

Town of Damariscotta, Maine

**SMALL WIND ENERGY CONVERSION SYSTEMS ORDINANCE**

Enacted at Special Town Meeting on February 6, 2008.  
Revised 6/11/2008

ATTESTED BY:

\_\_\_\_\_  
Cheryl M. Pinkham, Town Clerk

Date: \_\_\_\_\_

**Small Wind Energy Conversion Systems Ordinance**  
Town of Damariscotta, Maine

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Town of Damariscotta  
SMALL WIND ENERGY CONVERSION SYSTEMS

1. Purpose and Intent

The purpose of this Ordinance is to alleviate dependence on fossil fuel energy sources by encouraging the development of on-site energy production and consumption by providing standards for alternative wind powered energy. The small wind energy conversion provisions set forth in this Ordinance are intended to protect the public health and safety, promote the general welfare of the community and conserve the environment, wildlife habitat, fisheries and unique natural areas; and to fit small wind conversion systems harmoniously into the fabric of the community by assuring the following standards are accomplished with the least possible regulation.

2. Authority

The Damariscotta Planning Board is vested with the authority to review and approve, conditionally approve or reject any application for small wind energy conversion systems (also called “Wind Generator(s)” herein).

3. Applicability

The requirements of this Ordinance shall apply to small wind energy conversion systems proposed, operated, modified or constructed after the date of adoption of this Ordinance.

4. Conflicts With Other Ordinances

Whenever a specific provision within this Ordinance conflicts with or is inconsistent with another specific provision within this Ordinance or a specific provision of any other ordinance, regulation or statute, the more restrictive specific provision shall control.

5. Severability

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

6. Definitions

- A. Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this Ordinance.
- B. Habitable Building (or structure): Places likely to be occupied on a continuous or temporary basis. This includes, but is not limited to, dwellings, commercial businesses,

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places of worship, nursing homes, schools or other places used for education, day-care centers, motels, hotels, correctional institutions or barns.

- C. Line of Sight: The direct view of the object from selected locations.
  - D. Negative Visual Impact: A change in the appearance of the landscape as a result of a small wind energy conversion system development that is both out-of-character with a significant designated resource and which significantly diminishes the scenic value of the significant resource. Mere visibility of a small wind energy conversion system does not in and of itself constitute a negative visual impact.
  - E. Significant Designated Resource: A specific location, view or corridor identified as a scenic resource in the Damariscotta Comprehensive Plan or by a State or Federal agency. Significant designated resources include, but are not limited to, National Register of Historic Places buildings, locales or views of same. This includes the designated Damariscotta downtown village historic district comprised of 24 buildings on Main Street (Comprehensive Plan, March, 1992 – 2002).
  - F. Site: The parcel of land where a small wind energy conversion system is to be placed. The site can be publicly or privately owned and is a single lot
  - G. Small Wind Energy Conversion System: A wind energy conversion system consisting of a wind turbine, a tower, footings, electrical infrastructure, fence and any other associated equipment or structures. Any single small wind energy conversion system, herein defined, shall have a rated capacity of not more than 100 kilowatts and is a legal accessory use wherever situated.
  - H. Total Height: The vertical distance measured from a point on the ground at the original grade to the highest point of the wind turbine blade (or other component) when the tip is at full vertical.
  - I. Viewshed Map: A map that shows the geographic area from which a small wind energy conversion system may be seen.
  - J. Wind Generator: See “Small Wind Conversion System” above.
7. Pre-Application and Application Procedures
- A. General Pre-Application: The applicant shall obtain a Wind Generator Application, fill it out to the maximum feasible extent and arrange a possible meeting to review the Small Wind Generator application. The project should be reviewed informally with the Codes Enforcement officer and Board Chairman (or Planner) to determine if it generally conforms to applicable ordinance requirements. If the project appears to conform to applicable ordinance requirements, the applicant shall complete a building permit application, provide supporting documents and pay only the Wind Generator Application

fee and submit it with the Wind Generator Ordinance application.

To be placed on the Planning Board agenda for Pre-Application Sketch plan review, the applicant shall contact the Town Office at least 10 days prior to a meeting. If the agenda for said meeting is full, the Chair of the Planning Board shall place the project on the agenda of the next available meeting. Refer to Pre-application Procedures below for required documents. To submit an application for review, 6 copies of a completed application and supporting documents and plans (each in a bound, stapled or otherwise attached report) along with the Wind Generator fee (as determined by the Board of Selectmen), must be submitted to the Town Office no later than 15 business days prior to the next regularly scheduled Planning Board meeting. If the agenda for said meeting is full, the project shall be placed on the agenda of the next available meeting.

