

Chapter 56  
Wind Turbine Development By-law



1. Title and Scope

- 1.1. This By-law is enacted pursuant to Section 172 of the *Municipal Government Act*, SNS 1998, c.18 and shall be known and may be cited as the “Wind Turbine Development By-law” of the Municipality of the County of Colchester and shall apply to all lands within the Municipality.
- 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 Colchester 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 Scale Wind Turbines and all Small Scale Wind Turbines including those existing prior to the effective date of this By-law, except Section 5 of this By-law which shall not apply so as to invalidate the location of any Large Scale Wind Turbine or Small Scale Wind Turbine existing prior to 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 “A-Weighted Decibel” or “dB(A)” means a measurement of Environmental Noise, whereby A-frequency weighting is used to compensate for the varying sensitivity of the human ear to sounds at different frequencies;
- 2.2 “Ambient Degradation Noise Standard” means the average noise level over a specified period of time, usually composed of sound from many sources, near and far;
- 2.3 “Appeals Committee” means the Appeals Committee appointed pursuant to the Appeals Committee By-law;
- ~~2.3~~2.4 “Camp” means a recreational shelter typically used for weekend or short term activities such as hunting, fishing or snowmobiling, which is not intended for regular human occupation or living;
- ~~2.4~~2.5 “Cottage” means a seasonal home, which is typically but not necessarily serviced with running water, onsite sewage disposal system and electricity, and which is equipped to accommodate an extended period of stay of regular human occupation and living;
- ~~2.5~~2.6 “Council” means the Council for the Municipality of the County of Colchester;

- ~~2.6~~**2.7** “Decibel” or “dB” means a measurement of sound, namely the scale in which sound pressure level is expressed. When measuring Environmental Noise, a weighting network is used which filters the frequency of sound, and is expressed as “dB(A)”;
- ~~2.7~~**2.8** “Decommission Bond” means a bond identifying the Municipality as the beneficiary issued by a recognized surety licensed to carry on business in Nova Scotia, or comparable other form of surety acceptable to the Municipality in its sole discretion, exercised reasonable to secure the Decommissioning Plan pursuant to s. 10(5). The Bond shall be in the amount of not less than one hundred and twenty-five (125%) percent of the estimated present-day cost to decommission the Wind Power Project, less the estimated present day scrap value of the Wind Power Project. The estimated values shall be provided by a licensed engineer licensed to practice in Nova Scotia and/or by another individual deemed appropriate by the Development Officer.
- ~~2.8~~**2.9** “Decommission Plan” means a plan approved for the Decommissioning of a Wind Power Project as part of the successful application for a License;
- ~~2.9~~**2.10** “Decommissioning” means the final closing down and dismantling of a Wind Power Project and associated infrastructure once a Wind Power Project has reached the end of its operation life;
- ~~2.10~~**2.11** “Development Officer” means the Development Officer appointed by the Council of the Municipality of the County of Colchester or their designate;
- ~~2.11~~**2.12** “ Dwelling” means all structures intended for regular human occupation and living, such as a house or cottage but not a camp or an accessory structure such as a shed or storage area;
- ~~2.12~~**2.13** “Environmental Assessment” means all documentation required under the *Canadian Environmental Assessment Act* of Canada and any Regulations thereto and *Environment Act* of Nova Scotia and any Regulations thereto;
- ~~2.13~~**2.14** “Environmental Noise” means a measurement of the noise level already present within an environment in the absence of a Wind Power Project;
- ~~2.14~~**2.15** “External Property Line” means a common boundary with any parcel of land which is adjacent to those parcels of land which form part of a Wind Power Project;
- ~~2.15~~**2.16** “kW” means kilowatt;
- ~~2.16~~**2.17** “Large Scale Wind Turbine” means any Wind Turbine which has a Nameplate Capacity greater than 100 kW, which may be developed as a stand-alone Wind Turbine or in combination with other Wind Turbines in a Wind Farm;
- ~~2.17~~**2.18** “Licence” means a Licence issued pursuant to this By-law permitting the installation and operation of a Wind Power Project;
- ~~2.18~~**2.19** “Nacelle” means the frame and housing at the top of the tower that is part of a Wind Turbine which encloses components such as the gearbox and generator, protecting them from the weather;

