, and submitted to the Planning Board for review. If these studies demonstrate undue adverse effects, as defined by the Planning Board and/or Maine Department of Inland Fisheries and Wildlife, on wildlife or their habitats caused by the WEF, the Owner/Operator in consultation with the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall design and implement a mitigation plan. The plan shall be submitted to the Planning Board for approval. The Owner/Operator shall be responsible for the full cost of carrying out the plan under the supervision of the MDIFW.

11.6 Erosion Control: Type 2 or Type 3 WESs shall be designed, constructed, and maintained in accordance with accepted erosion and sediment control methods as set out in the Maine Erosion Control Handbook for Construction; The Best Management Practices, dated March (2003).

11.7 Groundwater Impacts: Type 2 and 3 WESs shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, including sand and gravel aquifers. The Planning Board shall require as condition of issuing a permit for a Type 2 or Type 3 WEF that a pre-construction baseline study of all wells, springs, and public water sources within the watershed of the WEF site, as defined by the area projected to be disturbed by construction and operation of the WEF, be conducted. The study shall be designed and carried out by a water quality professional chosen and paid by the Applicant and approved by the Planning Board.

11.8 Post-construction Water Quality Study: Within two years after completion of construction of a Type 2 or Type 3 WEF for which the Planning Board has required a pre-construction baseline Water Quality Study as described in section 11.7 of this Ordinance, a Post Construction Water Quality study of all wells, springs, and public water sources within the watershed of the WEF site shall be designed and carried out by a water quality professional chosen and paid by the

Owner/Operator and approved by the Planning Board. If degradation or contamination is found to have occurred, fines and/or permanent remedies as required by the Town of Sedgwick or the State of Maine shall be the responsibility of the Owner/Operator.

11.9 Hazardous Wastes: The Owner/Operator shall be responsible for compliance with all state and federal regulations applicable to the use and safe and lawful disposal of hazardous wastes involved in or generated by the WEF's construction, operation, and decommissioning.

11.10 Blasting Notification: The Owner/Operator of a WEF shall not undertake any blasting without notifying the Town of Sedgwick and submitting a blasting plan in accordance with the latest DEP Standards. The blasting plan shall be reviewed and approved by the Planning Board before any blasting takes place.

11.11 Light Pollution: All WESs shall be designed and sited to minimize nighttime light pollution and shall not exceed the minimal requirements by the Federal Aviation Authority. Red lights shall be used instead of white if possible and shall be shielded to the greatest extent possible from viewers on the ground. An applicant for a WEF shall provide a plan showing all lighting on and around the WEF.

11.12 Visual Effects: If a Type 2 or Type 3 WEF is proposed for a location in, or visible from, an Historic Area, an Historic Site, or a Scenic Resource, the applicant shall provide to the Planning Board a Visual Impact Assessment as part of its application, as defined in 35-A M.R.S., Section 3452.

12.0 Financial Standards for a Type 2 or Type 3 WEF

12.1 Financial Viability: An applicant for a Type 2 and Type 3 WEF shall provide evidence satisfactory to the Planning Board that the project is financially viable. Evidence of financial viability shall include the following:

12.1.1 A budget for the construction and operation of the WEF

12.1.2 Proof of financing for all aspects of the construction and operation

12.1.3 Proof of long-term power purchase contracts if 25% or more of the WEF output is intended for sale

12.1.4 Proof of funds for decommissioning as specified in section 12.3 of this Ordinance

12.2 General Liability Insurance: The Owner/Operator of a Type 2 or Type 3 WEF shall maintain a current general liability policy for the WEF covering bodily injury and property damage commensurate with the scope and scale of the project, as determined by the Planning Board. Proof of current insurance must be presented to the Planning Board with the application for a permit and every year thereafter on the date of the insurance's annual renewal.

12.3 Decommissioning: The Owner/Operator of a Type 2 or Type 3 WEF shall be responsible for complete Decommissioning of the WEF within twelve months after it ceases to generate electricity, or after its operational license has been revoked.

