

# **COUNTY OF VICTORIA**

Wind Turbine Licensing Development By-law

February 2014

# Municipality of the County of Victoria

## Wind Turbine Licensing Development By-law

### 1. Title and Scope:

- 1.1 This By-law is enacted pursuant to Section 172 of the *Municipal Government Act* and shall be known and may be cited as the “*Wind Turbine Licensing Development By-law*” of the County of Victoria and shall apply to all lands within the Municipality of the County of Victoria.
- 1.2 This By-law does not exempt any person from complying with the requirements of other By-laws or regulations in force within the Municipality of the County of Victoria and from obtaining any licence, permission, permit, authority or approval as otherwise required by the Municipality, the Province of Nova Scotia, and/or the Government of Canada.
- 1.3 This by-law shall apply to all large and small scale wind turbines including those existing prior to the effective date of this by-law, except Section 4 which shall not apply so as to invalidate the location of any wind turbine pre-existing the effective date of this by-law.
- 1.4 This By-law shall not apply to micro-scale wind turbines.

### 2. Definitions:

For the purposes of this By-law:

- 2.1 “**Decommissioning**” means the final closing down and dismantling of a wind turbine and associated infrastructure once the project has reached the end of its operation life;
- 2.2 “**Development Officer**” means the Development Officer appointed by the Council of the Municipality of the County of Victoria;
- 2.3 “**Environmental Assessment**” means all documentation required under the *Canadian Environmental Assessment Act* and *Nova Scotia Environment Act* and regulations;
- 2.4 “**Licence**” means a Wind Turbine Development Licence issued pursuant to this By-law;
- 2.5 “**Nameplate Capacity**” means the manufacturer’s maximum rated output of the wind turbine expressed in kilowatts;
- 2.6 “**Municipality**” means the Municipality of the County of Victoria;
- 2.7 “**Setback**” means the measured distance from the base of the wind turbine tower;
- 2.8 “**Wind Energy Facility**” means a wind energy conversion system, the purpose of which is to produce electricity, consisting of one or more roof mounted turbines or turbine towers, with rotor blades, associated control or conversion electronics, and other accessory structures including substations, meteorological towers, electrical infrastructure and transmission lines;
  - i) **Mini Facility** means a wind energy facility consisting of a single turbine designed to supplement other electricity sources as an accessory use to existing buildings or facilities

and has a total rated capacity of more than 1 kW but not greater than 10 kW, and is not more than 23 metres (75 feet) in height.

- ii) **Small Facility** means a wind energy facility which has a total rated capacity of more than 10 kW but not greater than 30 kW. A Small Facility has a standalone design, on its own foundation, or may be supported by guy wires, is not roof mounted, and the tower of which is not more than 35 metres (115 feet) in height.
- iii) **Medium Facility** means a wind energy facility which has a total rated capacity of more than 30 kW but not greater than 100 kW. A Medium Facility has a standalone design, on its own foundation, or may be supported by guy wires, is not roof mounted, and the towers of which are not more than 60 metres (197 feet) in height.
- iv) **Large Facility** means a wind energy facility which has a total rated capacity of more than 100 kW. A Large Facility has a standalone design, on its own foundation, or may be supported by guy wires, is not roof mounted, and the towers of which are greater than 60 metres (197 feet) in height.

### 3. Administration:

- 3.1 No person shall install or operate a Wind Turbine in the Municipality of the County of Victoria without first having obtained a Licence from the Development Officer.
- 3.2 A Licence for a Wind Turbine shall be issued by the Development Officer subject to the following requirements:
  - a) The Owner or Operator submits a completed application in such form as is approved from time to time by the Municipality;
  - b) The application shall be cosigned by the registered property owner if the land is not owned by the Owner and/or Operator of the Wind Turbine;
  - c) A completed application form is accompanied with an application fee in an amount that is to be determined by Municipal Council from time to time;
  - d) The requirements contained in Section 4 and Section 5 and 6 of this By-law have been met.

#### 3.3 Duration of Licence:

- a) A Licence issued under this By-law will be in effect for five (5) years unless otherwise cancelled or suspended.
- b) An Owner or Operator may apply to renew a Licence and a completed application must be submitted to the Development Officer no less than thirty days prior to the expiry date of the effective Licence. An application for renewal will be accompanied with an application fee that is set by Municipal Council from time to time. A License shall be renewed for a period of five (5) years provided the application includes information,

prepared by a qualified individual, that demonstrates the Wind Turbine(s) can safely operate for the additional time period.