~~2.19~~**2.20** “Nameplate Capacity” means the manufacturer’s maximum rated output of the Wind Turbine expressed in kilowatts;

~~2.20~~**2.21** “Micro Scale Wind Turbine” means a Wind Turbine which has a Nameplate Capacity of less than 1 kW;

~~2.21~~**2.22** “Municipality” means the Municipality of the County of Colchester;

~~2.22~~**2.23** “Owner” and “Operator” mean respectively any owner or operator of a Wind Turbine licensed under this By-law;

~~2.23~~**2.24** “Small Scale Wind Turbine” means a Wind Turbine which has a Nameplate Capacity equal to or less than 100 kW but not less than 1 kW, which may be developed as a stand-alone Wind Turbine or in combination with other Wind Turbines in a Wind Farm;

~~2.24~~**2.25** “Setback” means the measured distance from the base of the Wind Turbine to any point referenced in this By-law;

~~2.25~~**2.26** “Temporary Test Tower Facilities” means temporary measurement towers for the assessment of potential wind energy resources;

~~2.26~~**2.27** “Wind Farm” means two or more Large Scale Wind Turbines electrically connected to the transmission grid or local distribution network;

~~2.27~~**2.28** “Wind Power Project” means a Wind Turbine or Wind Farm and associated property, substations and other utility systems;

~~2.28~~**2.29** “Wind Turbine” means a wind energy conversion system erected to produce electrical power by capturing the kinetic energy in wind and converting it into electricity;

~~2.29~~**2.30** “Wind Turbine Height” means the distance measured from grade to the highest point of the rotor blade’s arc.

### **3. License Required to Install or Operate Wind Turbine in Municipality**

3.1. No individual or organization shall install or operate a Wind Turbine in the Municipality without first having obtained a Licence from the Development Officer.

3.2. No individual or organization who obtains a License pursuant to this By-law shall install or operate a Wind Turbine except in accordance with the provisions of this By-law and with the terms of the License issued pursuant to this By-law.

### **4. Licensing**

4.1. A Licence for a Wind Turbine shall be issued by the Development Officer subject to the following requirements:

a. The Owner or Operator shall submit a completed application in such form as is approved from time to time by the Development Officer;

b. The application shall be co-signed by the registered property owner if the land upon which a Wind Turbine is proposed to be installed and operated is not owned by the Owner and/or Operator of the Wind Turbine;

- c. The completed application shall be accompanied with an application fee in an amount determined by Council from time to time by Policy;
- d. The requirements contained in sections 4, 5 and 7 of this By-law shall be satisfied by the applicant in their completed application, and no application shall be considered complete for the purposes of clause 4.3 until such time as sections 4, 5 and 7 are satisfied by an applicant.
- e. A Decommissioning Bond.

#### 4.2. Duration of Licence:

- a. A Licence issued under this By-law will be in effect for twenty-five (25) years unless otherwise cancelled or suspended. If a License is not renewed pursuant to this By-law before the License expires, a License shall automatically terminate at the end of the twenty-five (25) year period of the License.
  - b. An Owner or Operator may apply to renew a Licence by way of:
    - i. submitting a completed application to the Development Officer no less than thirty (30) days prior to the expiry date of the Licence in the same form and with the same requirements as set out in clause 4.1 of this By-law.
    - ii. submitting an application fee in an amount determined by Council from time to time by Policy.
  - c. An application for renewal of a License shall be considered by the Development Officer in accordance with the By-law in effect at the time that a completed application for renewal of such License is submitted.
  - d. If the renewal application is approved by the Development Officer, the License shall be renewed for a period of twenty (25) years.
  - e. A Licence issued or renewed under this By-law shall be automatically terminated 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
- 4.3. The entire Wind Power Project has ceased operation for a period of at least one (1) 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 if the repair is delayed as a result of circumstances beyond his control.

