

ARTICLE 14 – SPECIFIC PROJECT STANDARDS

In addition to compliance with all other applicable submission requirements and performance standards of this Ordinance, specific projects shall comply with submission requirements and standards developed to address the specific nature of the project as set forth here in **Article 14**. Some projects will be required to comply with the operational permitting requirements of **Article 5, Permitting Procedure, Section 9, Operational Permitting**.

14.1. ADULT BUSINESSES**14.1.1. PURPOSE AND INTENT**

It is the intent of this Ordinance to regulate the location and manner of operation of adult businesses in the Town.

14.1.2. SITE PLAN APPROVAL AND OPERATIONAL PERMIT REQUIRED

An adult business may be established in growth management areas as allowed in **Table 13 A, Category 6**, provided that the Planning Board finds: 1) that the applicant is in compliance with all applicable provisions of this Ordinance and approves the site plan; and, 2) that the owner/operator is in compliance with all applicable provisions of this Ordinance and approves an operational permit for the adult business. No adult business shall be allowed to initiate operation without both approvals, nor continue operation without annual renewal of the operational permit.

14.1.3. SITE PLAN REVIEW OF THE ADULT BUSINESS

In addition to compliance with all applicable submission requirements and performance standards found elsewhere in this Ordinance, the adult business shall be in conformity with the following specifications.

14.1.3.1. Prohibited Sites. An Adult Business may not be sited within 500 feet of the lot line of a business which caters to the general public or within 1,500 feet of the lot lines of any of the following:

14.1.3.1.1. A church, synagogue or other house of religious worship;

14.1.3.1.2. A public or private elementary or secondary school;

14.1.3.1.3. A day care facility;

14.1.3.1.4. A public park or public recreational facility;

14.1.3.1.5. Any residence on adjacent property, excepting that of the owner or proprietor.

The distance cited in this section shall be measured between the edge of the driveway, parking area or signage used by the adult business and the driveway entrance or signage of the site of the use listed in a through e above at their closest points.

14.1.3.2. Site Requirements.**14.1.3.2.1. Adult Businesses are allowed in GMA-1B.**

14.1.3.2.2. An adult business will be required to construct a visual barrier around the sides of the business as required by the Planning Board.

14.1.3.2.3. An adult business shall not be sited within one thousand (1,000) feet of another adult business.

14.1.3.2.4. An adult business shall not be sited in the same building, structure, or portion thereof, as another adult business.

14.1.4. SIGNS AND EXTERIOR LAYOUT

14.1.4.1. There shall be an 8.5 inch by 11 inch sign at each entrance stating "Under 18 not admitted" or similar wording accepted by the Planning Board.

14.1.4.2. Adult entertainment establishments may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3 inches high, stating "Entrance", "Parking", "No Loitering" or other wording approved by the Planning Board.

14.1.4.3. Adult businesses shall have only one exterior identification sign and in addition to meeting the requirements of **GPS 27.0** shall conform to the following:

14.1.4.3.1. The sign shall contain only the name of the establishment and / or the type of business as defined.

14.1.4.3.2. The sign may not contain any other symbols or illustrations.

14.1.4.3.3. The sign (in addition to other standards in this Ordinance) must meet the following two standards based on the three prong's of the so-called Miller Test based on the Supreme Court findings discussed in Miller v. California (1973).

- (i) The sign (in its entirety) may not appeal to prurient interest.
- (ii) The sign may not depict or describe in an obviously offensive way, sexual conduct, or excretory functions.

14.1.4.3.4. The exterior dimension of the sign shall not exceed 30 square feet.

14.1.4.3.5. The sign may be two sided.

14.1.4.3.6. The sign may be unlit, internally lit, or lit with spotlights.

14.1.4.3.7. The lights may not blink.

14.1.4.3.8. The bottom of the sign may not be more than 10 feet above grade.

14.1.4.3.9. The top of the sign may not be more than 15 feet above grade.

No signs or symbols, except as permitted above, shall be visible from the exterior of the establishment.

14.1.4.4. Exterior lights shall be used for necessary illumination; lights may not flash, pulsate, be so bright as to impair or hinder vision on public streets or adjacent building sites or otherwise constitute a nuisance.

14.1.5. OPERATIONAL PERMITTING

An adult business application granted site plan approval or approval with conditions shall also be subject to the Operational Permitting provisions of **Article 5.9 Operational Permitting**. An operational permit shall be obtained from the Planning Board before the establishment opens for business and shall be renewed as provided for in this Ordinance.

14.1.5.1. Application for an Initial Adult Business Operational Permit.

In addition to the requirements of **Article 5.9**, an applicant for an operational permit for an adult business shall submit to the Code Enforcement Officer the signed releases authorized by **16 MRSA, Chapter 7 (Criminal History Record Information Act)**, for the applicant and each officer, owner, manager or partner of the applicant;

14.1.5.2. Investigation of Adult Business Applicant and Officers.

Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:

14.1.5.2.1. The Code Enforcement Officer with the help of the Penobscot County Sheriff, shall investigate the applicant, including the criminal history record information required under **Article 14.1.5.1.** and then report findings in writing to the Planning Board, and

14.1.5.2.2. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with **Article 14.1.3** and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board.

14.1.5.3. Issuance of an Initial Operational Permit. The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The permit shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance.

14.1.5.4. Standards of Denial. An application for an adult business initial or renewal operational permit shall be denied if any of the standards of denial listed in **Article 5.9.8** apply.

14.1.5.5. Non-transferability of Operational Permits. An operational permit may not be transferred or assigned. (**Article 5.9.7.**)

14.1.5.6. Standards for Suspension; Revocation. An adult business operational permit may be suspended or revoked by the Planning Board after notice to the permittee and hearing upon a finding that the permittee has violated any provision of this Ordinance.

14.1.5.7. Age Restriction. No adult business may permit any person under the age of 18 years into the premises in which the adult business is located.

14.1.5.8. Hours of Operation. The Planning Board may impose allowed hours of operation as a condition of granting an adult business owner / operator an operational permit.

14.1.5.9. Prominent Display of License; Price Charges and Names of Owners or Officers. An adult business operator must display the adult business permit in an open and conspicuous place on the premises for which the permit has been issued. An adult business must also display at all times in an open and conspicuous place a complete list of the names of owners and officers of the adult business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business.

14.1.5.10. Prohibited Activities. The following activities are prohibited:

14.1.5.10.1. All acts of public indecency, as defined in **17-A MRSA §854**, are prohibited in adult businesses.

14.1.5.10.2. All other acts that are prohibited by applicable ordinances or laws.

14.1.5.10.3. All possession, presence and use of alcoholic beverages.

14.1.5.10.4. Operation of the adult business at times other than the allowed hours of operation as specified in the adult business operational permit.

14.2. CAMPGROUNDS AND TRAVEL TRAILER PARKS

Campgrounds and travel trailer parks may be established in growth management areas as allowed under the terms of this Ordinance provided that the facility complies with the following:

14.2.1. Minimum Campsite. Camping areas shall contain a minimum of 5,000 square feet of suitable land, excluding common areas, roads and driveways, for each trailer or tent site.

14.2.2. Fire Standards. Fires shall be permitted only in specifically designated fireplaces constructed to suitable standards, and only under conditions and at times approved by the Maine Forest Service.

14.2.3. Service Facilities. Service facilities which comply with state licensing standards for campgrounds and travel trailer parks shall be provided and maintained in clean and sanitary condition and in good operating order at all times when the campground or trailer park is open for business.

14.2.4. Existing Non-Conforming Campgrounds and Travel Trailer Parks. A legally existing non-conforming campground at the date of enactment of this Ordinance shall be allowed to continue, except that any expansion of the campground shall be in conformity with the non-conformity requirements in **Article 16, Non-Conformity Provisions**.

14.3. EXTRACTIVE INDUSTRIES

Sand, gravel, rock, and similar earth materials may be removed, processed, or stored within growth management areas where allowed under the terms of the Ordinance only after permitting and site plan approval as required by **Article 13, Table 13 E, Group 3 Uses** and compliance with the following:

14.3.1. Operational Permit. No commercial Tier 3 Moderate or High Impact extractive industry may be operated without an operational permit issued annually by the Planning Board pursuant to **Article 5.9 Operational Permitting** and; for which the applicant shall pay a fee as set forth in the **Select Board Schedule of Fees**. Such operational permit shall only be issued if the extractive industry is found to conform to the requirements of this Ordinance and there is a show of proof of compliance with all state permitting and licensing requirements of **Title 38 MRSA §490** or its subsequent supeceding legislation.

14.3.2 Reclamation Plan. A reclamation plan shall be filed with, and approved by the Planning Board before an operational permit is granted. Such plan shall describe, in detail, procedures to be undertaken to restore the site by regrading and seeding with adequate preparation to assure growth of vegetation cover.

Within twelve (12) months following the completion of earth removal operations at any extractive industry site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed or stored in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

14.3.2.1. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

14.3.2.2. The final graded slope shall be two to one (2:1) slope or flatter.

14.3.2.3. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area including grass and other common ground covers. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

14.3.3 Property Boundary. No earth removal, quarrying, or mining activity shall be conducted within 75 feet of an abutting property line.

14.3.4 Permit Renewal. The operator must renew the Extractive Industry operational permit every year from the date of issue. If such earth removal activity is not of a continuous nature (excluding seasonal shutdown), then, at the time of renewal, the operator shall show why he should not restore all or part of the site at that time.

14.3.5 Posting of Performance Bond. The Planning Board may require the applicant to post a bond with the Treasurer of the Town in an amount approved by the Planning Board as sufficient to guarantee conformance.

14.3.6 Imposition of Conditions. The Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with the extractive industry operations on surrounding uses and resources.