12.3.1 Decommissioning shall include removal and disposal off-site of all parts of the WEF in accordance with local, state, and federal laws and regulations. Areas of disturbed earth shall be graded, seeded, or otherwise re-vegetated.

12.3.2 A Professional Engineer shall be chosen and paid by the Applicant and approved by the Planning Board to estimate the total cost of Decommissioning without

consideration of the salvage value of the equipment. The amount of this estimate shall be the amount of the Decommissioning Funds required to be posted at the time of the initial Application.

12.3.3 No permit for a Type 2 or Type 3 WEF shall be issued until Decommissioning Funds have been posted by the Applicant with a bonding company or a Federal or State-chartered lending institution (the Escrow Agent) authorized to conduct such business in the State of Maine and approved by the Select Board of the Town of Sedgwick.

12.3.4 Estimates, as described in section 12.3.2, shall be redone annually on the anniversary of the granting of a WEF Permit, and the Owner/Operator of the WEF shall be required to maintain Decommissioning Funds that are at least equal to the most recent estimate.

12.3.5 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance acceptable to the Select Board of the Town of Sedgwick.

12.3.6 If the Owner/Operator of the WEF does not complete decommissioning within the time prescribed in section 12.3 of this Ordinance, the Town of Sedgwick may take such action as necessary (including court action) to secure the posted decommissioning funds and to ensure completion of the decommissioning.

12.3.7 The Escrow Agent shall not release the decommissioning funds except upon written approval of the Select Board of the Town of Sedgwick.

12.4 Tax Valuation Agreement an Tax Impact Statement: An Applicant for a WEF that will have a taxable property value of more than \$10 million or that will be qualified as a “designated business” for the purposes of state tax incremental financing as defined in Title 30-A M.R.S. Section 5241 shall enter into a written Tax Valuation Agreement with the Town of Sedgwick and shall also present to the Town a Tax Impact Statement.

12.4.1 The Tax Valuation Agreement shall describe the methodology that will be used for tax valuation of the WEF throughout the period of its useful life. The Tax Valuation Agreement shall be reviewed by a qualified tax attorney chosen by the Planning Board and paid by the Applicant. No Permit shall be issued until the Tax Valuation Agreement has been approved by the Planning Board.

12.4.2 The Tax Impact Statement shall estimate the annual tax burden on the citizens of Sedgwick over a 10 year period beginning with the first full year of the WEF’s operation. The Tax Impact Statement’s estimates shall be based on the following data and assumptions: 1) the estimated tax contribution from the WEF that will result from the Tax Valuation Agreement; 2) estimated reduction in tax revenue due to any reductions in the value of properties covered by waivers (assuming that other property values remain constant); 3) estimated adjustments to the amount received from the State for aid to education (assuming a constant school budget); 4) estimated adjustments to the amount received as part of the State municipal revenue sharing program; 5) a constant mill rate. The Tax Impact Statement shall be prepared by an Accountant chosen by the Planning Board and paid by the Applicant.

12.5 Benefits to the Town: Applicants shall be encouraged to provide voluntary benefits to the town such as license fees and/or percentage of gross revenues. Promises of benefits made to the Town of Sedgwick by the applicant shall be documented and submitted with the Final Application. These benefits shall become a legally enforceable provision of the permit.

13.0 Ethical Standards

13.1 Public Meetings: All deliberations concerning the permitting and regulation of WEFs and Community-owned Wind facilities shall be conducted at public meetings for which notice has been duly given.

13.2 Conflict of Interest: No elected or appointed official or employee of the Town of Sedgwick who has a financial interest in the WEF or Community-owned Wind facility under consideration shall be directly or indirectly involved in the permitting or other regulation of that WEF or Community-owned Wind facility. Financial interest includes, but is not limited to, the following:

13.2.1 Having right, title or interest in land on which any part of the WEF or Community-owned Wind facility will be constructed

13.2.2 Having signed for the Applicant's benefit a Covenant with financial remuneration

13.2.3 Having a financial arrangement such as employment or the promise of employment—including employment as an outside contractor—with the Applicant

13.2.4 Serving as a paid representative of an individual or company that derives income from the development of wind power

13.3 Bidding and Contracting: All bidding, contracts, and employment for Community-owned Wind projects must be awarded through a process of public notice and competitive bidding.