#### 4.4. Notice of Decision:

- a. Within a reasonable amount of time of receiving a completed application for a Licence or renewal of a License, the Development Officer shall either issue or renew the Licence or notify the applicant of a decision to refuse the issuance or renewal of the License.
- b. A decision to refuse an application for a Licence or renewal of a License shall be made in writing and delivered to the applicant by ordinary mail to the mailing address designated in the application, and shall include the Development Officer's reasons for not issuing or renewing the License.

### 5. Location Conditions

A Wind Power Project shall meet the following conditions:

- 5.1 The minimum Setback for a Large Scale Wind Turbine from an External Property Line and public roads is one (1) times the Wind Turbine Height. This minimum Setback shall not apply where the adjoining property is part of the Wind Power Project, in which case there shall be provided to the Development Officer a letter of agreement from the adjoining property owner if different than the applicant.
- 5.2 The minimum Setback for the location of a Large Scale Wind Turbine from an existing Dwelling on a neighbouring property is:
  - 5.2.1 1000 metres for wind turbines not exceeding a height of 100 metres and subject to clause 5.4 of this By-law.
  - 5.2.2 2000 meters for wind turbines greater than a height of 100 meters and subject to clause 5.4 of this By-law.
- 5.3 An increased setback for the location of a Large Scale Wind Turbine exceeding a height of 200 metres shall be 7.5 metres for every 1 metre of additional height, subject to clause 5.4 of this By-law.
- 5.4 An increased setback may be required for certain Large Scale Wind Turbines, in excess of the minimum Setback as set out in sections 5.2 and 5.3 of this By-law, if an increased minimum Setback is necessary to satisfy the maximum Ambient Degradation Noise Standard in accordance with clause 5.5 of this By-law.
- 5.5 Large Scale Wind Turbines must not have an Ambient Degradation Noise Standard greater than 36 dB(A) as measured at existing Dwellings.
- 5.6
  - a. Subject to 5.6 (b), an applicant may request a reduction of the minimum Setback provided by sections 5.2 and 5.3 of this By-law, to a minimum Setback of 700 and 1000 metres respectively, with written permission from all landowners who own parcels of land that share a common boundary with any parcels of land which form part of the Wind Power Project, in a form approved by the Development Officer from time to time. The Development Officer may, in their discretion, grant or refuse such request after considering whether the reduced Setback would be injurious or potentially injurious to any parcels of land or its occupants for any reason.

- b. No request pursuant to Section 5.6 (a) shall be granted if it has the impact of reducing the protection of the Location Conditions for any other landowner who has not provided written permission.

5.7

- a. Subject to 5.7 (b), an applicant may request a waiver of the maximum Ambient Degradation Noise Standard provided by clause 5.5 of this By-law, to a maximum Ambient Degradation Noise Standard of 40 dB(A), with written permission from all landowners who own parcels of land that share a common boundary with any parcels of land which form part of the Wind Power Project, in a form approved by the Development Officer from time to time. The Development Officer may, in their discretion, grant or refuse such request after considering whether the reduced Setback would be injurious or potentially injurious to any parcels of land or its occupants for any reason.
- b. No request pursuant to Section 5.7 (a) shall be granted if it has the impact of reducing the protection of the Location Conditions for any other landowner who has not provided written permission.

- 5.8 The minimum Setback for the location of a Small Scale Wind Turbine from an External Property Line is two (2) times the Wind Turbine Height. This minimum Setback shall not apply where the adjoining property is part of the Wind Power Project, in which case there shall be provided to the Development Officer written permission from the adjoining property owner, if different than the applicant, in a form approved by the Development Officer from time to time.

## 6. Conditions of Operation

### 6.1. Finish

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

### 6.2. Lettering and Signage

- a. A Wind Turbine shall not contain any commercial advertising.
- b. The Nacelle of a Wind Turbine may display the name or logo of the manufacturer of the Wind Turbine or the name or the logo of the Owner or Operator of the Wind Turbine.
- c. Site signs will be limited to those which identify the Wind Power Project, those which locate access points and those which provide safety and educational information.

