

TOWN OF PHILLIPS, MAINE
WIND ENERGY FACILITY ORDINANCE

Originally adopted September 16, 2010

Amended:

June 25, 2011

*An Attested Copy
Evelyn A. Wilbur
Date: 08-11-2011*

TOWN OF PHILLIPS, MAINE, WIND ENERGY FACILITY ORDINANCE

1.0 **Title.** This ordinance shall be known as the Town of Phillips, Maine, Wind Energy Facility Ordinance.

2.0 **Purpose.** The purpose of this Ordinance is to protect the health, safety, and general welfare of the residents and property owners of Phillips by establishing reasonable and uniform regulations for Wind Energy Facilities (WEFs).

3.0 **Authority.** This Ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, Section 1 of the Maine Constitution; the provisions of 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act 30-A M.R.S.A. Section 4312, *et seq.*

3.1 **Conflicts with Other Ordinances, Laws and Regulations.** If there is a conflict between provisions in this Ordinance or between a provision in this Ordinance and a provision of any other ordinance, regulation, or statute from any jurisdiction, the more restrictive provision shall apply.

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

4.0 **Effective Date.**

4.1 This Ordinance shall become effective on the date of its passage.

4.2 If this Ordinance is enacted within 90 days after the expiration of an Ordinance entitled "Wind Facility Moratorium Ordinance, Phillips, Maine" (the Moratorium) adopted February 25, 2010, the effective date of this Ordinance shall be retroactive to the expiration date of the Moratorium.

5.0 **Applicability.** This ordinance applies to all Wind Energy Facilities and Meteorological Towers in the Town of Phillips proposed to be constructed or operated after the effective date of this Ordinance.

6.0 **Definitions.**

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

Applicant. Person, or persons or entity applying for a Meteorological Tower permit or Wind Energy Facility permit to the Town of Phillips Planning Board.

CEO means Town of Phillips Code Enforcement Officer

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

D = Distance measured in feet.

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

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

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

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

S_{fd}. Falling and Debris Hazard setback requirement (ft)

S_c. Flicker Hazard setback requirement (ft)

S_s. Acoustic Hazard setback requirement (ft)

Sound level meter means an instrument for the measurement of sound levels conforming to ANSI type I or type II standards.

Sound pressure level means the level of a sound measured in dB units with a sound level meter which has a uniform (flat) response over the band of frequencies measured. Sound pressure levels are referenced to 20 micropascals; expressed as [sound level] dB re 20uPA.

Sound power level is calculated from a sound pressure level at a given distance by the formula $L_w = L_p + 20 \log D + 0.5$, dB re 10^{-12} W where L_p is measured in accordance with American National Standards S12.9 – Part 3, "Quantities and Procedures for Description and Measurement of Environmental Sound" or ANSI S12.18, or $L_w = L_p - 6 + 10 \log(4\pi(D^2))$, dB re 10^{-12} W where L_p is measured in accordance with AWEA/IEC 61400-11 using a 1-meter flat ground board. D is the distance from the source (typically the hub height plus $\frac{1}{2}$ the rotor diameter).

Setback Area. The entire land base that falls within the Setback for a particular MT or WEF.

Setback. A distance measured horizontally in feet from the center axis of any WEF turbine or Meteorological Tower radially for 360 degrees.

Type 0: Micro Wind Energy Facility. One or more wind turbines, each with a nameplate capacity of less than 1 kW and a turbine height (measured to the top of an upright blade) of 35 feet or less.

Type 1: Small Wind Energy Facility. A single wind turbine with a nameplate capacity of 10 kW or less and a turbine height (measured to the top of an upright blade) of 80 feet or less.

Type 2: Intermediate Wind Energy Facility. A single wind turbine with a nameplate capacity of less than 100 kW and or a turbine height (measured to the top of an upright blade) of 150 feet or less.

Type 3: Large/Commercial Wind Energy Facility. A single wind turbine with a nameplate capacity of 100 kW or a turbine height (measured to the top of an upright blade) of more than 150 feet. Or a WEF composed of two or more turbines each with a nameplate capacity of 1 kW or more. Or a WEF (of any size or number of turbines) 25% or more of whose power is intended for sale or use by entities or persons other than the generator.

W means power in Watts.