14.3.7 Additional Requirements. The following requirements shall apply to all extractive industry operations:

14.3.7.1 Earth material removal shall not be allowed below five feet (5') above the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions;

14.3.7.2. Dust control shall be per Maine Erosion and Sediment Control BMPs;

14.3.7.3. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure;

14.3.7.4. Storage of hazardous materials and petroleum products in the pit is prohibited;

14.3.7.5. Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

14.3.8. Existing Non-Conforming Extractive Industries. A legally existing non-conforming extractive industry at the date of enactment of this Ordinance shall be allowed to continue, except that any expansion of the site shall be in conformity with the non-conformity requirements in **Article 16, Non-Conformity Provisions**. The above sentence shall be in effect retroactively to June 8, 2010 notwithstanding the provisions of **1 MRSA §302**.

14.3.9. Enforcement of State Laws Regarding Extractive Industries. The municipality hereby adopts **38 MRSA §490-W thru §490-FF (Chapter 3, Article 8A Performance Standards for Quarries)** and empowers the Code Enforcement Officer to enforce said standards under home rule authority. This authority is in addition to State enforcement authority - not "in lieu of" State authority.

14.4. JUNKYARDS, AUTOMOBILE GRAVEYARDS AND AUTOMOBILE RECYCLING BUSINESSES

14.4.1. Purpose and Intent. Junkyards, automobile graveyards and automobile recycling businesses, where allowed under the terms of this Ordinance, must obtain site plan approval by the planning board as well as fulfilling the requirements of **MSRA Title 30A, §3751-3760**. In addition, these uses must comply with the following provisions:

14.4.2. Setbacks. Storage and dismantling operations shall be set back at least two hundred feet (200') from all side and rear lot lines.

14.4.3. Screening. Storage and dismantling operations shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of six feet (6') and sufficient to accomplish the complete screening from ordinary view. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.

14.4.4. Buffer. There shall be a minimum of five hundred feet (500') from the business's screening to any play ground, school, church, cemetery or other public facility.

14.4.5. Safety Measures. Upon arrival at the business location, all fuel, engine oil, radiator, battery, transmission fluids, etc. shall be drained from all vehicles, and properly disposed of. Appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents. No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.

14.4.6. Active Processing Operation. No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.

14.4.7. Best Management Practices. During site plan review, the business owner and/or operator shall be informed of recommended **Best Management Practices of the Department of Protection**.

14.4.8. Operational Permitting. Before commencing operation, junkyards, automobile graveyards, or automobile recycling businesses, approved by the Planning Board under **14.4.0**, shall obtain an operational permit pursuant to **Article 5.9. Operational Permitting** and pay a fee as set forth in the **Select Board Schedule of Fees**. The initial operational permit shall be subject to annual renewal.

14.4.9. Violations. Each day that any person or landowner violates the provisions of **Article 14.4.0** shall be a separate violation of this ordinance.

14.4.10. Abandonment and Removal. Any operation granted site approval and an operational permit under **Article 14.4.0** shall have a current operational permit. Failure to renew such permit may result in the Town requiring the owner/operator to remove materials and restore the site.

14.5. MOBILE HOME PARKS

14.5.1. Application Requirements. The application for a permit, to be submitted to the Planning Board for site plan review, shall show:

14.5.1.1. The area and dimensions of the tract of land.

14.5.1.2. The number, size, and location of mobile home lots.

14.5.1.3. The location and width of roadways.

14.5.1.4. The location of water and sewer lines.

14.5.1.5. Such further information as may be requested by the Code Enforcement Officer, Planning Board, or Health Officer to determine that the mobile home park complies with legal requirements.

14.5.2. Minimum Location Standards. A mobile home park shall be:

14.5.2.1. Free from adverse influence by wetlands or waste disposal areas.

14.5.2.2. Not subject to flooding or other hazard or nuisance as determined by the Planning Board.

14.5.3. Minimum General Standards.

14.5.3.1. A mobile home park shall contain no less than 5 acres.

14.5.3.2. A mobile home site shall contain no less than 15,000 square feet with a street/road frontage of at least 100 feet; a concrete pad or foundation shall be installed on each site; and each unit must be firmly anchored by tie-downs.

14.5.3.3. Mobile homes shall be separated from each other by at least 25 feet.

14.5.3.4. The ground surface in all parts of the mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

14.5.3.5. Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and the emanation of dust during dry weather.

14.5.3.6. Every mobile home park shall have a continuous, safe, and potable water supply

capable of delivering no less than 150 gallons of water per day for each mobile home site at suitable pressure with a connection at each mobile home site.

14.5.3.7. Every mobile home park shall be provided with an adequate and safe sewage disposal system, with a sewer connection at each mobile home site.

14.5.3.8. Every mobile home park shall contain an electrical system, consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems. Each mobile home site shall be provided with an approved electrical service.

14.5.3.9. The storage, collection, and disposal of refuse in every mobile home park shall be managed so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard, or air pollution.

14.5.3.10. Not less than 8% of the gross area of the park site shall be devoted to recreational facilities which may include playgrounds, ball fields, ornamental areas, and community buildings.

14.5.4. Minimum Street Standards.

14.5.4.1. All streets in a mobile home park shall be provided with a well-drained and durable surface of minimum width of 24 feet. Street surfaces shall be maintained and snow-plowed by the mobile home park operator.

14.5.4.2. Safe, continuous, and convenient vehicular access shall be provided from abutting public streets or roads into the mobile home park and within the park to each mobile home space.

14.5.4.3. Grades of all streets shall be sufficient to insure adequate surface drainage but shall not be more than 8 percent.

14.5.4.4. Intersections of streets shall be at approximately right angles.

14.5.4.5. Street lighting shall be provided as approved by the Planning Board.

14.5.5. Operational Permitting.

Before commencing operation, mobile home parks approved by the Planning Board under **14.5** shall obtain an operational permit pursuant to **Article 5.9, Operational Permitting** and pay a fee as set forth in the Select Board Schedule of Fees. The initial operational permit shall be subject to annual renewal.

14.5.6. Existing Non-Conforming Mobile Home Parks. A legally existing non-conforming mobile home park at the date of enactment of this Ordinance shall be allowed to continue, except that any expansion of the site shall be in conformity with the non-conformity requirements in **Article 16, Non-Conformity Provisions**. The above sentence shall be in effect retroactively to June 8, 2010 notwithstanding the provisions of **1 MRSA §302**.

14.6. TELECOMMUNICATIONS TOWERS

14.6.1. Development Classification. By default, due to the height, telecommunications towers will fall under Tier 3 High Impact requirements.

14.6.2. Appearance. Towers shall be of galvanized steel finish or be painted a neutral color, so as to minimize their visual presence.

14.6.3. Setbacks and Buffers. All telecommunications towers, guys and any accessory

structures, shall maintain the required setbacks as undisturbed vegetative buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to maximize the effectiveness of the buffer area. The size, spacing, and types of plantings shall be subject to Planning Board approval. Towers must be set back a distance equal to the height of the tower from any off-site structure.

14.6.4. Landscaping. All structures at the tower site shall use materials, color, texture, screening and landscaping that will cause the tower and all related structures to blend into the natural environment to the maximum possible extent.

14.6.5. Lighting. Towers shall not be lighted unless required by state and federal law. If lighting is required, the Planning Board may select the lighting scheme it deems most appropriate from the alternatives acceptable under the law.

14.6.6. Access. Road access to the tower site shall be a minimum width necessary to allow safe and reasonable access to the site.

14.6.7. Security Fencing. A security fence of not less than eight feet (8') in height above finished grade shall surround the tower. Access to the tower shall be through a locked gate.

14.6.8. Height Restrictions. Telecommunications towers are not subject to a specified height limit. The Planning Board may impose restrictions or require specific setbacks to ensure public safety.

14.6.9. Abandonment and Removal. Any antenna or tower that is not operated during a continuous period of twelve (12) months shall be considered abandoned regardless of the intent of the owner or operator, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Code Enforcement Officer notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the Code Enforcement Officer may initiate action to remove such antenna or tower at the owner's expense.

14.6.10. Operational Permitting. Before commencing operation, telecommunication towers, approved by the Planning Board under **5.0**, shall obtain a Telecommunications Tower operational permit pursuant to **Article 5.9, Operational Permitting** and pay a fee as set forth in the **Select Board Schedule of Fees**. The initial operational permit shall be subject to annual renewal.

14.7. SMALL (UNDER 100 kw) WIND ENERGY SYSTEMS

14.7.1. Allowed Accessory Use and Operational Permitting

Small wind energy systems shall be allowed as an accessory use in all growth management areas; subject to the requirements of **Article 14.7.2** below. Small roof-top turbines rated at less than 1 kw do not require a permit and are not regulated. *The Code Enforcement Officer is authorized to issue a permit to a land owner for a single wind turbine rated for a capacity of less than 10 kw and no operational permitting shall be required for small wind systems rated for a capacity of less than 10 kw.* However, all standards apply as for other small wind energy systems regulated in this section. Systems rated for 10 kw or more shall obtain a Small Wind Energy System operational permit pursuant to **Article 5.9. Operational Permitting**.

14.7.2. Use Standards for Small Wind Energy Systems

14.7.2.1. Setback. The base of the tower shall be set back from all property lines, public right-of-ways, and public utility lines a distance equal to 200% of the total extended height. Turbines shall be allowed closer to a property line than 200% of its total extended height if

the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public and private road right-of-ways.

14.7.2.2. Tower Height. So long as the total extended height meets sound and set-back requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration regulations.

14.7.2.3. Sound. Sound levels beyond normal operating conditions may be exceeded during short-term events out of anyone's control such as utility outages and/or severe wind storms.