### 6.3. Lighting

- a. A Wind Turbine shall not have artificial lighting, except for lighting that is required by Transport Canada or other Provincial or Federal regulatory authorities.

### 6.4. Access and Safety

- a. A Wind Power Project shall be protected from unauthorized access by:

- i. having a security fence, which shall have a minimum height of 1.8 metres and a lockable gate; or
  - ii. having any ladder or permanent tower access located no closer to the ground than 3.7 metres; or
  - iii. for monopole designs with internal access only, a lockable door.
- b. The minimum ground clearance for a rotor blade shall be 7.5 metres.

#### 6.5. Temporary Test Tower Facilities

- a. Temporary Test Tower Facilities may remain erected for a maximum of two (2) years after the issuance of a License, after which time any such Temporary Test Tower Facilities must be dismantled unless an Owner and/or Operator satisfies the Development Officer that the Temporary Test Tower Facilities continue to be necessary. The Development Officer may, in their discretion, permit the Temporary Test Tower Facilities to remain erected for such period of time as the Development Officer deems appropriate.
- b. For the purposes of clarity, a failure to dismantle Temporary Test Tower Facilities as directed by clause 6.5(a) of this By-law shall be an offence punishable pursuant to Part 10 of this By-law.

#### 6.6. Outdoor Storage

- a. Outdoor storage shall be considered an accessory use to a Wind Power Project, and any such outdoor storage occurring after the completion of installation or construction of the Wind Power Project shall be screened from the view from adjacent Dwellings and public highways.

### 7. Information Required at Time of Application

- 7.1 Along with the application for a Licence, an applicant shall provide, both in hard copy and in digital format:
- a. A site plan, drawn to scale by an engineer or surveyor who is licensed to practice in the Province of Nova Scotia, showing the proposed location of the Wind Turbines and accessory components of the Wind Power Project;
  - b. A plan, drawn to scale by an engineer or surveyor who is licensed to practice in the Province of Nova Scotia, showing the location of adjacent structures and land parcels and identifying all dwellings, structures and public roads within two (2) kilometres of any proposed Wind Turbine. The plan must also demonstrate compliance with the required minimum Setbacks, where applicable, for the entire Wind Power Project. The plan must also include tables which provide the distance, in metres, from each Wind Turbine to External Property Lines, public roads, Dwellings, Cottages and Camps;

- c. The results of a Wind Turbine Noise Modelling Study or an equivalent study deemed satisfactory to the Development Officer, which demonstrates that the Wind Power Project will have an Ambient Degradation Noise Standard as required by clause 5 of this By-law;
- d. If applicable, a copy of an Environmental Assessment and notice of the issuance of any Federal and/or Provincial approvals, along with any changes, comments or conditions imposed by Federal and/or Provincial regulatory authorities;
- e. A certified copy of the complete manufacturer's specifications for all proposed Wind Turbines;
- f. A copy of the applicant's Decommission Plan, which must identify the following:
  - i. any 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;
  - ii. confirmation that Decommissioning will commence within one (1) year after the Owner or Operator has surrendered the License or the Owner or Operator's License has been terminated;
  - iii. confirmation that Decommissioning will be completed within twelve (12) months after commencement; and,
  - iv. Provide written confirmation that a Decommissioning Bond will be issued upon request by the Municipality.
- g. Written acknowledgement from the landowner(s) of the parcel(s) of land which form part of the proposed Wind Power Project that the Municipality shall not be liable for any costs, fees or expenses of any kind which may be incurred by the landowner in relation to the Decommissioning of the Wind Power Project in the event that the Decommission Plan is not completed to the landowner's satisfaction or in accordance with any agreement that may have been entered into between the landowner and the applicant;
- h. If applicable, confirmation that the applicant has given notice to, and has received approval from, any Federal or Provincial regulatory authorities including but not limited to the Department of National Defense, Natural Resources Canada, Transportation Canada, NAV Canada and any other applicable department or agency with respect to any potential radio, telecommunications, radar and seismoacoustic interference that may result from the proposed Wind Power Project. Copies of all such approvals must be obtained and provided to the Development Officer before an application will be considered complete for the purposes of clause 4.3;
- i. any other information that may be requested by the Development Officer to ensure compliance with the requirements of this By-law, including any other information that the Development Officer deems necessary as a result of any community meetings; and
- j. demonstration that public notification has been, and will be, complied with as required by clause 9 of this By-law.