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

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

Wind Energy Facility Turbine (WEFT). Any machine constructed to convert ambient wind energy to electromotive energy.

7.0 Documents.

7.1 Documents cited in this Ordinance

- 30-A M.R.S.A. Section 4452
- ANSI (American National Standards Institute) S1.40 Specifications for General Purpose Sound Level Meters

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

8.6 A WEFT with a nameplate capacity less than 1 kW shall be equipped with a braking system designed to limit rotor speed and prevent blade flutter.

8.7 A WEFT with a nameplate capacity equal to or greater than 1 kW but less than or equal to 10 kW shall be equipped with a redundant braking system that includes stall regulation.

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

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

8.10 The minimum distance between the ground and the blades of a WEF shall be 25 feet as measured at the lowest point in the arc of the blades.

8.11 WEFTs shall be mounted on monopole towers with no guy wires except that WEFTs with a nameplate capacity of under 1 kW may be mounted on structure roof tops.

8.12 The color of WEFTs and MTs shall be off-white or grey or some other unobtrusive color approved by the Town of Phillips Planning Board.

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

8.14 All construction activities must conform to the approved site plan, including any conditions of approval and changes approved by the Code Enforcement Officer and/or the Planning Board.

8.15 **Modification During Construction** If at any time it appears necessary or desirable to modify the approved plans before or during construction of the WEF, the Code Enforcement Officer, with assistance at the Applicant's expense from such staff, consultants or experts as the CEO deems appropriate, is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Selectmen and Planning Board. Revised plans shall be filed with the Planning Board for the record. For major modifications such as relocation of rights-of-way, relation of WEFTs, changes in grade by more than 1%, etc., the Applicant shall submit to the Planning board an amended plan for review and approval.

9.0 Public Health and Safety Standards

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

- Falling and Debris Hazard
- Flicker Hazard
- Acoustic Hazard (See Table 2 for calculations of typical setback distances)

TABLE 2
Acoustic Setback Distance in Feet

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

Manufacturer's Guaranteed Maximum Sound Power Level, dBA re 1pW	Number of Wind Turbines									
	1	2	3	4	5	6	7	8	9	10
70	211	243	263	279	292	302	312	320	328	335
71	237	272	295	313	327	339	350	359	368	376
72	266	306	331	351	367	381	393	403	413	422
73	299	343	372	394	412	427	441	452	463	473
74	335	385	417	442	462	479	494	508	520	531
75	376	432	468	496	519	538	555	570	583	596
76	422	484	525	556	582	603	622	639	654	668
77	473	544	589	624	653	677	698	717	734	750
78	531	610	661	701	732	760	783	805	824	841
79	596	684	742	786	822	852	879	903	924	944
80	668	768	833	882	922	956	986	1,013	1,037	1,059
81	750	861	934	989	1,035	1,073	1,107	1,137	1,164	1,189
82	841	967	1,048	1,110	1,161	1,204	1,242	1,275	1,306	1,334
83	944	1,084	1,176	1,246	1,303	1,351	1,393	1,431	1,465	1,496
84	1,059	1,217	1,320	1,398	1,461	1,516	1,563	1,606	1,644	1,679
85	1,189	1,365	1,481	1,568	1,640	1,701	1,754	1,801	1,844	1,884
86	1,334	1,532	1,661	1,760	1,840	1,908	1,968	2,021	2,069	2,113
87	1,496	1,719	1,864	1,974	2,064	2,141	2,208	2,268	2,322	2,371
88	1,679	1,928	2,091	2,215	2,316	2,402	2,478	2,545	2,605	2,661
89	1,884	2,164	2,347	2,485	2,599	2,695	2,780	2,855	2,923	2,985
90	2,113	2,428	2,633	2,789	2,916	3,024	3,119	3,203	3,280	3,350
91	2,371	2,724	2,954	3,129	3,272	3,393	3,500	3,594	3,680	3,758
92	2,661	3,056	3,315	3,511	3,671	3,807	3,927	4,033	4,129	4,217
93	2,985	3,429	3,719	3,939	4,119	4,272	4,406	4,525	4,633	4,732
94	3,350	3,848	4,173	4,420	4,622	4,793	4,943	5,077	5,198	5,309
95	3,758	4,317	4,682	4,959	5,186	5,378	5,547	5,697	5,832	5,957
96	4,217	4,844	5,253	5,564	5,818	6,034	6,223	6,392	6,544	6,683
97	4,732	5,435	5,894	6,243	6,528	6,771	6,983	7,172	7,343	7,499
98	5,309	6,098	6,613	7,005	7,325	7,597	7,835	8,047	8,239	8,414
99	5,957	6,842	7,420	7,860	8,219	8,524	8,791	9,029	9,244	9,441
100	6,683	7,677	8,326	8,819	9,221	9,564	9,863	10,130	10,372	10,593
101	7,499	8,614	9,342	9,895	10,347	10,731	11,067	11,366	11,637	11,885
102	8,414	9,665	10,482	11,102	11,609	12,040	12,417	12,753	13,057	13,335
103	9,441	10,844	11,760	12,457	13,025	13,509	13,932	14,309	14,650	14,962
104	10,593	12,168	13,195	13,977	14,615	15,158	15,632	16,055	16,438	16,788
105	11,885	13,652	14,806	15,682	16,398	17,007	17,540	18,014	18,444	18,836
106	13,335	15,318	16,612	17,596	18,399	19,082	19,680	20,212	20,694	21,135
107	14,962	17,187	18,639	19,743	20,644	21,411	22,081	22,679	23,219	23,714
108	16,788	19,284	20,913	22,152	23,163	24,023	24,775	25,446	26,052	26,607
109	18,838	21,637	23,465	24,855	25,989	26,954	27,798	28,551	29,231	29,854
110	21,135	24,278	26,328	27,888	29,160	30,243	31,190	32,035	32,798	33,497
111	23,714	27,240	29,541	31,290	32,719	33,934	34,996	35,943	36,800	37,584
112	26,607	30,564	33,145	35,108	36,711	38,074	39,266	40,329	41,290	42,170
113	29,854	34,293	37,190	39,392	41,190	42,720	44,057	45,250	46,329	47,315
114	33,497	38,477	41,728	44,199	46,216	47,933	49,433	50,771	51,981	53,088
115	37,584	43,172	46,819	49,592	51,855	53,781	55,465	56,966	58,324	59,566