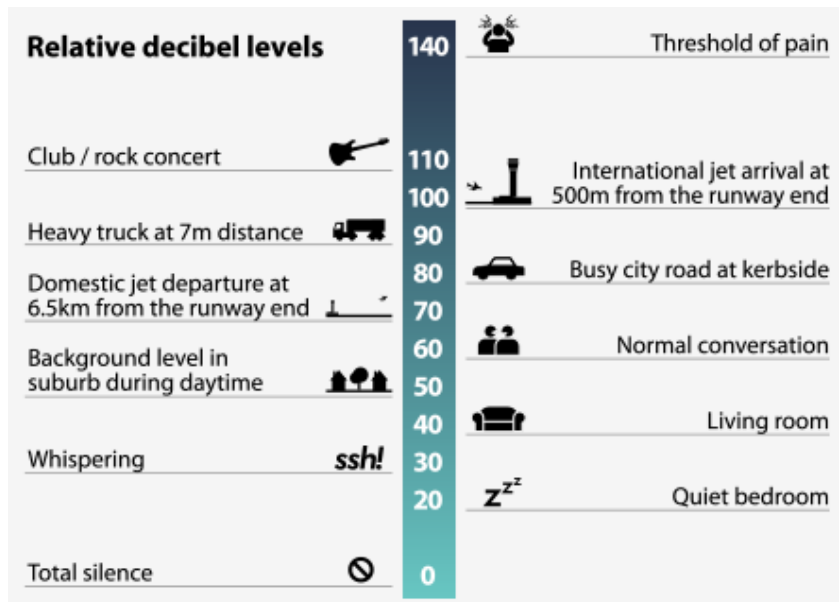
14.7.2.3.1. Sound limits are L₉₀A (10 minute) contributed from the wind turbine only.

14.7.2.3.2. Within 100 ft of a Sensitive Receptor on non-participating or non-project parcels) the average L₉₀A (10 minute) sound limit is 35 dBA. Compliance is as determined in **Article 14.8.A** (Appendix A).

14.7.2.3.3. At the property line of non-participating or non-project parcels the average L₉₀A (10 minute) sound limit is 45 dBA. Compliance is as determined in **Article 14.8.A** (Appendix A).

14.7.2.3.4. A 5 dB penalty is applied for tones as defined in **Article 18**, tonal penalty, actually measured at a measurement point. The 5 dB penalty shall be added to any average 10-minute sound level (L₉₀A 10-minute) for which a tonal sound occurs.

Figure 14-1: Aid to Understanding These Standards



14.7.2.3.5. Mitigation Waiver. Non-participating landowners may waive certain specified protections in this Ordinance using a written, legally enforceable mitigation waiver negotiated between the wind turbine applicant and the non-participating landowner, who thereby becomes a participating landowner. Complete copies of executed mitigation waivers must be included with the submission of the wind energy

facility application. The mitigation waiver must be recorded in the Penobscot County Registry of Deeds, and describe the benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the burdened property.

14.7.2.4. Wind Turbine Equipment. Small wind turbines must have been approved and certified under a small wind certification program.

14.7.2.5. Requirement for Engineered Drawings. The permit application for a small wind energy system shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.

14.7.2.6. Soil Studies. For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for turbine installations of 20kW or less and will not require project-specific soils studies or an engineer's wet stamp.

14.7.2.7. Compliance with FAA Regulations. No Wind Energy System shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in **FAR Part 77** of the FAA guidance on airspace protection.

14.7.2.8. Compliance with National Electric Code. The permit application for a small wind energy system shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

14.7.2.9. Utility Notification. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

14.7.2.10. Insurance. Additional insurance beyond homeowners' coverage shall not be required.

14.7.2.11. Abandonment. If a wind turbine is inoperable for six consecutive months, the owner shall be notified that they must, within six months of receiving the notice, restore their system to operating condition. If the owner(s) fails to restore their system to operating condition within the six-month time frame, then the owner shall be required, at his expense, to remove the wind turbine from the tower for safety reasons. Failure to remove an abandoned system, after notification, is a violation of this Ordinance.

14.7.2.12. Signage. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.

14.7.2.13. Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA.

14.7.2.14. Access. Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of

metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.

14.7.3. Meteorological Towers (MET Towers)

Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Small Wind Power System (**Article 14.7**), as applicable, except that no height limitation shall apply. A permit for a MET Tower shall be valid for 2 years and 2 months from the date of issuance. The Code Enforcement Officer may grant one or more one-year extensions of this permit period. Within 30 days following removal of a MET Tower, the applicant shall restore the site to its original condition to the extent practicable. The provisions of **Article 14.7.3.** do not apply to permanent MET Towers included as associated facilities in approved wind energy facility applications.

14.8. LARGE WIND ENERGY FACILITIES

14.8.1. Applicability

Wind power generators of 100 kilowatts or greater shall conform to the requirements of this standard **Article 14.8** in addition to all other applicable provisions of this Ordinance. In addition, wind power generators of 100 kilowatts or greater shall be sited and conform to **35-A MRSA §3456** and will have satisfied all requirements of certification from the Department of Environmental Protection.

14.8.2. Purpose and Intent. This standard is adopted pursuant to **30-A MRSA §3001** (Home Rule) to protect the health, safety, and welfare of the Town of Clifton and its residents.

14.8.3. Site Plan Approval, Operational Permit, and Burden of Compliance. It shall be unlawful and a violation of this Ordinance to begin construction of a wind energy facility without site plan review and approval by the Planning Board and it shall be a violation of this Ordinance to begin operation of a wind energy facility without Planning Board review and issuance of an Operational Permit in conformity with **Article 5.9, Operational Permitting**.

Site Plan approval and granting of an Operational License by the Planning Board does not abrogate or reduce the responsibility of the applicant or the owner/operator to comply with this Ordinance. Consistent or repeated violations, particularly of the sound limits, may lead to decommissioning and removal of the Wind Energy Facility.

14.8.4. Application Procedure. The application procedure for site plan approval of a wind energy facility shall be as set forth in **Article 6 Site and Subdivision Review Procedure**. The application procedure for an operational permit for a wind energy facility shall be as set forth in **Article 5.9, Operational Permitting**. The Planning Board may require professional assistance, at the applicant's expense, in determining the adequacy and sufficiency of the submitted material. The applicant shall provide financial surety based on the Planning Board's estimate of the cost of consulting support. Consulting support includes but is not limited to engineering and technical review; legal services; copy and reproduction services; information technology services; related travel and logistical expenses. The Planning Board will develop requests for proposals, solicit services and ensure impartiality on the part of selected consultants.

14.8.5. Submission Requirements. In addition to all applicable submission requirements of **Article 6, Site Plan and Subdivision Review Procedure**, of this Ordinance, the applicant for a wind energy facility site plan review and/or operational permit shall submit the following:

14.8.5.1. Specific Documents.

14.8.5.1.1 The generating capacity and expected production of the wind energy facility.

14.8.5.1.2. Expanded Mapping. A property ownership overview map radiating out 1.5 miles from the project parcel boundaries showing the following information:

- (i) sensitive receptors
- (ii) participating parcels and non-participating parcels
- (iii) town growth management areas
- (iv) parcels encumbered under conservation easements, tree growth tax law, or similar
- (v) public and private roads, accesses, trails, utilities, water bodies, historic features
- (vi) other features the board may direct

14.8.5.1.3. Manufacturer's Specifications. Manufacturer's specifications and installation and operation instructions shall be submitted including the make and model of all wind turbine units to be installed in the wind energy facility.

14.8.5.1.4. Decommissioning and Site Restoration Plan. The application shall include a plan meeting the following requirements:

- (i) The plan shall provide for the restoration of the project parcels to a condition similar to that which existed before construction of the wind energy facility. The plan shall provide for the removal from the project parcels, and lawful disposal or disposition of, all wind turbines and other structures, hazardous materials, and electrical facilities. The plan shall provide for the removal of all access roads and foundations unless the landowner wishes them left in place.
- (ii) The plan shall provide for the decommissioning of the site upon the expiration or revocation of the wind energy facility Operational Permit, or upon the abandonment of the wind energy facility. The wind energy facility shall be deemed abandoned if its operation has ceased for twelve consecutive months.
- (iii) The plan shall include provisions for financial surety to ensure completion of decommissioning and site restoration, in form and amount satisfactory to the Planning Board. A performance bond or a cash escrow account held by the Town with 5% of the estimated cost of decommissioning to be added by the wind energy facility on an annual basis shall be acceptable surety, the total amount to be based on the estimated cost of completing the decommissioning and site restoration in accordance with the approved plan, adjusted for inflation, and as approved by the Planning Board.

(iv) The plan shall include written authorization from the wind energy facility permittee and all owners of all project parcels for the Town to access the project parcels and implement the decommissioning and site restoration plan, in the event that the wind energy facility permittee fails to implement the plan. The written authorization shall be in a form approved by the Planning Board and recorded in the Penobscot County Registry of Deeds.

14.8.5.1.5. Mitigation Waiver Agreements. For any parcel that is not owned by the applicant, a copy of any agreement(s) between the owner of the parcel and the applicant and/or the owner/operator. Non-participating landowners may waive certain specified protections in this ordinance using a written, legally enforceable Mitigation Waiver negotiated between the wind turbine applicant and the non-participating Landowner, who thereby becomes a participating landowner. Complete copies of executed mitigation waivers must be included with the submission of the wind energy facility application. The mitigation waiver must be recorded in the Penobscot County Registry of Deeds, and describe the benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the encumbered property.

14.8.5.1.6. Design Safety Certification. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations. Certification that each wind turbine conforms to applicable industry standards including those of the American National Standards Institute (ANSI) shall be submitted.