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

The following shall be conditions of any License issued under this By-law:

- 8.1. Once determined, the applicant shall submit to the Development Officer drawings which demonstrate that the foundations to support a Wind Turbine will satisfy both manufacturer's specifications for the Wind Turbine as well as industry standards for foundations for the Wind Turbine, to be prepared by an engineer who is licensed to practice in the Province of Nova Scotia; and
- 8.2. Within two (2) months of the installation of a Wind Turbine or the completion of a phase in a multi-phased Wind Power Project, the applicant will submit a Location Certificate prepared by a surveyor who is licensed to practice in the Province of Nova Scotia or a drawing prepared by an engineer who is licensed to practice in the Province of Nova Scotia which confirms that the location of installed Wind Turbine(s), or preparation for the installation of Wind Turbine(s), is in compliance with the minimum Setbacks as required in this By-law.

## **9. Public Consultation and Notification**

### **Public Notice prior to Installation of Temporary Test Tower Facilities**

- 9.1. Prior to the installation of any Temporary Test Tower Facilities, the applicant must provide written notice to all landowners who own land within two (2) kilometres of the location on which Temporary Test Tower Facilities are intended to be installed, by way of regular mail to the registered address of the land owner, no later than three (3) weeks prior to the commencement of construction. Such written notice must identify:
  - a. What Temporary Test Tower Facilities are to be installed;
  - b. Where the Temporary Test Tower Facilities will be located;
  - c. When the Temporary Test Tower Facilities will be installed and when the Temporary Test Tower Facilities will be active;
  - d. The purpose of the Temporary Test Tower Facilities, including but not limited to the purpose of completing testing in contemplation of a future Wind Power Project and a general description of such future Wind Power Project.
- 9.2. A copy of the written notice prescribed by clause 9.1 shall also be sent to the Mayor and all Councillors of the Municipality, no later than three (3) weeks prior to the commencement of construction.
- 9.3. Citizen Monitoring Committee
  - a. Upon receiving notice of the installation of Temporary Test Tower Facilities, Council may establish a Citizen Monitoring Committee which will be established with respect to the Temporary Test Tower Facilities, which may remain in existence for the life of the Temporary Test Tower Facilities, or for a shorter period if deemed necessary by Council.

- b. A Citizen Monitoring Committee established pursuant to clause 9.3(a) may be continued pursuant to clause 9.6(a) in the event that Temporary Test Tower Facilities give rise to an application for a Wind Power Project.
- c. The Citizen Monitoring Committee shall be chaired by the Municipal Councillor for the area in which the Temporary Test Tower Facilities are being installed or as decided in accordance with Policy.
- d. The function of a Citizen Monitoring Committee established pursuant to clause 9.3(a) of this By-law shall be as determined from time to time by Policy.

#### **Public Notice and Consultation as part of application for Wind Power Project**

9.4. As part of the application for a Wind Power Project, the applicant must demonstrate that it has made plans to conduct a community meeting in accordance with this clause, held in the community where the proposed Wind Power Project is to be installed, where the applicant will present to the community on the application it has submitted to the Municipality to install and operate a Wind Power Project, including showing the site plan included with its application and answering any questions concerning the Wind Power Project for which the License has been applied for. This community meeting shall be held at the convenience of the applicant, however the applicant's application shall not be considered complete for the purposes of clause 4.3 of the By-law until such time as this community meeting is held.

