

TOWN OF HOPE
MORATORIUM ORDINANCE ON WIND POWER DEVELOPMENT

WHEREAS, for the purposes of this Ordinance, “Wind Power Development” means any wind energy facility consisting of one or more wind turbines, the primary purpose of which is to generate electricity to supply to off-site customers, and includes turbines, towers, substations, cable/wires and other structures accessory to such a facility; and

WHEREAS, neighboring municipalities have recently received inquiries about the possibility of locating a Wind Power Development within their territorial limits; and

WHEREAS, areas of the Town of Hope could be under threat of development pressure from Wind Power Developments; and

WHEREAS, the potential unregulated location of Wind Power Development in the Town raises legitimate and substantial questions about the impact of such development on the Town, including questions of the compatibility of Wind Power Development with existing uses and developments in residential and commercial zoning districts; the adequacy of streets to handle additional construction traffic associated with Wind Power Development; the potential adverse health and safety effects of Wind Power Development on the community if not properly regulated, including, without limitation, the effect of “shadow flicker” associated with spinning blades, the effect of noise associated with wind turbines, the possibility of tower failure (falling turbines) and tower climbing, and the possibility of stray voltage; and

WHEREAS, the Town’s current ordinances do not adequately address the concerns listed above; and

WHEREAS, the possible effect of the location of a Wind Power Development in Hope has implications for the health, safety and welfare of the Town and its citizens; and

WHEREAS, the Town needs time to study its own ordinances to determine the implications of future proposed Wind Power Development and to develop reasonable ordinances governing the location and operations of such Wind Power Developments to address the concerns cited above; and

WHEREAS, the Town, under its home rule authority, its police power generally and as otherwise provided by law, has the authority to impose reasonable restrictions, conditions, and limitations on such Wind Power Development; and

WHEREAS, the Board of Selectmen, with the professional advice and assistance of the Planning Board and Town staff, shall study the Town's ordinances to determine the land use and other regulatory implications of Wind Power Development and consider what locations and conditions of approval might be appropriate for such uses; and

WHEREAS, the Town's current ordinances and other applicable laws, if any, are not adequate to prevent serious public harm possibly to be caused by the development of Wind Power Development in Hope, thereby necessitating a moratorium; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of Wind Power Development being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town first enacts this Moratorium Ordinance on Wind Power Development;

NOW, THEREFORE, be it ordained that the following Moratorium Ordinance on Wind Power Development be, and hereby is, enacted, and, in furtherance thereof, the Town does hereby declare a moratorium on the location, permitting or licensing of any Wind Power Development within the Town. This Ordinance shall take effect upon adoption by Town Meeting, but shall be applicable as of April 26, 2011, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Board of Selectmen, for the express purpose of drafting an amendment or amendments to the Town's ordinances to protect the public from health and safety risks including, but not limited to, compatibility of Wind Power Development with existing uses and developments in residential and commercial zoning districts; the adequacy of streets to handle additional construction traffic associated with Wind Power Development; the potential adverse health and safety effects of Wind Power Development on the community if not properly regulated, including, without limitation, the effect of "shadow flicker" associated with spinning blades, the effect of noise associated with wind turbines, the possibility of tower failure (falling turbines) and tower climbing, and the possibility of stray voltage; and

BE IT FURTHER ORDAINED, that this Ordinance shall apply to any Wind Power Development that may be proposed to be located within the Town on or after the April 26, 2011 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed Wind Power Development for which an application for a building

permit, certificate of occupancy or any other required approval has not been submitted and acted on by the Code Enforcement Officer or other Town official prior to April 26, 2011, the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a Wind Power Development within the Town on or after the April 26, 2011 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments Town Meeting may enact as a result of this moratorium ordinance; and

BE IT FURTHER ORDAINED, that during the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, certificate of occupancy, site plan review and/or any other permits or licenses related to a Wind Power Development; and

BE IT FURTHER ORDAINED, that those provisions of the Town's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if Wind Power Developments are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: April 26, 2011