9.7.3 A qualified third party engineer, chosen by the Applicant from a list provided by the Planning Board and paid by the Applicant, shall document road conditions prior to the construction of the WEF, and again within thirty days after construction is complete. Any road damage determined by the engineer to have been caused by the applicant or his contractors shall be promptly repaired at the applicant's expense.

9.7.4 The Town of Phillips may bond the roads in compliance with state regulations, and the bond is to be paid by the applicant prior to the transport of WEF components.

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

10.0 Environmental Standards

10.1 The siting and construction of all WEFs shall meet all the applicable standards of the Zoning Ordinance of the Municipality of Phillips, Maine and be consistent with the Town of Phillips Comprehensive Plan.

10.2 If required by the laws of the State of Maine, a Department of Environmental Protection Site Location of Development permit shall be obtained and submitted with an application for a WEF permit. If submitted, this permit shall be considered adequate evidence that section 10.3 of this Ordinance has been satisfied.

10.3 **Environmentally Sensitive Areas.** The design, construction, and maintenance of a WEF shall protect all environmentally sensitive areas that may be affected by its siting. Such areas shall include but not limited to wetlands, vernal pools, seeps or springs, steep slopes (equal to or greater than 15%), watersheds, flood plains, significant habitat for wildlife, fish, and plants. An application for a Type 3 WEF permit shall demonstrate appropriate measures for protecting all such areas during both construction and operation of the WEF.

10.4 Wildlife Protection.

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

10.4.2 **Post Construction Wildlife Protection Field Studies.** Within three years after completion of construction of a Type 3 WEF, studies to ascertain its actual effect on wildlife shall be designed and carried out by a qualified wildlife biologist chosen by the Owner/Operator from a list provided by the Planning Board and paid by the Owner/Operator. If these studies demonstrate undue adverse effects on wildlife caused by the WEF, the Owner/Operator in consultation with the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall design and implement an appropriate mitigation plan. The plan shall be submitted to the Town of Phillips Planning Board for approval. The Owner/Operator shall be responsible for the full cost of carrying out the plan under the supervision of the MDIFW.