- B. Pre-Application Procedures: The following procedures and requirements shall apply to all applications for Wind Generator Reviews:
- (1) Prior to submitting an application for approval of the proposed project the applicant may meet informally with the Board at a regular meeting to present a sketch plan and generally discuss the proposal and to obtain guidance in development of the plan. The sketch plan may be a freehand drawing and show:
    - (a) The outline of the tract or parcel with estimated dimensions, road rights of way and existing easements;
    - (b) North Arrow
    - (c) The proposed layout of the wind generator equipment, related features of the project and existing or planned building(s), identification of general areas of steep slopes, wetlands, streams, and flood plains;
    - (d) Other information pertinent to the project;
  - (2) Upon written request by the applicant, the Board, at its discretion, may waive certain Submission Requirements specified in Section 7.D due to the nature or size of the project.
  - (3) The Board shall indicate any additional studies and other approvals from local and regional and State agencies that may be required. Letters from these agencies shall be included as a part of the application and/or review.
  - (4) The Board may, at its discretion, make an inspection of the site prior to submission of the application
  - (5) Within 30 days from submission of a pre-application and sketch plan and following an on-site inspection, if applicable, the Board shall submit in writing to the applicant a checklist of the specific information which shall be included in the formal

application to the Board.

- C. Application Procedures: All applications for Wind Generator review shall be made in writing to the Board on the forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner; and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application which will include notification of a newspaper of general circulation in the community. The Code Enforcement Officer and Planner (or Board Chairman) shall review all applications for completeness and other permitting requirements prior to giving them to the Board.
- D. Submission Requirements: The application shall include 6 copies of all of the following:
- (1) A fully executed and signed copy of the application for wind generator review.
  - (2) Evidence of right, title or interest in the property such as deed, option to purchase, lease, or agreement.
  - (3) A site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards but not at more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
    - (a) Names and addresses of all abutters on the plan and names and addresses of all abutters on a separate listing.
    - (b) Sketch map showing general location of the site within the town.
    - (c) Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
    - (d) The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to clearly establish, on the ground, all property boundaries.
    - (e) Classification(s) of the property and the location of zoning district boundaries as applicable.
    - (f) The location of all existing and proposed buildings, easements. Copies of any proposed or existing easements, covenants, deed restrictions or other legal matters related to the deed.
  - (4) Structural Assessment.
    - (a) Evidence that the applicant's roof-mounted wind generator meets the

manufacturer's standards and is certified by a structural engineer that the applicant's roof is sufficiently sturdy to hold a roof-mounted wind generator in winds below 100 miles an hour for at least one hour.

- (5) The Planning Board may require a scenic assessment consisting of one or more of the following:
  - (a) A visual analysis composed of elevation drawings of the proposed wind power generator and any other proposed structures, showing height above ground level. The analysis may include a computerized photographic simulation demonstrating the visual impacts from nearby strategic vantage points and also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.
  - (b) A landscaping plan indicating the proposed placement of the facility on the site; location of existing trees and other significant site features; the type and location of plants proposed in the screening plan for the facility and the method of fencing, if any.
  - (c) Photo simulations of the proposed facility may include those taken from perspectives determined by the Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
  - (d) A brief narrative discussing: the extent to which the proposed facility would be visible from or within a designated scenic resource or scenic viewshed, the tree line elevation of vegetation within 100 feet of the facility, and the distance to the proposed facility from the designated scenic resources noted viewpoints.
- (6) A signed statement that the owner of the wind generator facility and his or other successors and assigns agree to pay for the costs of removing the facility if it is abandoned.

#### E. Notification and Hearing Requirements

The applicant shall notify all abutting property owners by certified mail, return receipt requested, for all requests for a wind generator. If two or more abutters, or 5 residents of the Town, object in writing and such objection is received by the Board or postmarked within 15 days after a public notice of the request for a wind generator, the Board shall schedule a public hearing on the proposal. Such hearing shall be scheduled within 30 days of acceptance of an application as complete.

#### F. Board Review

- (1) Within 45 days of the acceptance of a complete application not requiring a hearing,

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the Board shall act upon the application. This period may be extended by mutual written agreement.

- (2) The Board shall inform the applicant in writing of their decision within seven (7) days of their action.
- (3) One copy of the approved wind generator application shall be retained in the Town Office and one copy shall be given to the Code Enforcement Officer.
- (4) The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance.
- (5) If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Wind generator application.
- (6) All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.