14.8.5.1.7. Engineering Drawings. Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.

14.8.5.1.8. Connection Agreement. Written evidence that the applicant has notified the electrical service provider of the intent to connect an electric generator to the electricity grid and that the service provider has agreed to the connection.

14.8.5.1.9. Pre-Development Ambient Sound and Predictive Modeling Assessment. An application for a wind energy facility site plan approval shall include a pre-development ambient sound and post development predictive modeling assessment following the protocols in **Article 14.8.A (Appendix A)**. The predictive modeling assessment shall demonstrate that the wind energy facility will be in conformity with the sound standards in this article or the board will deny the application for construction or operational permit. In all cases where two standards conflict the most restrictive applies except where a specific standard specifies otherwise.

(i) The sound assessments shall be reviewed by a qualified independent acoustical consultant chosen by the Planning Board. The consultant will review the assessments and assist the Planning Board in determining whether the proposed wind energy facility will comply with the sound limits set forth in this Ordinance.

(ii) The applicant shall provide the Planning Board and/or its consultant relevant, available, information concerning the validity and reliability of the assessment methodology and results. With the assistance of a qualified, independent consultant, the Planning Board shall evaluate the validity and reliability of methods used for the

assessments and assess how successfully the same or similar methodology has predicted actual post-construction sound measurements at similar facilities.

(iii) Provide descriptions of major sound sources, expected sound frequencies, durations and relevant influential meteorological conditions associated with the construction, operation and maintenance of the proposed facility.

(iv) Provide descriptions of daytime and nighttime hourly sound levels and for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at sensitive receptors.

(v) Provide descriptions of proposed sound control, mitigation, or compliance assurance measures including their locations and expected performance.

(vi) Provide comparisons of the expected sound levels from the proposed facility with the ambient sound level and with the sound level standards of this Ordinance.

(vii) Provide data tables as described in the sound assessment protocol.

(viii) Provide predictive post construction iso-contour maps as described in the sound assessment protocol.

14.8.5.1.10. Shadow Flicker Assessment. Shadow flicker occurs when the blades of a wind turbine pass between the sun and/or moon and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment. The application shall include a detailed shadow flicker assessment model and an estimate of the expected amount of flicker within one mile of any proposed wind turbine. This assessment must be prepared by a licensed or registered professional regularly engaged in this field and take the following into consideration:

(i) Turbine locations (Proposed and existing)

(ii) existing topography (elevation contours and vegetation)

(iii) rotor diameter, blade width and hub height

(iv) joint wind speed and direction distribution (wind rose table)

(v) hours of sunshine/moonshine (long term monthly references)

(vi) estimated locations and durations of shadow flicker caused by the proposed wind energy facility within the entire assessment area

(vii) Duration of shadow flicker at sensitive receptor locations

(viii) demonstrate at least one person preparing the assessment made an on-site visit to verify conditions

14.8.5.1.11. Blade Glint Certification. The applicant shall include a certification that the proposed surface coating will not create a reflective surface conducive to blade glint.

14.8.5.1.12. Visual Impact Assessment. The applicant shall provide modeling of the modification of the ridgeline that will result from the placement of the wind turbines. The visual impact assessment shall describe the existing character of the surrounding area, including scenic views of the wind energy facility site. The assessment shall include the scope and scale of potential effect on, as well as distances from, scenic resources as defined in **Article 18**.

14.8.6. Wind Energy Facility Standards. The Planning Board will not approve a Wind Energy Facility for construction or an operational permit if any studies, assessments, reports, or other pre-construction submissions by the applicant indicate the Wind Energy Facility is unable to meet these standards.

After construction, failure to comply with these standards may be cause for denial or revocation of an operational permit after adequate opportunity for scheduled remedial measures under this Ordinance have lapsed.

The following sections of the ordinance enacted June 8, 2010 and revised March 19, 2011, Article 14, SPS 8.0. H.1.c.2.) is repealed. This ordinance change shall apply retroactively to all proceedings, applications, and petitions pending or commenced on and after June 8, 2010 notwithstanding the provisions of 1 MRSA § 302.

Low Frequency Sound Limits within 4000 feet.

LeqC (post) minus LeqA (post) must be less than 20 dB outside of any occupied structure. L90C (post) may not exceed 50 dBC, without contribution from other ambient sounds, for properties located one mile or more away from Route 9 or Route 180, and it may not exceed 55 dBC for properties closer than one mile from Route 9 or Route 180.

The following sections of the ordinance enacted June 8, 2010 and revised March 19, 2011, Article 14, SPS 8.0. H.1.d.2.) is repealed. This ordinance change shall apply retroactively to all proceedings, applications, and petitions pending or commenced on and after June 8, 2010 notwithstanding the provisions of 1 MRSA § 302.

Low Frequency Sound Limits at 4000 feet and beyond.

LeqC (post) minus LeqA (post) must be less than 20 dB outside of any occupied structure. L90C (post) may not exceed 50 dBC, without contribution from other ambient sounds, for properties located one mile or more away from Route 9 or Route 180, and it may not exceed 55 dBC for properties closer than one mile from Route 9 or Route 180.

14.8.6.1. Sound Standards.

14.8.6.1.1. Sound Limit Parameters. **Article 18** lists the basic definitions of the following parameters: L₉₀A (pre), L_{eq}A (pre), L_{eq}C (pre), L_{eq}C (post), L₉₀A (post), and L_{eq}A (post). Throughout the life of the permitting and operational process, these definitions vary as follows:

(i) Prior to construction of the wind energy facility, the “pre” values are as measured and the “post” values are as calculated using the protocols in **Article 14.8.A (Appendix A)**.

(ii) After the wind energy facility has been constructed, the “pre” values are the “WEF-Off” values as measured and the “post” values are the “WEF-On” values as measured.

14.8.6.1.2. Sound limits are L_{90A} (10 minute) contributed from the wind turbine only.

14.8.6.1.3. Within 100 ft of a Sensitive Receptor on non-participating or non-project parcels the average L_{90A} (10 minute) sound limit is 35 dBA. Compliance is as determined in **Article 14.8.A (Appendix A)**.

14.8.6.1.4. At the property line of non-participating or non-project parcels the average L_{90A} (10 minute) sound limit is 45 dBA. Compliance is as determined in **Article 14.8.A (Appendix A)**.

14.8.6.1.5. A 5 dB penalty is applied for tones as defined in **Article 18**, tonal penalty, actually measured at a measurement point. The 5 dB penalty shall be added to any average 10-minute sound level (L_{90A} 10-min) for which a tonal sound occurs.

Figure 14-2: Aid to Understanding These Standards

Indoor Setting	Outdoor Setting	Sound Sources	SPL (dBA)
Rock Concert ⁺		Jet Takeoff at 300 feet ⁺	120
Ship Engine Room	Loud Thunder	Rifle Blast at 100 feet	110
Movie Theater ⁺		Chain Saw high rpm at 5 feet; siren at 100 feet	100
Heavy Industrial Workspace ⁺		Lawn Mower high rpm at 10 feet; Large Truck or Loader high rpm at 50 feet ⁺	90
Busy Airport	Heavy Rain	Motor Boat high rpm at 100 feet	80
Light Industrial Workspace	Heavy Surf Beach ⁺ Busy City or Highway	AC Unit at 5 feet; Automobile 45 mph at 50 feet	70
Busy Office/Conversation Room with TV	Urban Daytime	Strong Wind in Trees ⁺ Nighttime Frogs; Airplane Flyover ⁺	60
	Suburban Daytime/Urban Nighttime	Bird Calls/Morning Chorus; Small waves on shoreline	50
Quiet Office or Library	Rural Area Daytime	Moderate Wind in Trees	40
Sleeping Quarters at Night	Rural Area Nighttime	Light Wind in Trees	30
Idle Recording Studio	Very Remote Area Nighttime Perceived Silence		20
			10
Threshold of hearing	Threshold of hearing		0

Typical A weighted sound levels; + sound with prominent Low Frequency components

14.8.6.2. Mitigation Waiver. Non-participating landowners may waive certain specified protections in this Ordinance using a written, legally enforceable mitigation waiver negotiated between the wind turbine applicant and the non-participating landowner, who thereby becomes a participating landowner. Complete copies of executed mitigation waivers must be included with the submission of the wind energy facility application. The mitigation waiver must be recorded in the Penobscot County Registry of Deeds, and describe the

benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the burdened property.

14.8.6.3. Shadow Flicker Performance Standards.

14.8.6.3.1. No more than 10 hours of flicker per year on any non-participating residential parcel.

14.8.6.3.2. No more than 10 hours of flicker per year on any roadway (except intersections).

14.8.6.3.3. Shadow flicker is not allowed at the intersection of any roadways.

14.8.6.4. Not Used.

14.8.6.5. Dimensional Standards and Restrictions. A Wind Energy Facility shall comply with the following site requirements, which shall apply in addition to the site and dimensional requirements found elsewhere in this Ordinance. If more than one requirement applies, the more restrictive requirement shall be met.

14.8.6.5.1. Setback from Non-Participating Parcel. Each wind turbine shall be set back at least 200% of the height of the wind turbine from the property line of any non-participating parcel. Property owners may waive this setback with a written mitigation waiver agreement.

14.8.6.5.2. Setback from Public Way. Each wind turbine shall be set back at least 200% of the height of the wind turbine from any public way.

14.8.6.5.3. Setback from Utility Lines. Each wind turbine shall be set back at least 300% from any above-ground electric power line or telephone line except that a lesser setback shall be permitted if the utility agrees, in writing, and this agreement is approved by the Planning Board. This provision does not apply to on site utility lines that are part of the project.

14.8.6.5.4. Setback from Sensitive Receptors on Non-Participating Parcels. Each wind turbine shall be set back not less than 4,000 feet from any sensitive receptor on any non-participating parcel. Property owners may waive this setback with a written mitigation waiver agreement.