14.0 MET Tower and WEF Licensing Authority

The Planning Board shall review all applications for permits to erect and operate MET towers and WEFs and determine whether an operating license is appropriate. In doing so, the Planning Board shall approve, reject, or conditionally approve applications in accordance with the standards of this Ordinance.

14.1 Site Access: In making its licensing decisions, the Planning Board and/or its designated agents or representatives shall have the right to access and inspect WEF sites.

14.2 Simultaneous Application Review: The Planning Board reserves the right to limit the number of applications for WEF permits that are under review at any given time. Only one application for a Type 3 WEF permit will be accepted or processed at any given time.

14.3 MDEP Review: All Type 2 and Type 3 applications shall be submitted to both the Planning Board and to the MDEP. The MDEP may elect to review and comment on WEF applications within the Town of Sedgwick. When making its own determination about such applications, the Planning Board shall consider, to the extent available and applicable, any findings resulting from the MDEP review.

15.0 Permit Application and Operational License Requirements

15.1 Meteorological Tower (MT) Permit Application Submittals: In addition to what is required in the Site Plan Review Ordinance, the Shoreland Zoning Ordinance, and any applicable ordinances for the Town of Sedgwick, the application for a permit for an MT shall be submitted in seven hard copies to the Planning Board and shall include the following information:

15.1.1 Applicant and property owner name, address and contact information

15.1.2 Proposed location of the MT including lot designation

15.1.3 Engineering drawing of proposed tower structure, instrument package, and guy system, if any

15.1.4 Engineering drawing of proposed tower base

15.1.5 Engineering drawing of tower location showing property lines and setback requirements (as specified in Table 1 of this Ordinance)

15.1.6 Any building, use or construction permits required by other authorities because of the size or construction of the tower

15.1.7 Intended period of data collection and date MT will be removed

15.1.8 Plans for mitigation of Environmental Hazard to wildlife for towers requiring guy systems

15.1.9 Description of intention

15.1.10 Decommissioning Bond for MT

15.1.11 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application.

15.1.12 Fees, as established by the Board of Selectmen

15.2 MET Tower Permit Application Review

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

15.2.2 Within 60 days of determining the MT application is complete, the Planning Board shall approve the MT Application, approve the MT Application with conditions, or disapprove the MT Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.3 Type 0 WEF Preliminary Application: The preliminary application for a Type 0 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances:

15.3.1 Applicant and property owner's name, address and contact information

15.3.2 Nameplate data for the type of WEF turbine to be used including manufacturer, model, rated power output and maximum sound power level

15.3.3 Fees, as established by the Board of Selectmen

15.4 Type 1 WEF Preliminary Application: The Preliminary Application for a Type 1 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances and shall be submitted in seven hard copies:

15.4.1 Applicant and property owner's name, address and contact information

15.4.2 Nameplate data for the type of WEF turbine(s) to be used including manufacturer, model, rated power output and maximum sound power level

15.4.3 Certification of the non-reflecting properties of the WEF turbine's external surfaces

15.4.4 Engineering drawing of the WEF turbine location(s)

15.4.5 Calculations and supporting data for all setback requirements (as specified in Table 1 of this Ordinance)

15.4.6 Overlay of Town of Sedgwick property maps showing the setback area and all property lines and rights of way affected by setback requirements, as well as any affected Scenic Resources, Historic Areas, and Historic Sites

15.4.7 List of property owners whose property, wholly or in part, lies within the setback areas

15.4.8 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.4.9 Fees, as established by the Board of Selectmen

15.5 Type 2 and Type 3 WEF Preliminary Applications: The Preliminary Application for a Type 2 or Type 3 WEF shall include the following items in addition to what is required by the Planning Board and any applicable ordinances and shall be submitted in seven hard copies:

15.5.1 One year of meteorological data to establish the feasibility of the proposed project

15.5.2 Applicant and property owner's name, address and contact information

15.5.3 Nameplate data for the type of WEF turbine(s) to be used including manufacturer, model, rated power output and maximum sound power level

15.5.4 Engineering drawings of the type of WEF turbine to be used and the interconnection, if applicable, to the electrical grid, including rights of way

15.5.5 Certification of the non-reflecting properties of the WEF turbine's external surfaces

15.5.6 Engineering drawing of the tower base for the type of WEF turbine to be used

15.5.7 Engineering drawing of the WEF turbine location(s)

15.5.8 Engineering or architectural drawings of all planned structures, including structures for support and maintenance of the WEF

15.5.9 Description of intended use, including energy storage and grid connections, and the percentage (if any) of generation intended for sale or use by entities or persons other than the applicant

15.5.10 Engineering drawings and/or electrical schematics of any energy storage equipment or facilities

15.5.11 Calculations and supporting data for all setback requirements (as specified in Table 1 of this Ordinance). For Type 2 and Type 3 WEFs, setback requirements must be calculated for each WEF turbine.

15.5.12 Overlay of Town of Sedgwick property maps showing the setback area and all property lines and rights of way affected by setback requirements, as well as any affected Scenic Resources, Historic Areas, and Historic Sites

15.5.13 List of property owners whose property, wholly or in part, lies within the setback areas

15.5.14 Flicker Modeling Report as specified in Table 1 of this Ordinance

15.5.15 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.5.16 Fees, as established by the Board of Selectmen

15.6 WEF Preliminary Application Completeness Review: Within 30 days of the Planning Board's receiving a Type 0 or Type 1 Preliminary Application, or within 60 days of receiving a Type 2 or Type 3 Preliminary Application, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

15.7 Local Ordinance Review: After the Planning Board determines that a Preliminary WEF Application is complete, the Planning Board shall determine within 30 days for a Type 0 or Type 1 application, or within 60 days for a type 2 or Type 3 application, whether the Preliminary WEF Application meets all requirements of this Ordinance and any other applicable ordinances of the Town of Sedgwick. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.8 Preliminary Application Decision and Findings of Fact

15.8.1 Within 30 days of completion of the local ordinance review for a Type 0 or Type 1 WEF, or within 60 days for a Type 2 or Type 3 WEF, the Planning Board shall approve the Preliminary WEF Application, approve the Preliminary Application with conditions, or disapprove the Preliminary WEF Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.8.2 In support of its Preliminary WEF Application Decision, the Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance and any other applicable ordinances of the Town of Sedgwick. If the Planning Board finds that all standards have been met, they shall approve the Preliminary WEF Application. If the Planning Board finds that any of the standards of this Ordinance or the Ordinances of the Town of Sedgwick, Maine, have not been met, the Planning Board shall either deny the Preliminary WEF Application or approve the application with conditions to ensure that all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.9 Type 0 WEF Final Application: The final application for a Type 0 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.9.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.9.2 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.9.3 Fees, as established by the Board of Selectmen

15.10 Type 1 WEF Final Application: The final Application for a Type 1 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.10.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.10.2 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.10.3 Proof of general liability insurance

15.10.4 Decommissioning bond

15.10.5 Plan to protect Environmentally Sensitive Areas

15.10.6 Wildlife Protection Plan

15.10.7 Plan for the handling and disposal of Hazardous Wastes, if applicable

15.10.8 Blasting Plan, if blasting is required for construction

15.10.9 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application

15.10.10 Fees, as established by the Board of Selectmen

15.11 Type 2 or Type 3 WEF Final Application: The Final Application for a Type 2 or Type 3 WEF shall include the following items in addition to what is required in the Site Plan Review Ordinance and any other applicable ordinances of the Town of Sedgwick:

15.11.1 Updates to information provided in the preliminary permit, including additions, corrections, and any other changes

15.11.2 Results of any meteorological testing

15.11.3 Verification by the CEO that any applicable building use or construction permits required by other authorities due to the scope of the intended project have been obtained

