



Land Use By-law
for the
COUNTY OF VICTORIA

Concerning the Regulation of
Wind Turbine Development

February 2014

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PART 1 TITLE AND PURPOSE

TITLE

1.1 This By-law shall be known and may be cited as the Land Use By-law, for the Municipality of the County of Victoria. Hereinafter, “By-law” shall refer to the Land Use By-law, and “County” shall refer to the Municipality of the County of Victoria.

PURPOSE

1.2 The purpose of this By-law is to carry out the purpose and intent of the Municipal Planning Strategy in accordance with the provisions of the Nova Scotia *Municipal Government Act* by regulating the development of wind turbines. This By-law shall apply to the Municipality of the County of Victoria.

1.3 This By-law does not exempt any person from complying with other by-laws or regulations in force within the County, including the existing Secondary Planning Strategies, or from obtaining any license, permission, permit, authority or approval required thereunder. Where any provisions of this By-law conflicts with those of any other Municipal, Provincial or Federal regulation, by-law or code, the more stringent requirement shall prevail.

PART 2 ADMINISTRATION

EFFECTIVE DATE

- 2.1 This By-law shall take effect upon advertisement in the local newspaper following the approval of the Minister of Service Nova Scotia and Municipal Relations for the Province of Nova Scotia.

REQUIREMENT FOR DEVELOPMENT PERMIT

- 2.2 No person shall undertake, or cause or permit to be undertaken, any wind turbine development in the area to which this By-law applies unless a development permit has been obtained in relation to such development from the Development Officer.

NO PERMIT REQUIRED

- 2.3 A development permit is not required for any development except for wind turbine development, subject to existing designations in the Secondary Planning Strategies.
- 2.3.1 Notwithstanding Section 2.3, no development permit is required for Micro Wind Turbines.

DEVELOPMENT OFFICER

- 2.4 This By-law shall be administered by the Development Officer appointed by the Council of the County, and the Development Officer shall issue development permits under this By-law.
- 2.5 The Development Officer shall keep records of all applications received, permits and orders issued; inspections made, and shall retain copies of all papers and documents in connection with the administration of the By-law, which shall form part of the public records of the County.

REQUIREMENT FOR APPLICATION

- 2.6 Every person wishing to obtain a development permit must submit an application for such development permit to the Development Officer in the form prescribed from time to time by Council.

CONTENTS OF APPLICATION

- 2.7 Every application for a development permit shall be signed by the owner of the property or their agent and accompanied by:
- 2.7.1 A description of the proposed Wind Energy Facility including:
- a) an overview of the project, the proposed total rated capacity of the Wind Energy Facility;
 - b) the proposed number, representative types, and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions, respective manufacturers, Canadian Safety Association certification and a description of accessory facilities;
 - c) identification and location of the properties on which the proposed Wind Energy Facility will be located;

- d) at the discretion of the Development Officer, a survey prepared by a Nova Scotia Land Surveyor, a surveyor's certificate, or a site plan showing the planned location of all wind turbine towers, property lines, setback lines, access roads, turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and land parcels, demonstrating compliance with the setbacks and separation distance where applicable;
- e) at the discretion of the Development Officer, proof of notification to the Department of National Defence, NAV Canada, Natural Resources Canada and other applicable agencies regarding potential radio, telecommunications, radar and seismoacoustic interference, if applicable, to Transport Canada and the *Canadian Aviation Regulations*;
- f) Other such information as may be necessary to determine whether or not the proposed development conforms to the requirements of this By-law;
- g) A Victoria County Wind Turbine License.

2.7.2 For large wind energy facilities, the developer must also submit the following:

- a) Authorization documents from Transport Canada, NavCan and any other federal departments if applicable;
- b) An Environmental Impact Assessment, if the turbine or wind farm has a generating capacity at or in excess of two (2) megawatts;
- c) Documentation stating that the project does not disrupt provincially significant wildlife habitat or endangered species habitat;
- d) A decommissioning and site reclamation plan including details on how the decommissioning and reclamation will be funded.

ADDITIONAL PERMIT REQUIREMENTS

2.8 The Development Permit application shall be reviewed by a Municipal Building Inspector to determine if design submissions are required from a Professional Engineer to ensure that the wind turbine base, foundation, or guy wired anchors required to maintain the structural stability of the wind turbine tower(s) are sufficient.

2.8.1 A minimum of 60 days before the date a development permit application is submitted, an applicant shall send a notice to all assessed property owners of property that is within the following distances from the boundary of the property upon which any Mini, Small, Medium and Large wind energy facility is proposed:

- a) Mini 140 metres (460 ft)
- b) Small 360 metres (1180 ft)
- c) Medium 500 metres (1640 ft),
- d) Large 2000 metres (6560 ft).