14.8.6.5.5. Setback from Sensitive receptors on Participating Parcels. Each wind turbine shall be set back not less than 1,500 feet from any sensitive receptor, on any participating parcel or project parcel.

14.8.6.5.6. Prohibited Scenic Resource Siting. No wind turbine shall be sited on scenic resources as defined in **Article 18**.

14.8.6.5.7. Setback from Scenic Resources. All Wind Turbines must be set back a minimum of 2,500 feet from the Scenic Resources defined in **Article 18** as measured from the wind turbine to the nearest point of highest elevation of the Scenic Resource.

14.8.6.5.8. Setback measurement. All set-back distance measurements shall be based on horizontal distances.

14.8.7. Natural Areas and Wildlife Habitat. The applicant must demonstrate that the proposed Wind Energy Facility will not have an undue adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities.

14.8.8. Design Standards. The design plan shall conform to the following requirements:

14.8.8.1. Over Speed Controls and Brakes. Each Wind Turbine shall be equipped with an over speed 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 Planning Board, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

14.8.8.2. Electrical Components and Interconnections. All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national codes. Interconnections shall follow the access roads to the greatest extent possible.

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

14.8.8.4. Structure Type. With the exception of Meteorological (MET) Towers, towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the Planning Board that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

14.8.8.5. Visual Appearance.

14.8.8.5.1. A wind turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.

14.8.8.5.2. 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.

14.8.8.5.3. 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.

14.8.9. Construction Standards. The applicant shall comply with the following during construction.

14.8.9.1. Blasting. All blasting shall be in conformity with the submitted blasting plan. No blasting shall be undertaken without 48 hours notice to all residents within a half mile radius, measured horizontally, from the blasting area. All blasting operations will cover the blasting

area with sufficient stemming, matting or natural protective cover to prevent debris from falling on nearby properties.

14.8.9.2. Public Safety. The applicant / contractor shall take all reasonable measures to minimize risk to public health and safety during construction.

14.8.9.3. Erosion Control. Erosion of soil and sedimentation shall be minimized by employing “best management practices” in the “**Maine Erosion Sediment Control BMPs**”, or the most recent edition published at the time of permit application. The owner/operator shall comply with the submitted storm water management plan. Access to the Wind Energy Facility and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles.

14.8.9.4. Damage to Public Ways and Private Property. The applicant shall be responsible for paying for any damage to any public way or private property.

14.8.10. Not Used.

14.8.11. Decommissioning Standard. The owner/operator shall comply with the submitted decommissioning plan.

14.8.12. Modifications of and Changes to an Approved Wind Energy Facility Site Plan

Any modification of an approved Wind Energy Facility site plan or operational permit such as, but not limited to, the number of wind turbines, tower height, tower locations, turbine design and specifications shall require the applicant to obtain Planning Board permission and potentially an amended site plan approval from the Planning Board pursuant to this Ordinance.

The Planning Board may direct anything from a partial re-submission of necessary documents to prove compliance to a full re-application from the beginning. Changes in approved plans necessary to address altered conditions may be approved by the Planning Board provided that any such change does not adversely affect compliance with the Ordinance. Changes resulting in improved compliance should be strongly considered for immediate approval. In the event that a majority of the Planning Board believes that a requested change will adversely affect compliance with the Ordinance, full reapplication is required.

14.8.13 Additional Submissions for an Operational Permit. In addition to the submittal requirements of **Article 5.9, Operational Permitting**, the applicant for an operational permit shall submit the following:

14.8.13.1. Liability Insurance. The applicant for an operational permit shall submit to the Planning Board a certificate of a current general liability policy for the wind energy facility that covers bodily injury and property damage in an amount commensurate with the scope and scale of the wind energy facility, and acceptable to the Planning Board. Certificates of insurance shall be provided to the Planning Board annually. The policy must include the requirement that the Planning Board will be provided at least ten days notice by the policy provider in the case of cancellation or change to the policy. In addition, the applicant, owner, operator, or permittee, as applicable, must inform the Planning Board of such changes.

14.8.13.2. Legally Binding Agreement to Conduct Post-Construction Sound Measurements and Assessments.

The applicant for an operational permit shall submit to the Planning Board an agreement to conduct post-construction sound measurements under the following conditions:

14.8.13.3. Starting within twelve months of the date of commencing operation, a post-construction sound assessment shall be performed as described in **Article 14.8.A (Appendix A)**. The assessment shall be conducted by a qualified independent consultant approved by the Planning Board. The permittee will provide financial surety that the costs of all such studies shall be paid by the permittee. The wind energy facility permittee shall provide all technical information required by the Planning Board or its independent consultant before, during, and/or after any acoustical studies required by this document and all information for local area acoustical measurements made. The post-construction sound measurements shall follow the guidelines as described in **Article 14.8.A (Appendix A)**. The Planning Board may update and revise the guidelines from time to time (in the operational permit) as techniques, equipment and recognized standards of measurement are refined and improved. All data shall be submitted to the CEO for record retention through decommissioning plus three years.

14.8.14. Inspections, Violations, Complaints, Penalties, and Appeals

14.8.14.1. Inspections. The Code Enforcement Officer shall perform annual inspections of the wind energy facility in accord with the renewal procedures of **Article 5.9.10**. The owner/operator of the facility shall allow access and provide all pertinent information as the Code Enforcement Officer may require for this purpose. Inspections at other times to investigate complaints in accordance with **Article 14.8.14.3** and **Article 14.8.B (Appendix B)** below shall also be allowed.

14.8.14.2. Violations and Penalties. It shall be unlawful to construct or operate any wind energy facility or part thereof in violation of any provision of this Ordinance, any Site Plan approval granted by the Planning Board, any Code Enforcement Officer Permit issued, or a Wind Energy Facility operational permit granted by the Planning Board; any violation thereof is punishable, upon conviction, in accordance with **30-A MRSA § 4452(3)**, and shall include attorneys fees and a penalty to address economic benefit as provided in **30-A MRSA § 4452(3)(D) and (H)**. All fines assessed under this Ordinance shall inure to the benefit of the Town of Clifton. Each day a violation exists or continues shall constitute a separate offense.

14.8.14.2.1. The Code Enforcement Officer shall provide the owner/operator of a wind energy facility a written notice of violation (NOV) and shall provide the owner/operator with an opportunity to remedy the alleged violation by providing a written remediation plan within 30 days of the date of the NOV. The remediation plan shall include a schedule for implementing corrective action that shall be reviewed and approved by the CEO working with the planning board.

14.8.14.2.2. Unintended violations. Sound level violations of the sound limits in **Section 14.8.6. Specific Wind Energy Facility Standards, subsection 14.8.6.1. Sound standards**, that occur in the normal operation of a Wind Energy Facility due to weather and /or atmospheric conditions shall be deemed unintended violations. Unintended violations not exceeding 5 decibels over the permitted sound levels and

occurring on not more than ten (10), 24 hour periods, a year will not be deemed serious enough to warrant corrective measures.

14.8.14.2.3. Uncontrollable violations. Sound level violations of the sound limits in **Article 14.8.6.. Specific Wind Energy Facility Standards, subsection 14.8.6.1. Sound standards**, that occur due to war, earthquake, fire, hurricane, tornado, and similar catastrophic events, and that are out of the control of the wind energy facility operator to prevent; will not be counted as unintended violations in **Article 14.8.14.2.2** above.

14.8.14.3. Complaints. The Planning Board shall retain continuing jurisdiction to modify, suspend or revoke any and all wind energy facility Operational Permits. Such authority shall be in addition to the Town's authority to prosecute violations and take other enforcement action.

Complaints shall be filed, investigated, recorded, and addressed according to the provisions of **Article 14.8.B (Appendix B)**.

14.8.14.4. Appeals. In accord with **Article 5.9.13**, an appeal of denial, revocation, or suspension of an operational permit by the Planning Board of Clifton shall be made to the Superior Court within forty-five (45) days of the decision by the Planning Board.

The following sections of the ordinance enacted June 8, 2010 and revised March 19, 2011, Article 14, APPENDIX TO SPS 8.0.Sound Study Protocol, 4.e.vi.6. and 4.e.vi.7. and 4.e.vi.8 are repealed. This ordinance change shall apply retroactively to all proceedings, applications, and petitions pending or commenced on and after June 8, 2010 not withstanding the provisions of 1 MRSA § 302.

6. Iso-contour maps shall be included, two for each season, showing the level of pre-construction background sound, as given by $L_{90A}(pre)$ and $L_{90C}(pre)$. These maps shall extend to a minimum of 1.5 miles beyond the perimeter of the project boundary, and may be extended to a distance of more than 1.5 miles at the discretion of the Planning Board. The scale shall be such as to allow individual Measurement Points and Sensitive Receptors to be distinguished.

7. Iso-contour maps shall be included, two for each season, showing the level of post-construction sound, as given by $L_{eqA}(post)$ and $L_{eqC}(post)$. These maps shall cover the same area and use the same scale as those in Subsection (6).

8. Iso-contour maps shall be included, two for each season. These maps shall show the value of $L_{eqA}(post)$ minus $L_{90A}(pre)$, one map for each season; and shall show $L_{eqC}(post)$ minus $L_{90A}(pre)$, one map for each season. These maps shall cover the same area and use the same scale as those in Subsection (6).

14.8.A. Sound Assessment Protocol (Appendix A)

14.8.A.1. Context of References. Various portions of this appendix reference standards from international, scientific, and engineering organizations. The most current approved final version of the standard is to be used. If there is a conflict between a standard referenced and a specific standard stated in this appendix, the specific standard stated in this appendix shall be used.