15.11.4 Public Utility Grid Impact Statement

15.11.5 Financial analysis for Types 2 and 3 WEFs, including evidence of financial capacity to carry out the project

15.11.6 Proof of general liability insurance

15.11.7 Decommissioning bond for Type 2 and 3 WEFs

15.11.8 Tax Valuation Agreement

15.11.9 Tax Impact Statement

15.11.10 Statement of Benefits promised to the Town of Sedgwick, if any

15.11.11 Fire Prevention and Fire Fighting Plan

15.11.12 Road and Property Risk Assessment

15.11.13 Plan to protect Environmentally Sensitive Areas

15.11.14 Wildlife Protection Plan

15.11.15 Baseline Water Quality Study

15.11.16 Plan for the handling and disposal of Hazardous Wastes

15.11.17 Plan to minimize Light Pollution

15.11.18 Visual Impact Assessment, if required, as specified in Section 11.12 of this Ordinance

15.11.19 Blasting Plan, if blasting is required for construction

15.11.20 A legally enforceable agreement that the applicant shall pay (in advance if required by the Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application.

15.11.21 Fees, as established by the Board of Selectmen

15.12 WEF Final Application Completeness Review: Within 30 days of the Planning Board's receiving a Type 0 or Type 1 Final Application, or within 60 days of receiving a Type 2 or Type 3 Final Application, the Planning Board shall, with assistance from such staff, consultants, committees, or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

15.13 Public Hearing: The Planning Board shall hold a public hearing within 30 days of the date of determination of a complete Final WEF Application for a Type 2 or Type 3 WEF. (Note: Public hearings are not required for Type 0 and Type 1 WEFs.) The Planning Board shall publish the time, date, and place of the hearing two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area-wide circulation. The abutting landowners shall be notified in writing by the Planning Board of the hearing. Public hearings by the Planning Board shall be modeled after the procedures outlined in title 30-A M.R.S.A. Section 2691, Subsection 3 (A), (B), (C), (D), and (E).

15.14 Local Ordinance Review: After the Planning Board determines that a Final WEF Application is complete, the Planning Board shall determine within 30 days for a Type 0 or Type 1 application, or within 60 days for a type 2 or Type 3 application, whether the Final WEF Application meets all requirements of this Ordinance and the Site Plan Review Ordinance and the Shoreland Zoning Ordinance for the Town of Sedgwick, or any other town Ordinances. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.15 Final Application Decision and Findings of Fact:

15.15.1 Within 30 days of completion of the local ordinance review for a Type 0 or Type 1 WEF, or within 90 days for a Type 2 or Type 3 WEF, and taking into account the matters brought forth at the Public Hearing, the Planning Board shall approve the Final WEF Application, approve the application with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

15.15.2 In support of its Final WEF Application Decision, the Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance and any other applicable ordinances of the Town of Sedgwick. If the Planning Board finds that all standards have been met, they shall approve the Preliminary WEF Application. If the Planning Board finds that any of the standards of this Ordinance or the Ordinances of the Town of Sedgwick, Maine, have not been met, the Planning Board shall either deny the Final WEF Application or approve the application with conditions to ensure that all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.16 Availability of Waivers: A waiver may be granted by the Planning Board if a Covenant is signed by the Applicant and each Property Owner or other party of legal status in the Town of Sedgwick whose residence and/or property falls within the Flicker Hazard and Acoustic Hazard setback areas for the WEF declaring that the Owner is willing to waive with respect to his/her residence and/or property the Flicker Hazard and/or Acoustic Hazard Setback Standards of this Ordinance and also the Acoustic Standards specified in section 9.3, including the protections they afford for the value of his/her property and for his/her personal health, safety, and welfare. An Applicant for a WEF permit may apply for a waiver of the Flicker Hazard and Acoustic Hazard Standards specified in Section 9.1 (Setback Standards). The Waiver Application (in seven hard copies) shall be submitted with the Final WEF Application and shall include the following items:

15.16.1 A declaration signed by parties to the Covenant that it has been recorded at the Registry of Deeds office appropriate to the affected property, and that the Covenant contains such legal language as may be necessary to make the agreement binding on current and future Residents and/or Property Owners.