### 8. Location of Small Wind Conversion Systems

Small wind conversion systems are permitted in all Land Use Districts except the Commercial I District. Where wind generators meet all the other requirements of this Ordinance, they may be placed on a lot if they do not exceed the following capacities:

Downtown Commercial (C1) District: Not permitted  
General Residential (R) District: 10 Kw  
Other Commercial (C2) District: 100 Kw  
Rural (Ru) District: 100 Kw

### 9. Dimensional Requirements

- A. Setbacks. All small wind energy conversion systems shall be set back a minimum horizontal distance of 1.1 times the total height of the system from property lines, public right-of-ways, easements and habitable buildings. New habitable buildings shall not be constructed within the setback area after a small wind energy conversion system has been constructed and is operating.
- B. Height. The total height shall not exceed the following requirements for either free-standing or roof-mounted wind conversions systems. The allowable height shall be reduced if necessary to comply with Federal Aviation Administration requirements.
  - (1) General Residential (R) District: Tower – 85 feet;

Vertical top of blade or other component – 100 feet

(2) Commercial (C2) and Rural (Ru) Districts: Tower – 100 feet

Vertical top of blade or other component – 140 feet

10. Development standards.

If a project includes construction other than a wind generator project, it may also need to comply with other applicable Damariscotta Ordinances.

- A. The system's tower and blades shall be a non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.
- B. The system shall be designed and located in such a manner to minimize negative visual impacts on significant designated resources. The application shall include a visual impact analysis of the small wind energy conversion system(s) as installed. See Section 7.E.5.
- C. Exterior lighting on any tower or turbine associated with the small wind energy conversion system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- D. All on-site electrical wires associated with the systems shall be installed underground except for 'tie-ins' to a public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to the reasons of need for excessive grading or similar factors.
- E. The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
- F. Towers (but not applying to pole-mounted wind generators) shall be constructed to provide one of the following means of access control or another appropriate method of access control as approved by the Planning Board:
  - (1) Tower climbing apparatus located no closer than twelve (12) feet from the ground.
  - (2) A locked anti-climb device installed on the tower.
  - (3) A locked, protective fence at least six (6) feet in height that encloses the tower.
- G. Anchor points for any guy wires for a system tower shall be located within the site. No guy wires or other system components shall be located so as to block access by

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emergency vehicles. The Fire Department shall be afforded the ability to cut electricity going into the house or other habitable building.

- H. All small wind energy conversion systems shall comply with applicable Federal Aviation Administration (FAA) rules and regulations. The applicant shall present proof of compliance with FAA rules and regulations prior to the Planning Board's final decision.
- I. No small wind energy conversion system shall be installed or operated in a manner that causes interference with the operation of any aviation facility including helicopter pads.
- J. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- K. Noise.

(1) Except during short-term events including utility outages and severe wind storms, the audible noise due to wind generator operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed the following: forty-five (45) dBA at the lot line abutting lots in the General Residential (C2) and the Rural (Ru) Districts; or to exceed fifty-five (55) dBA at the lot line abutting lots in the Commercial (C2) District. Certification shall be provided before construction demonstrating compliance with this requirement.

(2) Where the abutting property is undeveloped, the sound level shall be equal to or less than the most restrictive other abutting use. Where there are no uses on abutting properties, the sound level at the property line shall be equal to or less than the least stringent use allowed in the zoning district.

### 11. Abandonment of Use

A small wind energy conversion system which is not generating electricity for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

### 12. Administration and Waivers or Modifications

- A. The Planning Board is authorized to review and act on all wind generator applications. In considering wind generator plans under this Ordinance, the Board may act to approve, disapprove or approve with conditions as authorized by these provisions. No municipal permit shall be issued nor construction work begun on any wind generator project until the wind generator plan has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board
- B. The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance. The Board may condition final approval on receipt of copies of all State or Federal permits required by the project including, but not

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limited to, the Damariscotta Floodplain Management Ordinance or the Federal Aviation Administration (FAA) permits

- C. If the application concerns property which in whole or in part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with wind generator review.
- D. All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.
- E. The owner of a wind generator tower is responsible for recording the fall zone of the tower on her/his deed, site plan or subdivision plan at the Lincoln County Registry of Deeds (LCRD).

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Joshua Pinkham

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Vicki Pinkham

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Richard McLean

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David Wilbur

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Position vacant

**Board of Selectmen  
Town of Damariscotta**

Attest: A true copy of an ordinance entitled “Small Wind Energy Conversion Systems Ordinance Damariscotta, Maine”, as certified to me by the municipal officers of Damariscotta, Maine on the 18<sup>th</sup> day of June, 2008.

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Cheryl Pinkham, Town Clerk  
Damariscotta, Maine