

Proposed ordinance changes
to be discussed at a **Public Hearing at 6:00 PM on January 25, 2012** at the Town Hall

Change #1

In §6B3a Delete

A non-conforming structure that has not been expanded since January 1, 1989, may be replaced on its current footprint if the applicant is willing to forego the possibility of present or future 30% expansion. This agreement must be recorded at the Registry of Deeds.

Change #2

Appendix B to the Ordinances following Appendix A at the end of §8.

SMALL WIND-POWERED ENERGY SYSTEMS

Section 1. General Requirements for Small Wind-Powered Energy Systems: The following general requirements shall apply to all small wind-powered energy systems:

- a. Each lot shall be limited to one small wind-powered energy system.
- b. Small wind-powered energy systems shall not exceed a maximum system height of 100 ft. This is an allowed exception to the structure height limitations set forth in the Building Permit and the Shoreland Zoning ordinances.
- c. Wind turbines and their support structures, if painted, shall be painted a non-reflective, non-obtrusive color.
- d. Small wind-powered energy system towers shall not be lighted unless required by the Federal Aviation Administration (FAA) or other public authority.
- e. Wind turbines and their towers shall not be used for displaying any advertising except for reasonable identification of the manufacturer.
- f. Prior to commencing any construction, a Building Permit must be obtained in accordance with the Building Permit or Shoreland Zoning Ordinances, as applicable.
- g. Wind turbines and their towers are not permitted in the Resource Protection District.

Section 2. Setback Requirements: The following setbacks and separation requirements shall apply to all small wind-powered energy systems:

- a. Property Lines: Each small wind-powered energy system shall be set back a distance equal to 150 (one hundred and fifty) percent of its system height from adjoining property lines and at least 75 feet from the normal high-water line or the upland edge of a wetland.

- b. Roads: Each small wind-powered energy system shall be set back from the nearest public or private road a distance of no less than 110 (one hundred and ten) percent of its system height from the nearest boundary of the underlying right of way for such road.
- c. Communication and electrical lines: Each small wind-powered energy system shall be set back from the nearest aboveground public electric power line or telephone line a distance of no less than 110 (one hundred and ten) percent of its system height from the existing power line or telephone line.

Section 3. Noise Limitation Requirements: All small wind-powered energy systems shall meet the following requirements:

- a. An automatic braking, governing, or feathering system shall be required to prevent uncontrolled rotation.
- b. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of 66 db as measured at the applicant's property lines.
- c. After installation, the owner shall have sound level measurements taken at the property lines of the lot on which the generator is sited to determine operating decibel levels. Copies of all readings taken shall be provided to the Code Enforcement Officer to append to the original building permit application.
- d. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent approved by the Code Enforcement Officer. The report shall be submitted to the Code Enforcement Officer for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded, in which case the owner of the system shall pay the fee.
- e. If the maximum decibel readings are exceeded, the installation shall be considered a nuisance.
- f. The nuisance must be corrected within 90 days of notification. If the violation cannot be corrected, the small wind energy system shall be removed or relocated.

Section 4. Minimum Ground Clearance: The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of no less than 20 feet.

Section 5. Signal Interference: The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone, or television signals, caused by any small wind energy system.

Section 6. Safety: The following safety requirements shall be adhered to:

- a. All wiring between the wind turbine and the residence/facility served shall be underground.
- b. Wind turbine towers shall not be climbable up to 15 feet above ground level.
- c. All access doors to wind turbine towers and electrical equipment shall be locked.

- d. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment, and wind energy facility entrances.

Section 7. Permitting Requirements: In addition to the application and supporting documentation required by the Building Permit or Shoreland Zoning ordinances, the applicant for a small wind-powered energy system shall provide the following information to the Building Inspector:

- a. Structural drawings of the wind tower, base pad, footings, and guy wires, prepared by the manufacturer or a professional engineer.
- b. Drawings and specifications of the generator, hub, and blade, prepared by the manufacturer or a professional engineer.
- c. Photographs of the proposed site and the specific small wind-energy system to be installed.
- d. Proof that the applicant has notified abutters by certified mail, return receipt requested, of the proposed installation.

Section 8. Enforcement: This Ordinance shall be enforced by the Code Enforcement Officer. The Selectmen may take such actions as are necessary and proper to restrain, correct, remove, or punish violations of this Ordinance in accordance with 30A MRSA § 4452.

Section 9. Definitions: As used in this Ordinance, the following terms shall have the meanings indicated:

Ambient Decibel Levels: Measurements made during winds of 0 mph and up to 25 mph (gusts) as reported by Wiscasset Municipal Airport.