15.16.2 A declaration signed by parties to the Covenant of the amount and terms of any consideration(s) provided to the Property Owner for entering into the Covenant.

15.16.3 A declaration signed by parties to the Covenant that they recognize that the burden of proof as to the legality of the Covenant and any Waiver of Standards of this Ordinance that may be granted by the Planning Board rests on the Applicant.

15.16.4 No Waivers of other requirements and standards in this Ordinance shall be permitted.

15.17 Operational License: An Operational License is required for the operation of any Type 2 or Type 3 WEF built in the Town of Sedgwick after the effective date of this Ordinance. (Note: An operational license is not required for a Type 0 or Type 1 WEF; however, a pre-operational inspection by the CEO is required prior to operating the machinery for the first time.) An application for an Operational License shall be submitted in seven hard copies to the Town of Sedgwick Planning Board after the WEF has been fully built.

15.18 Operational License Submittals: The application for an original Operational License shall include the following items:

15.18.1 An Inspection Report certifying the structural and operational integrity of the WEF. This Report shall be signed by a Maine licensed professional engineer chosen by the Planning Board and paid by the Owner/Operator of the WEF.

15.18.2 A signed statement that the Applicant has read this Ordinance, understands all its provisions, and agrees to abide by them.

15.18.3 Fees, as established by the Selectmen.

15.19 Operational License Duration: An Operational License shall be valid for two years and can be renewed by submission of a new Inspection Report and Fee as specified in section 15.18.1 of this Ordinance at least thirty days before expiration of the License.

15.20 Operational License Revocation: An Operational License shall be revoked and the WEF shall be required to cease operations if the Planning Board determines that the WEF is violating any of the standards and requirements of this Ordinance. The Operational License shall not be reinstated until the Planning Board is satisfied that all violations have ceased and all problems have been corrected.

15.21 Transfer of Ownership: An Operational License shall automatically terminate upon transfer of ownership of the WEF. The new Owner/Operator shall apply for a new Operational License and shall not operate the Type 2 and Type 3 WEF until the new License has been issued.

15.22 New Ownership Operational License Submittals: The Application for an Operational License by a new Owner/Operator shall contain the following items:

15.22.1 Copies of the original Permit Applications, updated as necessary, and signed by the new Applicant

15. 22.2 A copy of the original Operational License Application, updated as necessary, and signed by the new Applicant

15. 22.3 A statement, signed by the new Applicant, that he/she has read this Ordinance, understands it, and will abide by all of its provisions

15.22.4 Fees, as established by the Selectman

15.23 New Ownership Financial Viability: A new Owner/Operator of a Type 2 or Type 3 WEF shall provide evidence satisfactory to the Planning Board that the project remains financially viable. Evidence of financial viability shall include the following:

15.23.1 Proof of new owner's capacity and financial capability, per the specifications required by this Ordinance, to operate the WEF per specifications required by this Ordinance

15.23.2 Proof of long-term power purchase contracts

15.23.3 Proof of adequate funds for Decommissioning as specified in Section 11.3 of this Ordinance

15.24 Operational License Renewal: Within 60 days of the Planning Board receiving an Application for the renewal of an operational license for a Type 2 or Type 3 WEF, the Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, notify the applicant in writing that the application is complete or, if the application is

incomplete, shall inform the applicant of the specific additional material needed to complete the application. An operational license renewal is not required of a new Type 0 Owner/Operator.

15.25 Operational License Renewal Decision: Within 60 days of the determining that the operational license renewal application is complete, the Planning Board shall determine whether the Type 2 or Type 3 WEF Application meets the requirements for an Operational License. In determining whether the Type 2 or Type 3 WEF Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

15.26 Findings of Fact: The Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance. If the Planning Board finds that all standards have been met, it shall approve the Type 1, Type 2 or Type 3 WEF application. If the Planning Board finds that any of the standards of this Ordinance have not been met, the Planning Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met. The reasons for any conditions shall be stated in the findings of facts and conclusions.