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

10.6 Water Quality Protection.

10.6.1 Type 3 WEFs shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, including sand and gravel aquifers. The Planning Board may require as condition of issuing a permit for a Type 3 WEF that a pre-construction baseline study of all wells, springs, and public water sources within the watershed of the WEF site be conducted. The study shall be designed and carried out by a water quality professional chosen by the Applicant from a list provided by the Planning Board and paid by the Applicant.

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

11.3.4 Estimates as described in section 11.3.2 shall be redone annually on the anniversary of the granting of a WEF Permit, and the Owner/Operator of the WEF shall be required to maintain Decommissioning Funds that are at least equal to the most recent estimate.

11.3.5 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance acceptable to the Town of Phillips.

11.3.6 If the Owner/Operator of the WEF does not complete Decommissioning within the time prescribed in section 11.3 of this Ordinance, the Town of Phillips may take such action as necessary (including court action) to secure the posted Decommissioning Funds and to ensure completion of the Decommissioning.

11.3.7 The Escrow Agent shall not release the Decommissioning Funds except upon written approval of the Town of Phillips.

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

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

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

11.5 Promises of benefits made to the Town of Phillips by the applicant shall be documented and submitted with the Final Application. These benefits shall become a legally enforceable provision of the permit.

12.0 Ethical Standards

12.1 All deliberations concerning the permitting and regulation of WEFs shall be conducted at public meetings for which notice has been duly given.

12.2 Conflicts of Interest. No elected or appointed official or employee of the Town of Phillips who has a financial interest in the WEF under consideration shall be directly or indirectly involved in the permitting or other regulation of that WEF. Financial interest includes but is not limited to the following:

- Having right, title or interest in land on which any part of the WEF will be constructed
- Having signed for the Applicant's benefit a Covenant with financial remuneration
- Having a financial arrangement such as employment or the promise of employment—including employment as an outside contractor—with the Applicant

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

14.2 Wind Energy Facility (WEF). A Preliminary Application for a Permit to Construct a Type 0, Type 1, Type 2, or a Type 3 WEF shall include at least ten hard copies. Type 3 WEF applications shall also include five CDs of the complete application. Upon approval of the Preliminary WEF Application, a Final WEF Application shall be prepared and submitted in at least ten hard copies for Type 0, Type 1, Type 2, and Type 3 WEFs. Type 3 WEF applications shall also include five CDs of the complete application. Approval of the Final WEF Application shall constitute a Permit to Construct the WEF.

14.2.1 The Preliminary Application shall include the following items in addition to what is required in section 22.J of the Zoning Ordinance of the Municipality of Phillips, Maine:

- Applicant and property owner's name, address and contact information
- Nameplate data for the type of WEF turbine(s) to be used including manufacturer, model, rated power output and maximum sound power level
- Engineering drawing of the type of WEF turbine to be used
- Certification of the non-reflecting properties of the WEF turbine's external surfaces
- Engineering drawing of the tower base for the type of WEF turbine to be used
- Engineering drawing of the WEF turbine location(s)
- Engineering or architectural drawings of all planned structures, including structures for support and maintenance of the WEF
- Description of intended use, including energy storage and grid connections, and the percentage (if any) of generation intended for sale or use by entities or persons other than the applicant
- Engineering drawings and/or electrical schematics of any energy storage equipment or facilities
- Calculations and supporting data for all setback requirements (as specified in Table 1 of this Ordinance). For Type 3 WEFs, setback requirements must be calculated for each WEF turbine.
- Overlay of Town of Phillips property maps showing the setback area and all property lines and rights of way affected by the setback requirements
- List of property owners whose property, wholly or in part, lies within the setback areas
- Shadow-Flicker Modeling Report as specified in Table 1 of this Ordinance
- A legally enforceable agreement that the applicant shall pay (in advance if required by the Town of Phillips Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application
- Fees: As established by the Board of Selectmen

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

14.2.1.2 After the Planning Board determines that a Preliminary WEF Application is complete, the Planning Board shall determine whether the Preliminary WEF Application meets all requirements of this Ordinance and Section 22.J of the Zoning Ordinance of the Municipality of

- A legally enforceable agreement that the applicant shall pay (in advance if required by the Town of Phillips Planning Board) for the services of all consultants that the Planning Board deems necessary to evaluate the application.
- Fees: As established by the Board of Selectmen

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

14.2.2.2 The Planning Board shall hold a public hearing within 30 days of the date of determination of a complete Final WEF Application for a Type 3 WEF. The Planning Board shall publish the time, date, and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area wide circulation. The abutting landowners shall be notified by the Planning Board of the hearing. Public hearings by the Planning Board shall be conducted according to the procedures outlined in title 30-A M.R.S.A. Section 2691, Subsection 3 (A), (B), (C), (D), and (E).

