

WIND ENERGY FACILITY OPERATIONS ORDINANCE

AUTHORITY

The Town of Oakfield hereby adopts a Wind Energy Facility Operations Ordinance [“Ordinance”] consistent with its power to adopt laws for the general welfare of the inhabitants of the Town of Oakfield. 30-A M.R.S. § 3001.

APPLICABILITY

This Ordinance applies to any wind energy facility that requires an approval pursuant to the Maine Site Location of Development Act, 38 M.R.S. § *et. seq.* [“Site Law”].

AUTHORITY REQUIRED

Operational authority is required before commencement of operations of any wind energy facility covered by this Ordinance. Operation of a wind energy facility that is subject to this Ordinance without operational authority shall be a violation of this Ordinance.

SUBMISSION REQUIREMENTS

In order to operate a wind energy facility within the Town of Oakfield, a person intending to operate the wind energy facility [“Operator”] must provide the following information:

Name of Operator. The Operator’s name, address and phone number.

Primary Representative of Operator. The name, address, and phone number of the primary representative of the Operator.

Permits. Copies of all state and/or federal permits obtained by the Operator to operate the wind energy facility. This submission must include the Operator’s Maine Site Law permit [“Site Law Permit”].

Agreements. A list of the name, address, Tax Map and Lot Number(s), and phone numbers for all properties that are the subject of agreements with the Applicant relating to the proposed wind energy facility, including, but not limited to, any noise easements granted to the Applicant that are necessary to comply with 06-096 CMR Ch. 375 § 10 “Control of Noise.”

Compliance. A signed statement from the Operator agreeing to comply with all terms and conditions of its Site Law Permit. In addition, the Operator shall agree to assume all duties and obligations stated in the “Oakfield Wind Project Sound Complaint and Resolution Protocol” [“Sound Complaint Protocol”] a copy of which is attached in Appendix A of this Ordinance.

Fee. A fee in the amount of \$__ for administration of this Ordinance.

OPERATIONAL AUTHORITY

Upon submission of the items listed above, the Operator may operate the wind energy facility for as long as the Operator maintains a valid Maine Site Law Permit, and subject to the Town's enforcement rights herein.

ENFORCEMENT

Ordinance Enforcement. The Complaint Review Officer shall have the authority to enforce the provisions of this Ordinance by issuance of a Notice of Violation ["NOV"] to the Operator and, if necessary, by referring any unresolved NOV to the Oakfield Board of Selectmen for any further action.

Site Law Permit Enforcement. Upon any failure of the Operator to maintain compliance with the Site Law Permit, the Complaint Review Officer may issue a written Notice of Violation to the Operator describing the alleged violation and penalties imposed, if any. With respect to compliance with Site Law Permit conditions governing sound, all sound complaints shall first be processed and administered in accordance with the Sound Complaint Protocol. If the Complaint Review Officer determines that the Sound Complaint Protocol has not satisfactorily resolved a sound complaint, the Complaint Review Officer may issue a written NOV to the Operator.

Upon issuance of a written NOV, the Complaint Review Officer may informally meet with the Operator to address any violation. If the violation has not been abated or corrected within the specified time, the Complaint Review Officer shall report same to the Board of Selectmen for enforcement.

Legal Action. When the above actions do not result in the correction or abatement of the violation, the Board of Selectmen may, upon notice from the Complaint Review Officer, institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary, in the Board of Selectmen's discretion, to enforce the provisions of this Ordinance in the name of the Town of Oakfield. If it does so, the Board of Selectmen shall hold a hearing within 60 days after receiving a NOV referred by the Complaint Review Officer. The Operator, the Board of Selectmen, and the Complaint Review Officer shall be made automatic parties to a NOV hearing. The Board of Selectmen shall also allow any interested person with a reasonable opportunity to be heard in a NOV hearing.

After a hearing on a NOV, the Board of Selectmen shall either (a) dismiss the NOV, (b) remand the NOV back to the Complaint Review Officer for further action, or (c) issue a final NOV to the Operator. Enforcement of such a NOV shall be pursuant to Rule 80K of the Maine Rules of Civil Procedure or other remedy available at law.

Consent Agreement. The Board of Selectmen or its authorized agent are hereby authorized to, and may enter into, administrative consent agreements for the purpose of eliminating violations of this Ordinance and, if appropriate, recovering fines without court action.

APPEALS

In the event the Board of Selectmen, after opportunity for hearing as described above, issues a final NOV to an Operator, the Operator may appeal the Board of Selectmen's decision to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. A decision by the Board of Selectmen to remand a NOV to the Complaint Review Officer or to dismiss a NOV is not judicially reviewable.

No person, other than the Operator, has standing to file an appeal of any final action of the Board of Selectmen under this Ordinance (adopted pursuant to 30-A M.R.S. § 3001) and Rule 80B of the Maine Rules of Civil Procedure.

SEVERABILITY

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

DRAFT