15.27 Application Form: The Planning Board shall be authorized to develop the application forms required for all of the above actions.

16.0 Enforcement and Violations

16.1 CEO Responsibilities: It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

16.2 CEO Record-keeping: The CEO shall keep a complete set of all records pertaining to essential WEF transactions, including applications submitted, consultant reports, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

16.3 Legal Action and Violations: When any violation of any provision of this Ordinance shall be found to exist, the Town of Sedgwick Attorney, as designated by the Board of Selectmen, either on his own initiative, or upon notice from the CEO, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Sedgwick.

16.4 Fines: Any person, including, but not limited to, a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this Ordinance, shall be penalized in accordance with Title 30-A, Maine Revised Statutes, Annotated, Subsection 4452. Each day such violation continues after notification of violation by the CEO shall constitute a separate offense for which the civil penalties may be assessed on a per-day basis as provided in Section 4452(3). In addition, the violator shall be subject to correct violations and to pay the Town's attorney and expert witness fees as provided in Section 4452. The Board of Selectmen is authorized to enter into a Consent Agreement and in such cases court action is not necessary. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage. (4) Fines.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

17.0 Appeals

17.1 Authority: The Town of Sedgwick Board of Appeals shall have the authority to hear and decide administrative appeals by a party that alleges that an error in applying this Ordinance has been committed by the Planning Board or the CEO.

17.2 Administrative Appeals:

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision. When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

17.3 Appeal Procedure:

17.3.1 Making an Appeal

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

17.3.2 Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

17.4 Appeal to Superior Court:

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

17.5 Reconsideration:

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

TABLE 1

SETBACK DISTANCE STANDARDS ALL MEASUREMENTS AND DISTANCES IN FEET

SETBACK (FT)	METEOROLOGICAL TOWER	TYPE 0 & TYPE 1	TYPE 2	TYPE 3
FALLING & DEBRIS HAZARD	$S_{FD}=H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD}=H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD}=H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall	$S_{FD}=H_o \times 1.5$ Where: S_{FD} Setback Distance H_o Height Overall
FLICKER HAZARD	Not Applicable	$S_c=(H_o/.176) \times 1.5$ Where: S_c Setback Distance H_o Height Overall Not including 120° to 240° True	$S_c=(H_o/.176) \times 1.5$ Where: S_c Setback Distance H_o Height Overall Not including 120° to 240° True	Flicker Analysis Report
ACOUSTIC HAZARD	Not Applicable	$S_s=10^{((L_w+L_u+L_s+4\log(n))-5-30)/20}$ Where: S_s - Setback Distance L_w - Manufacturer's Guaranteed Maximum Sound Power Level, in dBA re 1pW L_u - Uncertainty Factor = 5 L_s - Safety Factor = 2 n - No. of Turbines for one turbine $4\log(n)=0$	$S_s=10^{((L_w+L_u+L_s+4\log(n))-5-30)/20}$ Where: S_s - Setback Distance L_w - Manufacturer's Guaranteed Maximum Sound Power Level, in dBA re 1pW L_u - Uncertainty Factor = 5 L_s - Safety Factor = 2 n - No. of Turbines for one turbine $4\log(n)=0$	$S_s=10^{((L_w+L_u+L_s+4\log(n))-5-30)/20}$ Where: S_s - Setback Distance L_w - Manufacturer's Guaranteed Maximum Sound Power Level, in dBA re 1pW L_u - Uncertainty Factor = 5 L_s - Safety Factor = 2 n - No. of Turbines