- c) A Licence issued under this By-law shall automatically lapse and become null and void if, in the opinion of the Development Officer:
  - (i) construction of the Wind Power Project has not commenced within eighteen (18) months of the date the Licence was issued;
  - (ii) substantial completion of the Wind Power Project has not occurred within five (5) years of the date that the Licence was issued;
  - (iii) following the issuance of a Licence, new or corrected information that materially affects the application is brought to the attention of the Development Officer;
  - (iv) the applicant fails to meet the requirements of Section 7 of this By-law; or
  - (v) the entire Wind Power Project has ceased operation for a period of at least one year, unless the Owner or Operator thereof can reasonably establish that additional time is needed to repair or rebuild part or all of the Wind Power Project because of damage or loss caused by circumstances beyond the reasonable control of the Owner or Operator.

#### **3.4 Notice of Decision:**

- a) Within a reasonable amount of time, not to exceed 90 days, of receiving a completed application for a Licence or renewal thereof, the Development Officer shall either issue the Licence or notify the applicant of a decision to refuse the issuance:
- b) A decision to refuse an application for a Licence or Renewal thereof shall be served to the applicant in writing by ordinary mail and shall include the reasons for not issuing or renewing the License.

#### **4. Location Conditions:**

In accordance with Sub Clause 172(1)(d)(i) of the *Municipal Government Act* which allows a Municipality to make by-laws "*prescribing a distance beyond which noise shall not be audible*" a Wind Power Project shall meet the Minimum setback requirements as contained in the *Victoria County Wind Turbine Development Land Use By-law*.

#### **5 Conditions of Operation**

##### **5.1 Finish**

A Wind Turbine shall have a non-reflective matte finish in an unobtrusive colour.

##### **5.2 Lettering and Signage**

- a) A Wind Turbine tower shall not contain any commercial advertising. However, the hub or Nacelle may display the manufacturer's, Operator's or Owner's name or logo. Site

signs will be limited to those which identify the Wind Power Project, locate access points and provide safety and educational information.

- b) The developer of a wind turbine project shall ensure that a sign is erected on site of the facility and visible to the general public - said sign to indicate the ownership of the facility and the contact information for the company in charge of turbine maintenance.

#### **5.4 Lighting**

A Wind Turbine shall not be provided with artificial lighting except for lighting that is required by Transportation Canada or other regulatory authorities.

#### **5.5 Temporary Uses - Test Towers**

Facilities for the assessment of wind energy resources (test towers) may be erected for the life of the wind power project if they continue to be used. If they are no longer required as part of the project, they shall be removed within one year of inactivity.

If the wind energy developer does not proceed with the construction of a wind turbine facility the data collected shall be made available to the Municipality of Victoria County for public distribution if requested.

#### **5.6 Outdoor Storage**

Outdoor storage shall be considered an accessory use to a wind power project and any such storage occurring after the completion of construction activities of the wind power project shall be screened from view from adjacent residential Dwellings and public highways.

#### **5.7 Critical Incidences**

The developer of a large wind project shall agree to notify county officials within 24 hours of any critical incidences which have occurred at the Wind Turbine Facility. Critical incidents include but are not limited to, fire, fluid leaks, blade failure or an unusual noise that would indicate equipment failure.

### **6. Information Required at Time of Application (Large Scale Wind Projects)**

Along with the application for a Licence, the applicant for a large scale wind project shall provide:

- a) A site plan, drawn to scale by an engineer or surveyor, showing the location of the Wind Turbines and accessory components of the Wind Power Project including transmission and secondary distribution lines and transformation equipment;
- b) A plan, drawn to scale, showing location of adjacent structures and identifying all Dwellings and public roads within 1 kilometres of any proposed Large Scale Wind Turbines;
- c) A copy of the Environmental Assessment, if applicable. The notice of federal and/or provincial approvals, along with any changes, comments or conditions will be forwarded to the Municipality upon issuance;
- e) The recognised design standard for the proposed turbines;

- f) A copy of a Decommissioning Plan as prepared by the applicant. The Decommissioning Plan will identify above ground components of the Wind Power Project to be removed from the site along with any site remediation, excluding roads, required to return the site to a natural state. Decommissioning will commence within one (1) year after the owner or operator has surrendered the License or the License has been terminated by force of Section 3.3 of this By-law.

The decommissioning plan shall outline how the applicant will ensure funding is available to carry out the decommissioning and reclamation of the wind turbine facility and site by posting a bond or providing other financial guarantee acceptable to the Municipality of the County of Victoria.

Decommissioning shall be completed within twelve (12) months after its commencement;

- g) A copy of approvals from Transportation Canada and Navigation Canada and/or such other regulatory approval that may be required; and
- h) Evidence and results of public notification to Section 8 of this By-law.