Hub Height: The distance measured from ground level to the center of the turbine hub.

Maximum Decibel Levels: Measurements taken at startup and maximum output speeds of the turbine including braking or furling conditions.

Small Wind-Powered Energy System: A wind energy conversion system consisting of a tower, wind turbine, and associated control conversion electronics which will be used primarily to produce electrical power, having a maximum generating capacity of 100kW and a maximum system height of 100 feet.

System Height: The hub height plus the length of the blade extended to its highest point.

Tower: The structure on which the wind-powered energy system is mounted.

Tower Height: The height above grade of the fixed portion of a tower, excluding the wind turbine.

Wind Turbine: The parts of the wind system including the blades, generator, and tail.

Add a line to the Land Use Table in §3

OUTDOOR, RESOURCE BASED USES

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
Small wind-powered energy systems	S	S	N	N

Change #3
Geothermal Heat Exchange Wells

Add to the definitions in §8

Geothermal Heat Exchange Well A hole drilled, driven or bored into the earth for the purpose of using the heat exchange capacity of the earth for heating and/or cooling (and can be either an open-loop or a closed-loop system).

Add to the Land Use Table in §3B under OUTDOOR, RESOURCE BASED USES

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
Geothermal Heat Exchange Wells	S#	S#	S#	S#

Geothermal Heat Exchange Wells S# S# S# S#

See Appendix C

Appendix C

**TOWN OF SOUTHPORT
MORATORIUM ORDINANCE ON GEOTHERMAL HEAT EXCHANGE WELLS**

WHEREAS, drinking water in Southport is obtained from a fragile aquifer; and

WHEREAS, excessive water withdrawals from the fragile aquifer can cause salt water intrusion into the aquifer; and

WHEREAS, a geothermal heat exchange well is a hole drilled, driven or bored into the earth for the purpose of using the heat exchange capacity of the earth for heating and cooling and can be either an open-loop or a closed-loop system; and

WHEREAS, Maine law allows for the drilling, driving or boring of geothermal heat exchange wells pursuant to State law, 32 M.R.S.A. § 4700-E *et seq.*, and the State of Maine Department of Health and Human Services “Well Drillers and Pump Installers Rules”; and

WHEREAS, the State of Maine Department of Health and Human Services “Well Drillers and Pump Installers Rules” do not currently regulate the location and construction of geothermal heat exchange wells, although proposed amendments to the current rules relating to geothermal heat exchange wells are pending; and

WHEREAS, the potential unregulated location and construction of geothermal heat exchange wells in the Town raises legitimate and substantial questions about the impact of such wells on the Town, including questions of the effect of geothermal heat exchange wells on water supply sources, the environment and ecosystems; and

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

WHEREAS, the possible effect of the unregulated location and construction of geothermal heat exchange wells has implications for the health, safety and welfare of the Town and its citizens; and

WHEREAS, the Town needs time to study the effect of geothermal heat exchange wells on water supply sources, the environment and ecosystems in the Town; and

WHEREAS, the Town needs time to study the existing rules and proposed amendments to the State of Maine Department of Health and Human Services “Well Drillers and Pump Installers Rules” relating to geothermal heat exchange wells to determine the implications of future proposed geothermal heat exchange wells to address the concerns cited above; and

WHEREAS, the Town needs time to draft appropriate ordinances to protect drinking water supplies and prevent adverse impacts of geothermal heat exchange wells on the environment and ecosystems from altered water quality 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 geothermal heat exchange wells and other changes in law as a result of the existing statutes and regulations; and

WHEREAS, the Board of Selectmen, with the professional advice and assistance of any outside hydrogeologists retained by the Town, the Planning Board and Town staff, shall study the Town’s ordinances to determine the land use and other regulatory implications of geothermal heat exchange wells 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 geothermal heat exchange wells in Southport, thereby necessitating a moratorium; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public resources that is reasonably foreseeable as the result of geothermal heat exchange wells 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 Geothermal Heat Exchange Wells;

NOW, THEREFORE, be it ordained that this Moratorium Ordinance on Geothermal Heat Exchange Wells be, and hereby is, enacted, and, in furtherance thereof, the Town does hereby declare a moratorium on the location or permitting of any geothermal heat exchange wells within the Town. This Ordinance shall take effect upon adoption by Town Meeting. 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 geothermal heat exchange wells with water supply sources, the environment and ecosystems in the Town; and

BE IT FURTHER ORDAINED, that this Ordinance shall apply to geothermal heat exchange wells that may be proposed to be located within the Town on or after the effective date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop a geothermal heat exchange well within the Town on or after the effective 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 geothermal heat exchange well; 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 geothermal heat exchange wells 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.