14.8.A.2. Introduction. The purpose of this Appendix is to describe the requirements for pre-construction and post-construction sound and vibration monitoring. Determining the sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision-makers. This protocol is based in part on criteria published in **American National Standards S12.9 - Quantities and Procedures for Description and Measurement of Environmental Sound**, and **S12.18** for the measurement of sound pressure level outdoors. Where there are differences between the procedures and definitions of this document and **ANSI** standards, this document shall apply.

14.8.A.3. Instrumentation. All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for **ANSI or IEC Class 1 Integrating Averaging Sound Level Meter** with one-third octave band analyzer with frequency range from 12.5 Hz to 20k Hz. The instrument must also be capable of measuring low level background sounds down to 20 dBA, and must conform, at a minimum, to the requirements of **ANSI S1.43-1997**. Measurements shall only be made with a 7 inch or larger weather-treated windscreen to extend the relevant range of valid data. A compatible acoustic field calibrator is required with certified ± 0.2 dB accuracy. Portable meteorological measurement requirements are outlined in **ANSI S12.9 Part 3** and are required to be located within 5 meters of the sound measuring microphone. The microphone shall be located at a height of 1.2 to 1.5 meters for all tests unless circumstances require a different measurement position. In that case, the reasons shall be documented and include any adjustments needed to make the results correspond to the preferred measurement location.

14.8.A.4. Pre-construction Ambient Sound and Predictive Sound Assessment. An assessment of the sound environment in the area surrounding the proposed wind energy facility is necessary in order to predict the impact of a proposed project. The following guidelines shall be used in developing an estimate an area's pre-construction sound environment and predicting post-construction sound levels. Measurements and assessment are to be conducted by a Qualified Independent Acoustical Consultant chosen by the applicant. The pre-development ambient sound assessment measurement period must be when the majority of deciduous tree leaves have fallen to the ground and leaf and insect noise is minimal (late fall through early spring represent optimal time frames).

The Planning Board may file objections detailing any concerns it may have with the applicant's selection. These concerns will be addressed in the assessment. Objections to the applicant's selection must be filed prior to the start of the sound assessment. Measurements and detailed analysis of the existing pre- and modeled post-construction sound environments will be submitted to the Planning Board.

The purpose of the assessment is first, to establish a consistent and scientifically sound procedure for evaluating existing background levels of audible and low frequency sound; and second, to determine whether the proposed wind energy facility will meet the conditions set forth in the Ordinance. The characteristics of the proposed wind energy facility and the features of the surrounding environment will influence the design of the assessment. Site layout, types of wind turbines and wind systems selected and the existence of other significant local audible and low frequency sound sources and Sensitive Receptors should be taken into consideration.

14.8.A.4.1. Location of Measurement Points for Pre-construction Sound

Measurement. Sites to be used as Measurement Points shall be selected as follows.

- (i) Sites should not be located near large objects, such as buildings. The distance to buildings or other structures should be twice the largest dimension of the structure, if possible.
- (ii) The sites shall include those locations anticipated to have the highest sound immissions of the proposed wind energy facility.
- (iii) The sites shall include those locations where the background soundscape is not unduly influenced by local noise sources, whether natural or man-made, such as streams, roads, logging activities, etc.
- (iv) The sites shall include locations selected to represent the sound level at all Sensitive Receptors located within 1.5 miles of each proposed wind turbine.
- (v) Sites shall be located with the assistance of the Planning Board and property owner(s) where measurements are proposed to occur.
- (vi) Additional sites may be chosen by the consultant conducting the assessment if these sites will improve the accuracy of the assessment's conclusions.
- (vii) At least one 10 meter weather reporting station must be located on the proposed wind turbine site.

14.8.A.4.2. Conditions Under Which Measurements Are To Be Taken. At each Measurement Point, information will be gathered under the conditions specified.

- (i) The duration of each measurement shall be ten continuous minutes for each quantity listed in Subsection **14.8.A.4.3.**, below, at each location. Monitor in continuous ten minute intervals for a period of at least 7 days to capture a wide variety of wind and weather conditions. All raw data will be supplied to the board. The raw data will be separated into daytime, (7 a.m. to 7 p.m.), and nighttime, (7 p.m. to 7 a.m.), levels to see if it is significantly quieter at night. The actual numbers used as representing the site will be the average of all measurements taken after eliminating the highest 10% and lowest 10% of all valid measurements.
- (ii) Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following **ANSI S12.9** protocol together with any other requirements found in this Ordinance.
- (iii) A 7 inch or larger weather-treated windscreen to extend the relevant range of valid data must be used for all data collection.

14.8.A.4.3. Quantities to be Measured. At each Measurement Point, the following information will be gathered, at a minimum, and provided as part of the assessment.

- (i) L_{eq} , L_{10} and L_{90} , each to be given in dBA and in dBC. L_{90} is the value for the quietest one continuous minute of a continuous ten minute period, L_{10} is the value for the loudest one continuous minute of a continuous ten minute period, and L_{eq} is the average value over the entire ten minute period. To distinguish these values from

their post-construction counterparts, these values may be denoted $L_{eq}(pre)$, $L_{10}(pre)$ and $L_{90}(pre)$, with an “A” or a “C”, depending on the weight. For instance, $L_{10A}(pre)$ means the A-weighted preconstruction measurement of L_{10} .

(ii) A general narrative description of the steady sounds that form the background soundscape at each measurement point.

(iii) Digital recording of all data, sampled at a rate of at least 44,100 Hz with signed 16 bit Pulse Code Modulation, as described in **IEC 60908**, and measured using a recording instrument meeting **ANSI S1.4**. This may be augmented with audio and video recordings.

(iv) Wind speed and direction, humidity and temperature, together with the corresponding information from the nearest ten meter weather reporting station.

14.8.A.4.4. Pre-Construction Predictive Sound Assessment Elements

(i) Determining whether the proposed wind energy facility will meet the conditions set forth in this Ordinance requires that the consultant predict the post construction sound level of the proposed wind energy facility. At each Measurement Point, the consultant must estimate values for L_{eq} , both A-weighted and C-weighted, for a total of two values at each Measurement Point. These pre-construction estimates of the post-construction sound level will be denoted $L_{eq}(post)$, each of which may have an “A” or a “C” to indicate the method of weighting. In the event that there are several pending permit applications, or preexisting wind energy facility(s), the estimated post-construction values shall be the combined predicted output of all proposed or existing wind energy facility(s). All of these wind energy facility(s) will be treated using the same methodology to arrive at combined value for the predicted post-construction sound level. Each additional wind energy facility adds to the sound-burden of a community. If the contribution to sound levels of a proposed wind energy facility, together with the sound generated by pre-existing wind energy facility(s) would raise sound levels beyond the limits of this Ordinance, then the proposed wind energy facility will not be approved.

(ii) The assessment may be based on computer models using certified use of the ISO 9613-2 or equivalent standard as approved by the Planning Board working with their independent Acoustical engineer, and shall include a description of all assumptions made in the model’s construction and algorithms. This description must be sufficient to allow an independent third party to verify the conclusions of the assessment. If the model does not consider the effects of wind direction, operating conditions, geography of the terrain, and/or the effect of reinforcement from coherent sounds or tones from the turbines, then these shortcomings must be identified. In all cases predictions shall be based on the highest levels of sound power produced by the wind turbines including the highest uncertainties of the method used and manufacture's warranted specifications as reflected in an IEC 61400-11 2nd edition test or compliance tests of the same make and model under conditions similar to the site conditions proposed for the WEF.

14.8.A.4.5. Elements To Be Included in Submissions. In addition to any and all previous required submissions to the planning board the following elements are required

- (i) The minimum and maximum distance between any Measurement Points.
- (ii) The distance between each Measurement Point and any significant local sound sources.
- (iii) For each measurement point the following data shall be provided, preferably in tabular form. The measured L_{eq} , L_{10} and L_{90} , each to be given in dBA and in dBC as determined in **Article 14.8.A.4.3.** above, The percentage of valid 10 minute data measurements, the percentage of invalid data measurements due to wind or weather and the predicted $L_{eq}A(post)$ and $L_{eq}C(post)$ estimated in **Article 14.8.A.4.4** above.

The following section of this ordinance, 14.8. Sound Assessment Protocol (Appendix A), 14.8.A.4.5. (iv) shall apply retroactively to all proceedings, applications, and petitions pending or commenced on and after June 8, 2010 notwithstanding the provisions of 1 MRSA § 302.

- (iv) One iso-contour map shall be included showing the level of post-construction sound, as given by $L_{eq}A(post)$ contributed by the WEF. The scale shall be such as to allow individual Measurement points and sensitive receptors to be distinguished. In the event that there are several pending permit applications, or preexisting wind energy facility(s), the estimated post-construction values shall be the combined predicted output of all proposed or existing wind energy facility(s). All of these wind energy facility(s) will be treated using the same methodology to arrive at combined value for the predicted post-construction sound level. Each additional wind energy facility adds to the sound-burden of a community. If the contribution to sound levels of a proposed wind energy facility, together with the sound generated by pre-existing wind energy facility(s) would raise sound levels beyond the limits of this Ordinance, then the proposed wind energy facility will not be approved.
- (v) All maps shall use a contour interval of no more than one (1) dB, and shall extend out, at a minimum, to distance sufficient to show the 30 dBA boundary, or 1.5 miles from any turbine, whichever is greater.
- (vi) Maps shall show the location of Measurement Points, sources of any significant local non-WEF sound or vibration, and the location of all Sensitive Receptors.
- (vii) Any additional information that the Planning Board and /or its consultant reasonably believe will aid in making a more informed decision as to whether the proposed Wind Energy Facility will meet the requirements of this Ordinance.

14.8.A.5. Post-Construction Sound Measurement and Assessment

14.8.A.5.1. Measurement instrumentation shall be the same as specified in **Article 14.8.A.3** above.