## **7. Requirements of the Applicant During the Construction Phase**

It shall be a condition of a Licence, issued under this By-law, that:

- a) once determined, the applicant shall submit the engineer drawings for the foundations supporting the Wind Turbines as prepared and stamped by a professional engineer, licensed to practice in Nova Scotia;
- b) within two (2) months of installation of a single Wind Turbine (or completion of a phase in a multi-phased wind turbine project), the applicant will submit a location certificate for each foundation, that confirms that the location of each such Wind Turbine is in compliance with the applicable Setbacks stipulated in this By-law;
- c) when an Environmental Assessment is required, under Section 6c, above, construction will not commence until the final approvals of the Environmental Assessment are issued and submitted to the Administrator of this By-law.

## **8. Community Information Meeting**

**8.1** As part of the application for Large Scale Wind Turbine Project Licence, the applicant shall arrange or have conducted a community meeting, in the community where the Wind Power Project is to be located, to present the proposal and answer any questions concerning the project.

### **8.2 Notice of Meeting**

The applicant will provide sufficient notice to enable municipal councillors and staff to attend the meeting. Notice of meeting will be advertised in the local and daily newspaper a minimum of two times, first notice being two weeks prior to the meeting date. At the time of first notice, the applicant will advise the Municipality of the meeting date, time and location.

### **8.3 Community Information Meeting Minutes**

Minutes of the meeting will be made available to the Municipality of the County of Victoria and posted on the developers and/or County website.

### **8.4 Citizen Monitoring Committee**

The applicant shall offer opportunity to the community to establish a citizen monitoring committee for the duration of the construction phase of the project.

## **9. Enforcement**

### **9.1 Right of Inspection**

The Development Officer and any employee of the Municipality authorized by the Development Officer may, for the purpose of ensuring compliance with this By-law, including compliance with the Decommissioning Plan enter in or upon any land or premises at any reasonable time upon reasonable notice thereof but without a warrant. If a person refuses to allow the administrator to exercise, or attempts to interfere or interferes with the administrator in the exercise of a power pursuant to the *Municipal Government Act*, the administrator may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the administrator entry to the property and an order restraining a person from further interference.

### **9.2 Offence**

It shall be an offence to:

- a) contravene any provision of this By-law, including any licensing requirement, location condition or condition of operation and construction;
- b) contravene any condition in a Wind Turbine Development Licence, or renewal thereof under this By-law; and
- c) fail to comply with any representations contained within an application in respect of which a Licence has been issued.

### **9.3 Punishment**

Offences pursuant to subsection 9.2 are punishable on summary conviction by a fine of not less than \$1,000 and not more than \$5,000 and to imprisonment of not more than two months in default of payment thereof.

### **9.4 Additional Penalty**

In addition to any penalty under subsection 9.3, in the event of an offence against this By-law, the Development Officer may suspend a Licence for a period of up to 3 months in respect of a first conviction and may revoke a Licence in respect of a second conviction within any 3 year period.

A suspension or revocation shall preclude any person from applying for or being granted Licence or renewal for the period of the suspension in the case of a suspension, and for 5 years in the

case of a revocation, in respect of the same development in respect of which the offence was committed.

### **9.5 Enforcement of Decommissioning Plan**

At the end of the operational life of the Wind Power Project, occurring either at the choice of the Owner and/or Operator or for any reason contemplated in this By-law, and upon a finding by the Development Officer that the Decommissioning Plan has not been carried out in a way satisfactory to the Development Officer, the Development Officer may:

- (i) give notice to the Owner and/or Operator advising him of any steps necessary to comply with the Decommissioning Plan and asking that the Owner and/or Operator to take these steps to complete Decommissioning at his costs;
- (ii) after giving notice and providing the Owner and/or Operator with a reasonable time to complete Decommissioning, carry out any necessary steps for the Decommissioning of the Wind Power Project on behalf of the Owner and/or Operator. All costs incurred in the course of such Decommissioning of the Wind Power Project shall be the responsibility of the Owner and/or Operator and payable by the Owner and/or Operator to the Development Officer.

This Section shall operate in addition to the provisions contained on Section 9.3 of this By-law.

### **9.6 Appeals**

Any person who, upon application, is refused a Wind Turbine Licence or renewal or whose Wind Turbine Licence is suspended may, by written notice to the Development Officer, within 30 days of receiving written notification of the refusal, suspension or revocation, file an appeal to Council and Council shall hear the appeal at a hearing within 60 days of the filing of the appeal and Council may allow the appeal, dismiss the appeal or vary the decision under appeal.

## **10. Fees**

Licensing fees (including renewal fees) for Wind Turbines shall be in accordance with the following schedule:

i. Micro Facility	N.A.
ii. Mini Facility	\$50.00
iii. Small Facility	\$100.00
iv. Medium Facility	\$500.00
v. Large Facility	\$1,000.00

## **11. Severability**

It is hereby declared that each and every of the foregoing Sections of this By-law is severable and that if any provision of this By-law should for any reason be declared invalid by any court, it is the intention and desire of the Council of the Municipality of the County of Victoria that each and every one of the then remaining provisions hereof should remain in full force and effect.