2.8.2 The notice pursuant to section 2.8.1 shall include the following information:

- a) a site plan that includes property boundaries and the location of the proposed wind energy facility;

- b) a description of the type of wind energy facility; and
- c) the applicant's contact information which shall include a mailing address

VARIANCE FROM MINIMUM REQUIREMENTS

- 2.9 In accordance with the requirements of the *Municipal Government Act*, the Development Officer may not grant a variance for the setback requirements if that variance:
- a) violates the intent of this By-law
 - b) results in difficulty general to the properties in the area; or
 - c) results in difficulty resulting from an intentional disregard for the requirements of this By-law.

DEVIATIONS FROM APPLICATION

- 2.10 No person shall deviate, or allow deviations to be made, from the description of the proposed development that is contained in the development permit, unless the developer has obtained a new development permit from the Development Officer.
- 2.11 The Development Officer may revoke a development permit where the development permit was issued based on false or mistaken premises.

PENALTY

- 2.12 Any person in violation of this By-law may be penalized through fines or imprisonment as provided for in the *Municipal Government Act*.

ENFORCEMENT

- 2.13 Council, by any authorized officer or servant, shall have the right to enter at all reasonable times into or upon any property within the Plan area for the purposes of an inspection necessary to the administration of this By-law.

COSTS FOR ADVERTISING

- 2.14 Applications for an amendment to this By-law shall be accompanied by a deposit to the Eastern District Planning Commission an amount estimated by the Commission to be sufficient to pay the cost of advertising required by the *Municipal Government Act*. After the advertising has been complete, the applicant shall pay to the Commission any additional amount required to defray the cost of the advertising, or if there is a surplus, the Commission shall refund the excess.
- 2.15 Upon receipt of an application for a variance from the requirements of this By-law, the Development Officer shall give notice to the persons required in the manner prescribed by the *Municipal Government Act*, the notice of the approval or refusal of the variance application. Such notice is to be served by ordinary mail, and the Municipality shall recover from the applicant the cost of giving such notice.

PART 3 INTERPRETATION

ZONES

3.1 For the purpose of this By-law, the Municipality of the County of Victoria is divided into the following zones, the boundaries of which are shown on the Zoning Map:

Zone	Symbol
Wind Resource (Restricted) Zone	WR-1
Wind Resource (General) Zone	WR-2

ZONING MAP

3.2 The attached Schedule “A” is titled “Zoning Map” and forms a part of this By-law.

INTERPRETATION OF CERTAIN WORDS

3.3 In this By-law, words used in the present tense include future; words in the singular number include the plural except where otherwise clearly stated; words in the plural include the singular number; and the word “used” includes “arranged,” “designed” or “intended to be used.” The word “shall” is mandatory and the word “may” is permissive. All other words carry their customary meaning except for those defined in Part 6 of this By-law, entitled “Definitions.”

STANDARDS OF MEASUREMENT

3.4 Throughout this By-law, the metric system has been used, followed by the approximate imperial system equivalent in brackets. Should any case arise where there appears to be a discrepancy between the two figures, the metric figure shall prevail.

PART 4 WIND RESOURCE (RESTRICTED) ZONE: WR-1

(To see which properties are subject to this zone please see the Maps at the end of the By-law)

USES PERMITTED AND NOT SUBJECT TO DEVELOPMENT PERMITS

- 4.1 All developments, with the exclusion of wind turbines, are permitted in the Wind Resource Restricted (WR-1) Zone as-of-right, subject to area-specific requirements outlined in the Secondary Planning Strategies.

USES PERMITTED AND SUBJECT TO DEVELOPMENT PERMITS

- 4.2 Notwithstanding Section 4.1 of this By-law, the following use shall be permitted in the WR-1 Zone subject to development permit:
- a) All Wind Energy Facilities, except Large Facilities.

WR-1 ZONE REQUIREMENTS

- 4.3 In any Wind Resource Restricted (WR-1) Zone, no Development Permit shall be issued except in conformity with the following requirements;
- a) Minimum Lot Area: 0.4 hectares (1 acre)
 - b) Distance to Boundary: 1.5 times the height of the Wind Turbine.

GENERAL REQUIREMENTS

- 4.4 Further to Section 4.2 of this By-law, no person shall erect a wind turbine in the Wind Resource Restricted (WR-1) Zone except in accordance with the following requirements:
- a) All turbine towers shall have a minimum distance between turbines equal to the height of the tallest turbine.
 - b) Turbine towers of Mini Facilities shall be set back a minimum distance of 3.0 times the turbine height from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building.
 - c) Turbine towers of Small Facilities shall be set back a minimum distance of 180 metres (590 feet) from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building.
 - d) Turbine towers of Medium Facilities shall be set back a minimum distance of 250 metres (820 feet) from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building.

SPECIAL PROVISIONS

- 4.5 Notwithstanding the requirements of Sections 4.2 and 4.3 (a) of this By-law, only one turbine per lot is permitted unless the lot is greater than 6 hectares (14.8 acres) in area. Additional turbines must still meet the minimum setback and minimum tower separation requirements.

Exemption from setback

- 4.6 The minimum setback from all adjacent lot boundaries shall be waived if such adjacent property owner agrees to grant an easement binding on the current and future land owners.