14.8.A.5.2. The post-construction sound assessment measurement period must be when the majority of deciduous tree leaves have fallen to the ground and leaf and insect noise is minimal (late fall through early spring present optimal time frames).

14.8.A.5.3. Post-construction sound studies require two sets of measurements One set of these measurements will be referred to as the "WEF-Off Measurements." The second

set of measurements shall be gathered as set forth in this Section 5, and will be referred to as the “WEF-On Measurements”. The WEF-On Measurement Points shall be the same as those used as WEF-Off Measurement Points. Measurements and study are to be conducted by a Qualified Independent Acoustical Consultant chosen by the applicant. The Planning Board may file objections detailing any concerns it may have with the applicant's selection. These concerns will be addressed in the study. Objections to the applicant's selection must be filed prior to the start of the sound assessment. Measurements and detailed analysis of the Post-construction Sound Assessment shall be submitted to the Planning Board.

(i) If there have been any valid complaints as determined by protocols in **Article 14.8.B. (Appendix B)** about wind energy facility sound or low frequency sound by any resident of an occupied dwelling, then a location or locations on that property will be included in the WEF-OFF and WEF-ON Measurement Points.

(ii) This location(s) will be selected jointly by the complainant, the planning board, and Consultant. In addition, the Consultant and Planning Board may include additional Measurement Points where they reasonably believe that doing so will improve the accuracy of the assessment.

(iii) The WEF-On Measurements shall be taken under the conditions listed below, and the quantities measured shall be as specified in **Article 14.8.A.4.3** above. Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following **ANSI S12.9** protocol together with any other requirements found in this Ordinance.

14.8.A.5.4. A minimum of 12, 10 minute periods, when the turbines are generating power concurrent with their maximum sound output the turbines will be shut down. A comparison will be made between the L90As during operations in a one hour period on either side of the shutdown, and the L90 during shutdown. Shutdowns will be synchronized to start at a multiple of 10 minutes on the hour, (e.g. 12:00, 12:10, 12:20,) and no more than one shutdown will occur in any eight-hour period to minimize the impact on potential valid periods.

14.8.A.5.4.1. At least 50% of WEF-OFF periods shall be between 7:00 PM and 7:00 AM, (Nighttime).

14.8.A.5.4.2. Valid 10 minute periods for WEF-ON measurements are within 1 hour before and 1 hour after a WEF-OFF period, and when the wind turbines are generating power concurrent with their maximum sound output and the measurement intervals are not affected by increased biological activities, leaf rustling, traffic, high water flow, aircraft flyovers or other extraneous ambient noise sources that affect the ability to demonstrate compliance.

14.8.A.5.4.3. Measurement intervals affected by increased biological activities, leaf rustling, traffic, high water flow, aircraft flyovers or other extraneous ambient noise sources that affect the ability to demonstrate compliance shall be reported but excluded from valid compliance report determination. The intent is to obtain 10-minute measurement intervals that entirely meet the specific criteria.

14.8.A.5.4.4. The WEF-only level can then be deduced by logarithmically subtracting the (L90) background level from the total (L90) measured level with the

project running so long as the WEF-ON level is at least 3 dBA higher than the WEF-OFF level. If the differential is less than 3 dBA the sound emissions from the project shall be considered indeterminate and negligible relative to the natural background level.

14.8.A.5.4.5. A 5 dB penalty is applied for tones as defined in Article 18, **tonal penalty**, actually measured at a measurement point. The 5 dB penalty shall be added to any average 10-minute sound level (L90A 10-minute) for which a tonal sound occurs.

14.8.A.6. Compliance with the Sound Level Limits. A wind energy development shall determine compliance at a measurement point with the sound level limits as set forth in **Article 14.8.6.** of this ordinance in accordance with the following procedure:

14.8.A.6.1 Compliance at a measurement point will be demonstrated when the arithmetic average of the sound level of, at a minimum, 48, valid 10-minute WEF-Only measurement intervals as determined in **Article 14.8.A.5.4** is less than or equal to the sound level limit set forth in **Article 14.8.6.**

14.8.A.6.2. If after 12 WEF-OFF shutdown periods there are no valid periods where the WEF-only level can be determined, the WEF will be declared in compliance. This can only happen if for all valid periods the sound contributed by the WEF is lower than or within 3 dBA of the WEF-OFF L90 and therefore is indeterminate. This means that the WEF sound cannot be heard over and cannot be distinguished from the background sound at the measurement point.

14.8.A.6.3 If after 12 WEF-OFF shutdown periods there are fewer than 48 valid WEF-only levels and the arithmetic average of the sound level of the valid samples is less than or equal to the sound level limit set forth in **Article 14.8.6** the WEF will be declared in compliance.

14.8.A.7. Reporting of Compliance Measurement Data

Compliance data from the operation of a wind energy development shall be submitted to the Planning Board, at a minimum:

14.8.A.7.1. Once during the first year of facility operation;

14.8.A.7.2. All operational, sound and meteorological data collected shall be turned over to the Code Enforcement Officer within 30 days of collection for record retention through decommissioning plus three years.

14.8.A.7.3. A narrative description of the sound from the wind energy development for the compliance measurement period result;

14.8.A.7.4. The dates, days of the week and hours of the day when measurements were made;

14.8.A.7.5. The wind direction and speed, temperature, and humidity

14.8.A.7.6. Identification of all measurement equipment by make, model and serial number;

14.8.A.7.7. All meteorological, sound, windscreen, video and audio instrumentation specifications and calibrations;

14.8.A.7.8. All A-weighted equivalent sound levels for each 10-minute measurement interval;

14.8.A.7.9. All LA10 and LA90 percentile levels for each 10-minute measurement interval ;

14.8.A.7.10. All 10 minute 1/3 octave band linear equivalent sound levels (dB);

14.8.A.7.11. All short duration repetitive events characterized by event amplitude. Amplitude is defined as the peak event amplitude minus the average minima sound level immediately before and after the event, as measured at an interval of 50 milliseconds ("ms") or less, A-weighted and fast time response, i.e. 125 ms. For each 10-minute measurement interval short duration repetitive sound events shall be reported by number for each observed amplitude integer above 5 dBA.

14.8.A.7.12. Audio recording devices shall be time stamped (hh:mm:ss) and at a minimum 16 bit digital, recording the sound signal output from the measurement microphone at a minimum sampling rate of 24 thousand (k) samples per second to be used for identifying events. Audio recording and compliance data collection shall occur through the same microphone/sound meter and bear the same time stamp. Should any sound data collection be observed by a trained attendant, the attendant's notes and observations may be substituted for the audio files during the compliance measurement period;

14.8.A.7.13. All concurrent time stamped turbine operational data including the date, time and duration of any noise reduction operation or other interruptions in operations if present; and

14.8.A.7.14. Supervisory Control And Data Acquisition (SCADA) data for all wind turbines shall be provided for all measurement periods, both WEF-ON and WEF-OFF. Failure to provide SCADA data will be a violation of this ordinance.

14.8.A.7.15 All other information determined necessary by the Planning Board.

14.8.B. Community Complaint Evaluation and Response Procedure (Appendix B)

The complaints process provides means for local community members to contact Clifton Town Officials in the event of perceived or actual non compliance issues and to provide a structured means to effectively manage any community concerns or complaints. The CEO and/or the Planning Board shall be responsible for responding to and assessing the validity of community concerns or complaints.

14.8.B.1 Method of Complaint. Complaints shall be submitted in writing on a form provided by the CEO and/or town office. The form shall include at a minimum the date, time, and location of complaint including details of said complaint.

Failure to allow the CEO and/or a Planning Board approved sound consultant access to the location of the complaint for purposes of investigation to determine non-compliance with the standards of the CLUO will result in the dismissal of the complaint without prejudice.

14.8.B.2 Background. Unlike most industrial or commercial noise sources, the sound emissions from wind turbines occur during wind conditions that typically induce significant levels of background noise due to the wind itself. The background sound levels during conditions when the wind turbines are in operation near its rated generating capacity are comparable to the sound levels emitted by the wind turbines themselves. Consequently, determination of compliance is challenging and it is necessary to have an accurate account of the contribution from each source. An additional challenge is that conventional acoustic instrumentation, normally used for the measurement of industrial noise sources, is prone to produce erroneous signals due to the interaction of wind blowing over the microphone (including a windscreen), particularly at winds speeds at 4 m/s and higher. Consequently, in order to accurately measure the sound levels due to wind turbines alone, a specialized technique is necessary. It is important to note that although wind turbine sound levels may be audible it does not necessarily mean that it is out of compliance.

14.8.B.3. Site Visit, Interview, and Initial Complaint Screening. The CEO will obtain a full description of the nature of complaint including specific details about the noise from the complainant. The purpose is to identify from the complainant specific details about the problem that would assist in determining further action. Take note from site observations of any other noise sources within the complainant's property and in the immediate vicinity (i.e. dryers, coolers, fans, generators, etc). Also take note of any unusual features such as trees, shrubbery, water features, hills, ancillary buildings, etc. The purpose is to identify noise sources and features that will have an impact on the background noise and possibly on acoustic measurements if needed.

If there has been a previous complaint within 100 feet of this same location and SCADA data from the WEF for the time period in question demonstrates that the % of electric power and % of sound power produced during that period is less than or equal to data that has previously been shown to be in compliance within 100 feet of the complaint location as per either **Article 14.8.A.5. Post-construction Sound Measurement and Assessment** , or **Article 14.8.B.4**, or **Article 14.8.B.5**, then the complaint is to be dismissed and the complainant notified of the investigative result.