14.2.2.3 After the Planning Board determines that a Final WEF Application is complete, the Planning Board shall determine whether the Application meets all requirements of this Ordinance and Section 22.J of the Zoning Ordinance of the Municipality of Phillips, Maine. In determining whether the Final WEF Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

14.2.2.4 Within 30 days for a Type 0 or 1 or within 90 days for a Type 2 or 3 of determining the Final WEF Application is complete, the Planning Board shall approve the Final WEF Application, approve the Final WEF Application with conditions, or disapprove the Final WEF Application. The time limit for review may be extended by mutual agreement between the Planning Board and the Applicant.

14.2.2.5 The Planning Board shall make findings of fact and conclusions relative to the standards contained in this Ordinance and the Zoning Ordinance of the Municipality of Phillips, Maine. If the Planning Board finds that all standards have been met, they shall approve the Final WEF Application. If the Planning Board finds that any of the standards of this Ordinance or the Zoning Ordinance of the Municipality of Phillips, Maine, have not been met, the Planning Board shall either deny the Final WEF Application or approve the Final WEF Application with conditions to ensure all of the standards will be met. The reasons for any conditions shall be slated in the findings of facts and conclusions.

14.2.3 An Applicant for a WEF permit may also apply for a Waiver of the Flicker Hazard and Acoustic Hazard Setback Standards and the Acoustic Standards specified in section 9.3 of this Ordinance. The Application (in at least ten hard copies) shall be submitted with the Final Application for the WEF and shall include the following items:

- A legal Covenant signed by the Applicant and each Inhabitant or Property Owner or other party of legal status in the Town of Phillips whose residence and/or property falls within the Flicker Hazard and Acoustic Hazard setback areas for the WEF declaring that the Inhabitant is willing to waive with respect to his/her residence and/or property the Flicker Hazard and/or Acoustic Hazard Setback Standards of this Ordinance and also the Acoustic Standards specified in section 9.3, including the protections they afford for the value of his/her property and for his/her personal health, safety, and welfare.
- A declaration signed by parties to the Covenant that it has been recorded at the Registry of Deeds office appropriate to the affected property, and that the Covenant contains such legal language as may be necessary to make the agreement binding on current and future Inhabitants and/or Property Owners.
- A declaration signed by parties to the Covenant of the amount and terms of any consideration(s) provided to the Inhabitant and/or Property Owner for entering into the Covenant.

application is complete or, if the application is incomplete, shall inform the applicant of the specific additional material needed to complete the application.

14.3.4.4 Within 60 days of the determining that the Operational License Application is complete, the Planning Board shall determine whether the Type 3 WEF Application meets the requirements for an Operational License. In determining whether the Type 3 WEF Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate.

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

15.0 Violations and Enforcement

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

15.2 The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

15.3 Legal Action and Violations: When any violation of any provision of this Ordinance shall be found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

15.4 Fines: Any person, including, but not limited to, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, shall be penalized in accordance with Title 30-A, Maine Revised Statutes, Annotated, Subsection 4452. The Selectmen are authorized to enter into a Consent Agreement and in such cases court action is not necessary.

16.0 Appeals

16.1 The Town of Phillips Board of Appeals shall have the authority to hear and decide administrative appeals by a party who alleges that an error in applying this Ordinance has been committed by the Town of Phillips Planning Board or the Code Enforcement Officer (CEO). In conducting an administrative appeal the Board of Appeals shall follow the procedures as set forth in Section 22.1 of the Zoning Ordinance of the Municipality of Phillips, Maine.

16.2 The Board of Appeals may reverse a decision of the Planning Board or the CEO only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board or the CEO. If the Board of Appeals determines that the record of the Planning Board is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.