PART 5 WIND RESOURCE (GENERAL) ZONE: WR-2

(To see which properties are subject to this zone please see the Maps at the end of the By-law)

USES PERMITTED AND NOT SUBJECT TO DEVELOPMENT PERMITS

- 5.1 All developments, with the exclusion of wind turbines, are permitted in the Wind Resource General (WR-2) Zone as-of-right, subject to area-specific requirements outlined in the Secondary Planning Strategies.

USES PERMITTED AND SUBJECT TO DEVELOPMENT PERMITS

- 5.2 Further to Section 5.1 of this By-law, the following use shall be permitted in the WR-1 Zone subject to development permit:
- a) All Wind Energy Facilities.

WR-2 ZONE REQUIREMENTS

- 5.3 In any Wind Resource General (WR-2) Zone, no Development Permit shall be issued except in conformity with the following requirements;
- a) Minimum Lot Area: 0.4 hectares (1 acre)
 - b) Distance to Boundary: 1.5 times the height of the Wind Turbine.

GENERAL REQUIREMENTS

- 5.4 Further to Section 5.33 of this By-law, no person shall erect a wind turbine in the Wind Resource General (WR-2) Zone except in accordance with the following requirements:
- a) All turbine towers shall have a minimum distance between turbines equal to the height of the tallest turbine.
 - b) Turbine towers of Mini Facilities shall be set back a minimum distance of 3.0 times the turbine height from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building;
 - c) Turbine towers of Small Facilities shall be set back a minimum distance of 180 metres (590 feet) from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building;
 - d) Turbine towers of Medium Facilities shall be set back a minimum distance of 250 metres (820 feet) from any habitable building on an adjacent property or at such larger distance where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building;
 - e) Turbine towers of Large Facilities shall be set back a minimum distance of 1000 metres (3281 feet) from any habitable building on an adjacent property or at such larger distance

where the mean value of sound pressure level from a wind turbine does not exceed 40dBA at the habitable building;

SPECIAL PROVISIONS

- 5.5 Notwithstanding the requirements of Sections 5.2 and 5.3 (a) of this By-law, only one turbine per lot is permitted unless the lot is greater than 6 hectares (14.8 acres) in area. Additional turbines must still meet the minimum setback and minimum tower separation requirements.
- 5.6 Notwithstanding the requirements of Sections 5.3 and 5.4 of this By-law, the following special provisions shall be considered:

Expansion of Large Wind Turbine Development

- 5.6.1 Notwithstanding the setback requirement from a residence contained in Section 5.4 (e), where a residence is constructed within the setback distance of large scale wind turbine development, the wind turbine development may expand. The setback requirement for any expansion shall be equal to or greater than the setback between the initial wind turbine development and the residence.

Setback on Land Leased for Wind Turbine Development

- 5.6.2 The setback requirements from property lines contained in Section 5.3 (b) are waived where wind turbine development occurs on land where the adjacent property is subject to a lease for that purpose for a term of 19 years or greater. The setback requirement shall apply to any property which is not leased for wind turbine development.

Removal of Wind Turbines

- 5.6.3 The owner shall remove a wind turbine from the lot following one year of inactivity. All supporting structures on the lot shall be removed within 60 days of the date of notification by the County and the surface site restored to a reasonable natural state within 18 months. A new application shall be submitted and approved before a new turbine is installed or a wind turbine is restarted after the expiration of the one year period.

Exemption from setback

- 5.6.4 The minimum setback from all adjacent lot boundaries shall be waived if such adjacent property owner agrees to grant an easement binding on the current and future land owners.

Turbines on Large Lots

- 5.6.5 Notwithstanding Section 5.5 (one turbine per lot) shall not apply where the subject lot is greater than 6 hectares (14.8 acres) in area, provided that the minimum separation distance between turbines equals the height of the tallest turbine.

PART 6 DEFINITIONS

Habitable Building means a dwelling unit, hospital, hotel, motel, nursing home or other building where a person lives or which contains overnight accommodations and is assessed for taxation purposes.

Height of Wind Turbine means the distance measured from grade at the established grade of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation, or in the case of a roof mounted wind turbine the distance measured from the lowest point of established grade at the building's foundation to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Micro Turbines means a wind energy facility which has a total rated capacity of less than 1 kW and is not more than 15 metres in height.

Nameplate capacity means the manufacturer's maximum rated output of the electrical generator found in the nacelle of the wind turbine. This equals the electricity produced when the wind velocity is such as where the conversion efficiency is at its greatest. If capacity is not stated in the nacelle of the wind turbine, the capacity must be determined by recognized engineering practices.

Total Rated Capacity means the maximum rated output of all the electrical generators found in the nacelles of the wind turbines used to form a wind energy facility. If capacity is not stated in the nacelle of the wind turbine, the capacity must be determined by recognized engineering practices.

Turbine means a wind energy conversion system, the purpose of which is to produce electricity, consisting of rotor blades, associated control or conversion electronics, and other accessory structures.

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.