14.8.B.4. Qualitative Screening Process. The initial screening is a qualitative assessment to focus on compliance issues related to conditions and parameters used in the approval process. Based on the results from the qualitative screening, a decision can be made whether to perform quantitative screening or carry out detailed acoustic measurements at the site of the complainant. In some cases, based on any screening result in this protocol, the wind farm operator may decide to voluntarily undertake actions to reduce the noise impact.

The quantitative screening (accomplished by the Town Approved Consultant) involves short-term attended acoustic measurements and/or acoustic recording at the complaint receptor to determine if detailed acoustic measurement is needed to assess compliance with noise limits.

14.8.B.4.1. Attended Screening Measurements. The objective is to determine the wind turbine L_{90A} sound level at a point of reception. It is recommended that the attended screening measurements be carried out when the times and meteorological conditions are as close to those described by the complainant as possible. Supervisory Control And Data Acquisition (SCADA) data for the complaint period will be compared to data during the measurement period to determine if meteorological and power levels are

comparable. If this is not possible then it is recommended that the attended screening measurements be carried out at times when the background sound level is very low. To the extent possible, the measurements should be performed at times when wind turbines operate near maximum output capacity.

14.8.B.4.2. Sound Level Measuring Instrumentation. Measurement instrumentation shall be the same as specified in **Article 14.8.A.3** above.

14.8.B.4.3 Measurement Procedure. Measurements for the purposes of complaint assessment should be performed at a point as close as possible to the site where the complaint originates. Notwithstanding, measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface.

14.8.B.4.4. Wind Speed and Direction. The wind speed and direction as recorded by the nacelle anemometer on the nearest turbine during the sound testing shall be obtained from the WEF and included in the test report.

14.8.B.4.5. Acoustic Measurements. The objective of the measurements is to determine the overall $L_{90}A(10\text{-minute})$ sound level when the turbines are operational under the following conditions.

14.8.B.4.6. Extraneous Noise Sources. Measurement needs to be inhibited when the sound level is affected by noise from extraneous sources such as vehicle noise, dogs barking and wind gusts, i.e. other than wind turbines.

14.8.B.4.7. Duration of Measurement. Noise measurements need to be performed over a minimum period of one hour. The actual accumulated time period of the measured $L_{90}A(10\text{-minute})$ needs to be at least 2, 10 minute periods. This should represent the worst-case equivalent sound level $L_{90}A(10\text{-minute})$ during the one hour period, following the inhibition of the measurements due to extraneous sources.

14.8.B.4.8. Compliance with Limits. If the result is higher than the limits given in **Article 14.8.6** and the project is clearly discernible then further measurements using the WEF-On, WEF-Off technique outlined **Article 14.A.5** shall be taken in an effort to quantify the WEF-only sound level and determine compliance.

14.8.B.4.9. Documentation and Reporting. The following information should be reported by the Town Approved Consultant to the CEO, Planning Board, and the complainant:

(i) Conditions during the measurement, including but is not limited to:

- time and dates of the measurement
- temperature and humidity
- weather conditions
- range of wind speeds encountered
- wind direction
- confirmation that the wind turbines were operating and at what % of electric power and % of sound power.

(ii) Results of measurements in terms of the $L_{90}A(10\text{-minute})$ sound level.

(iii) Diagram/drawing showing the location of instrumentation, location of buildings and other local features, and location of turbines.

(iv) Supervisory Control And Data Acquisition (SCADA) data for the wind turbines for both the time of the complaint and the time of the measurements in **Article 14.8.B.4.7**.

14.8.B.5 Complaint Assessment – Detailed Acoustic Measurements. If after the above assessments it appears that the WEF may be in violation of compliance then the procedure under **Article 14.8.A.5, Post-construction Sound Measurement and Assessment** must be followed for determining compliance at the complaint location.

14.9. MEDICAL MARIJUANA REGISTERED DISPENSARIES AND MEDICAL MARIJUANA CULTIVATION FACILITIES

14.9.1. Purpose and Intent. Medical Marijuana Registered Dispensaries and/or Medical Marijuana Cultivation Facilities shall adhere to the laws of the **State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122)**, as the same may be amended from time to time and to the Clifton Land Use Ordinance as well as other ordinances, permits, and licenses within the Town of Clifton as amended from time to time.

14.9.2. Location and Zoning. These types of facilities will only be allowed in GMA 1 (except 1A or 1B) or GMA 2. With the additional restrictions:

14.9.2.1. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall be located within 1,000' of the property line upon which the Dispensary and/or Facility is or are located and the property line of a preexisting public or private school, preexisting church or other facility for religious worship.

14.9.2.2. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall be located within 500' of the property line upon which the Dispensary and/or Facility is or are located and the nearest property line of any of the following, which is or are in existence when an application for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility is made:

14.9.2.2.1. Preexisting private residence,

14.9.2.2.2. Preexisting licensed daycare facility

14.9.2.2.3. Preexisting methadone clinic

14.9.2.3. No more than one (1) Medical Marijuana Registered Facility and/or one (1) Marijuana Cultivation Facility shall be located in the Town of Clifton. The Medical Marijuana Registered Dispensary and Medical Marijuana Cultivation Facility shall be located on the same property that shall be under common ownership.

14.9.3. Site Access and Structure Sizing. The property for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facilities shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking area, and other areas outside of the building(s). The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered

patients and the registered primary caregiver of each registered patient).

14.9.4. Signs and Visible Advertising. Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility shall conform to the Town of Clifton's sign standards. In addition thereto, any freestanding or sign attached to building(s) in which the Dispensary and/or Facility is located in shall clearly state that it is a Medical Marijuana Dispensary and/or Medical Cultivation Facility. There shall be no signage in any window and or door, except for the hours of operation.

14.9.5. On-Site Activities. Visibility of activities; control of emissions; disposal plan for a Medical Marijuana Registered Facility and/or Medical Marijuana Cultivation Facility shall be as follows:

14.9.5.1. All activities of Medical Marijuana Registered Dispensaries and/or Medical Marijuana Cultivation Facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.

14.9.5.2. No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).

14.9.5.3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Dispensary and/or Facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

14.9.5.4. All Medical Marijuana Registered Dispensaries and/or Medical Marijuana Cultivation Facility shall have in place an operation plan for proper disposal of marijuana related byproducts.

14.9.5.5. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00a.m. and 8:00p.m. daily.

14.9.6. Security. Security measures at a Medical Marijuana Registered Dispensary and /or Medical Marijuana Cultivation Facility shall include the following at a very minimum:

14.9.6.1. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the Dispensary and/or Facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property. All security recordings shall be preserved for thirty (30) days by the management of the licensed Dispensary and/or Facility.

14.9.6.2. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications.

14.9.6.3. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility.

14.9.6.3. Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility.

14.9.6.4 DeadBolt locks on all exterior doors and locks or bars on any other access point..

14.9.7. Employees. Employees of a Medical Marijuana Registered Dispensary may assist registered patients as that term is defined in **22 MRSA § 2422(12)**, as the same may be amended from time to time, with the use of medical marijuana inside the building(s) on the licensed property. An employee of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility, who is also a registered patient, may use medical marijuana inside the building(s) on the licensed property. Any such use of medical marijuana must not be visible from the street or from outside the building(s). Any Medical Marijuana Facility where use of medical marijuana takes place shall have in place protocols and policies to educate registered patients and registered patients who are employees about the dangers of driving a vehicle while medicated and, when possible, to discourage or prevent driving while medicated.

14.9.8. No Food Products. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Registered Dispensary except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

14.9.9. Compliance With Other Laws and Standards. A Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

14.9.10. Bi-Annual Renewal. The continued operation of the facility will require a bi-annual renewal of an operational permit consistent with the Land Use Ordinance.

14.10. DRUG TREATMENT CENTERS

14.10.1. Purpose and Intent. Drug Treatment Centers shall adhere to the laws of the **State of Maine and the State of Maine Rules governing the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs (14-118 CMR Chapter 5)**, as the same may be amended from time to time and to the Clifton Land Use Ordinance as well as other ordinances, permits, and licenses within the Town of Clifton as amended from time to time.

14.10.2. Location and Zoning. These types of facilities will only be allowed in GMA 1 (except 1A or 1B) or GMA 2. With the additional restrictions:

14.10.2.1. No Drug Treatment Center shall be located within 1,000' of the property line upon which the Dispensary and/or Facility is or are located and the property line of a preexisting public or private school, preexisting church or other facility for religious worship.

14.10.2.2. No Drug Treatment Center shall be located within 500' of the property line upon which the Dispensary and/or Facility is or are located and the nearest property line of any of the following, which is or are in existence when an application for a Drug treatment Center is made:

14.10.2.2.1. Preexisting private residence,

14.10.2.2.2. Preexisting licensed daycare facility

14.10.2.2.3. Preexisting Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility

14.10.2.3. No more than one (1) Drug Treatment Center shall be located in the Town of Clifton. The Center will provide all documentation including a statement of need in accordance with **22 MRSA Chapter 103-A** as the same may be amended from time to time prior to submission of a Site Plan application or a letter of intent.

14.10.3. Site Access and Structure Sizing. The property for a Drug Treatment Center shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking area, and other areas outside of the building (s). The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient).

14.10.4. Site Security. The owner/operator will enter into an agreement with the Penobscot County Sheriff's Patrol at their own expense to ensure adequate surveillance, security and response time 24 hours per day 365 days per year.

14.10.4.1. Building security will be at least as restrictive as that required for Marijuana Treatment facilities as described above.

14.10.4.2. No overnight external dispensing will be allowed.

14.10.5. Compliance with Other Laws and Standards. A Drug Treatment Center shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Drug Treatment Centers, the stricter law or regulation shall control.

14.10.6. Bi-Annual Renewal. The continued operation of the facility will require a bi-annual renewal of an operational permit consistent with the Land Use Ordinance.