#### **9.5. Notice of Community Meeting**

- a. The applicant shall schedule the community meeting in consultation with the Development Officer and the Chair of the Citizen Monitoring Committee, no later than three (3) weeks before the applicant wishes to hold such community meeting. Immediately after the applicant, the Development Officer and the and the Chair of the Citizen Monitoring Committee reach agreement as to the date, time and location of the community meeting, the applicant shall give written notice of the community meeting to the Mayor and all Councillors of the Municipality, which notice shall include the date, time and location of the community meeting along with an explanation as to which proposed Wind Power Project the community meeting pertains.
- b. The applicant shall provide written notice of a community meeting held pursuant to this clause to all land owners who own land within two (2) kilometres of the boundaries of the proposed Wind Power Project by way of regular mail to the registered address of the land owner, no later than three (3) weeks prior to any scheduled community meeting. This written notice shall include the date and time of the community meeting. The applicant shall provide the Development Officer with a complete list of land owners to whom written notice was given pursuant to this clause within two (2) days of such written notices being given.
- c. Notice of a community meeting held pursuant to this clause will be advertised in the local daily newspaper at least two (2) times, the first notice to be published at least fourteen (14) days before the date of the meeting and the second notice being at least seven (7) days before the date of the meeting.

- d. At the time of publishing a first notice pursuant to clause 9.5(c) of this By-law, the applicant shall provide to the Development Officer a copy of the newspaper in which the first notice was published.
- e. At the time of publishing a second notice pursuant to clause 9.5(c) of this By-law, the applicant shall provide to the Development Officer a copy of the newspaper in which the second notice was published.

#### 9.6 Citizen Monitoring Committee

- a. During the community meeting, Council may give notice of the continuation of, or the establishment of, a Citizen Monitoring Committee which will be continued or established with respect to the proposed Wind Power Project after the issuance of the License or renewal of a License, which may remain in existence for five (5) years or for a different time period if deemed necessary by the Chair of the Citizen Monitoring Committee.
- b. The Citizen Monitoring Committee shall be chaired by the Municipal Councillor for the area in which in which the proposed Wind Power Project will be located or as decided in accordance with Policy.
- c. The function of a Citizen Monitoring Committee continued or established pursuant to clause 9.6(a) of this By-law shall be as determined from time to time by Policy.

#### 9.7 Notice of Approval

- a. Notice of an approval of a License shall be sent by the Development Officer to those landowners who own land within two (2) kilometres of the boundaries of the approved Wind Power Project, by way of regular mail within five (5) days following the issuance of the License.

### 10. Enforcement

#### 10.1. Right of Inspection

- a. The Development Officer may, for the purpose of ensuring compliance with this By-law and the terms of a License issued pursuant to this By-law, enter in or upon any land or premises at any reasonable time upon reasonable notice.
- b. If any individual or organization attempts to interfere or interferes with the Development Officer in the exercise of a power pursuant to this By-law, the Development Officer may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the Development Officer to enter in or upon the premises for the purpose of ensuring compliance with this By-law and the terms of a License issued pursuant to this By-law and for an order restraining the individual or organization from further interference.

#### 10.2. Offence

It shall be an offence to:

- a. contravene any provision of this By-law;

- b. contravene any condition in a Licence issued or renewed pursuant to this By-law;
- c. fail to comply with any representations contained within an application upon which a Licence was issued or renewed pursuant to this By-law;
- d. interfere with the efforts of the Development Officer in enforcing this by-law; or
- e. failing to carry out the obligations of the Decommissioning Plan.

#### 10.3. Punishment

- a. Any individual or organization who commits an offence pursuant to clause 10.2 of this By-law shall be punishable on summary conviction as follows:
  - i. for a first offence, by a fine of not less than \$1,000 and not more than \$5,000 and to imprisonment of not more than two (2) months in default of payment thereof;
  - ii. for a second offence, by a fine of not less than \$2,000 and not more than \$10,000 and to imprisonment of not more than two (2) months in default of payment thereof; and
  - iii. for a third and subsequent offence, by a fine of not less than \$5,000 and not more than \$20,000 and to imprisonment of not more than two (2) months in default of payment thereof.