TABLE 2
Acoustic Setback Distance in Feet

Property Line Criteria, dBA:	30
Uncertainty Factor, dBA:	5
Safety Factor, dBA:	2

Manufacturer's Guaranteed Maximum Sound Power Level, dBA re 1pW	Number of Wind Turbines									
	1	2	3	4	5	6	7	8	9	10
70	211	243	263	279	292	302	312	320	328	335
71	237	272	295	313	327	339	350	359	368	376
72	266	306	331	351	367	381	393	403	413	422
73	299	343	372	394	412	427	441	452	463	473
74	335	385	417	442	462	479	494	508	520	531
75	376	432	468	496	519	538	555	570	583	596
76	422	484	525	556	582	603	622	639	654	668
77	473	544	589	624	653	677	698	717	734	750
78	531	610	661	701	732	760	783	805	824	841
79	596	684	742	786	822	852	879	903	924	944
80	668	768	833	882	922	956	986	1,013	1,037	1,059
81	750	861	934	989	1,035	1,073	1,107	1,137	1,164	1,189
82	841	967	1,048	1,110	1,161	1,204	1,242	1,275	1,306	1,334
83	944	1,084	1,176	1,246	1,303	1,351	1,393	1,431	1,465	1,496
84	1,059	1,217	1,320	1,398	1,461	1,516	1,563	1,606	1,644	1,679
85	1,189	1,365	1,481	1,568	1,640	1,701	1,754	1,801	1,844	1,884
86	1,334	1,532	1,661	1,760	1,840	1,908	1,968	2,021	2,069	2,113
87	1,496	1,719	1,864	1,974	2,064	2,141	2,208	2,268	2,322	2,371
88	1,679	1,928	2,091	2,215	2,316	2,402	2,478	2,545	2,605	2,661
89	1,884	2,164	2,347	2,485	2,599	2,695	2,780	2,855	2,923	2,985
90	2,113	2,428	2,633	2,789	2,916	3,024	3,119	3,203	3,280	3,350
91	2,371	2,724	2,954	3,129	3,272	3,393	3,500	3,594	3,680	3,758
92	2,661	3,056	3,315	3,511	3,671	3,807	3,927	4,033	4,129	4,217
93	2,985	3,429	3,719	3,939	4,119	4,272	4,406	4,525	4,633	4,732
94	3,350	3,848	4,173	4,420	4,622	4,793	4,943	5,077	5,198	5,309
95	3,758	4,317	4,682	4,959	5,186	5,378	5,547	5,697	5,832	5,957
96	4,217	4,844	5,253	5,564	5,818	6,034	6,223	6,392	6,544	6,683
97	4,732	5,435	5,894	6,243	6,528	6,771	6,983	7,172	7,343	7,499
98	5,309	6,098	6,613	7,005	7,325	7,597	7,835	8,047	8,239	8,414
99	5,957	6,842	7,420	7,860	8,219	8,524	8,791	9,029	9,244	9,441
100	6,683	7,677	8,326	8,819	9,221	9,564	9,863	10,130	10,372	10,593
101	7,499	8,614	9,342	9,895	10,347	10,731	11,067	11,366	11,637	11,885
102	8,414	9,665	10,482	11,102	11,609	12,040	12,417	12,753	13,057	13,335
103	9,441	10,844	11,760	12,457	13,025	13,509	13,932	14,309	14,650	14,962
104	10,593	12,168	13,195	13,977	14,615	15,158	15,632	16,055	16,438	16,788
105	11,885	13,652	14,806	15,682	16,398	17,007	17,540	18,014	18,444	18,836
106	13,335	15,318	16,612	17,596	18,399	19,082	19,680	20,212	20,694	21,135
107	14,962	17,187	18,639	19,743	20,644	21,411	22,081	22,679	23,219	23,714
108	16,788	19,284	20,913	22,152	23,163	24,023	24,775	25,446	26,052	26,607
109	18,836	21,637	23,465	24,855	25,989	26,954	27,798	28,551	29,231	29,854
110	21,135	24,278	26,328	27,888	29,160	30,243	31,190	32,035	32,798	33,497
111	23,714	27,240	29,541	31,290	32,719	33,934	34,996	35,943	36,800	37,584
112	26,607	30,564	33,145	35,108	36,711	38,074	39,266	40,329	41,290	42,170
113	29,854	34,293	37,190	39,392	41,190	42,720	44,057	45,250	46,329	47,315
114	33,497	38,477	41,728	44,199	46,216	47,933	49,433	50,771	51,981	53,088
115	37,584	43,172	46,819	49,592	51,855	53,781	55,465	56,966	58,324	59,566