#### 10.4. Additional Penalty

- a. In addition to any penalty under clause 10.3 of this By-law, in the event of an offence under this By-law, the Development Officer may:
  - i. suspend a Licence for a period of up to three (3) months for a first conviction, and
  - ii. revoke a Licence for a second conviction within any three (3) year period.
- b. A suspension or revocation shall preclude any individual or organization from
  - i. in the event of a suspension, receiving a Licence or renewal of a License for the period of the suspension, and
  - ii. in the event of a revocation, receiving a License or renewal of a License for five (5) years,

in respect of the same Wind Power Project in relation to which the offence was committed.

#### 10.5. Enforcement of Decommission Plan

- a. At the end of the operational life of a Wind Power Project or part thereof, occurring either at the choice of the Owner and/or Operator or for any other reason contemplated in this By-law, and upon a finding by the Development Officer that the Decommission 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 them of any steps necessary to complete the Decommission Plan and directing the Owner and/or Operator to take such steps to complete Decommissioning of the Wind Power Project within a reasonable period of time and at the Owner and/or Operator's expense;
  - ii. if the Owner and/or Operator does not abide by the direction of the Development Officer within a reasonable period of time after notice is given pursuant to clause 10.5(a)(i) of this By-law, carry out any steps the Development Officer had deemed necessary to complete Decommission of the Wind Power Project on behalf of the Owner and/or Operator.
  - iii. The Municipality shall be entitled to call upon the Decommissioning Bond provided pursuant to s. 4.1(e) to cover the costs of decommissioning in accordance with the Decommissioning Plan.
  - iv. In the event the Decommissioning Bond does not cover the cost of decommissioning the owner and/or operator shall be responsible for the remaining costs and shall be immediately payable upon demand by the Development Officer. Any costs not recovered shall form a lien against the property in accordance with s.507 of the Municipal Government Act, 1998 S.N.S. c. 18, as amended.
- b. This Section shall operate in addition to the provisions contained on clause 10.3 of this By-law.

#### 10.6. Appeals

- a. Any applicant whose application for a Licence or renewal of a License has been refused may, within thirty (30) days from the date of the Development Officer's decision, file an appeal to ~~Council or to a Committee designated by Council from time to time by Policy,~~ **the Appeals Committee**, in writing and in such form as is approved from time to time by Council by Policy.
- b. Any individual or organization whose License has been suspended or revoked may, within thirty (30) days from the date of the Development Officer's decision, file an appeal to ~~Council or to a Committee designated by Council from time to time by Policy,~~ **the Appeals Committee**, in writing and in such form as is approved from time to time by Council by Policy.
- c. ~~Council or the Committee designated by Council from time to time by Policy~~ **The Appeals Committee** shall hear an appeal commenced pursuant to sections 10.6(a) or 10.6(b) at a hearing held within a reasonable period of time after the filing of the appeal and ~~Council~~ **the Committee** may dismiss the appeal, allow the appeal and reverse the decision under appeal, or vary the decision under appeal.
- d. The filing of an appeal pursuant this sections 10.6(a) and 10.6(b) does not vary, suspend or stay the decision of the Development Officer, and decision of the Development Officer shall remain in full force and effect unless and until it is reversed or varied by ~~Council or the Committee designated by Council~~ **the Appeals Committee**.
- e. The right of appeal provided by sections 10.6(a) and 10.6(b) shall expire thirty (30) days after the date of the Development Officer's decision.

- f. All other decisions made by the Development Officer pursuant to this By-law shall be final.

## **11. Transition**

- 11.1. Any application for a License or renewal of a License submitted prior to the date of the coming into force of this By-law, and which is undecided as of the coming into force of this By-law, shall be deemed to be a new application for a License or renewal of a License submitted as of the date of the coming into force of this By-law, and shall be decided in accordance with this By-law.

## **12. Severability**

- 12.1 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 that each and every of the then remaining provisions hereof should remain in full force and effect.