

MUNICIPALITY OF THE DISTRICT OF ARGYLE
REGULAR COUNCIL MEETING

Tuesday, November 8, 2022
Council Chambers, Tusket, NS 6:30 p.m.

Present: Warden Danny Muise, Deputy Warden Nicole Albright, Councillors: Gordon Boudreau, Glenn Diggdon, Kathy Bourque, Ted Saulnier, Richard Donaldson; Chief Administrative Officer Alain Muise, Deputy Chief Administrative Officer Scott Surette, Director of Protection Services René Jeddry, and Executive Assistant/Recorder Chantalle Newell.

Regrets: Councillor Calvin d'Entremont

Councillor Guy Surette arrived at 7:24 p.m.

1. Call Meeting to Order

The meeting was called to order at 6:36 p.m. by Warden Danny Muise.

Warden Danny Muise presented Councillor Richard Donaldson a plaque for his long-standing service as a councillor.

2. Approval of Agenda/Conflict of Interest Declaration

a. Agenda

On a motion by Deputy Warden Nicole Albright and seconded by Councillor Kathy Bourque the agenda is approved as circulated.

Motion Carried. (7 in favour, 0 against)

b. Conflict of Interest Declaration

Warden Danny Muise asked for any declarations of conflict of interest from the floor.
None declared.

3. Presentation – WSP, Erin Ferguson – LUB and MPS Changes

WSP Planner Erin Ferguson was in attendance on Zoom to present changes to the Municipal Planning Strategy and the Land Use By-Law. These changes being proposed are surrounding various housekeeping amendments, changes to group dwellings, fur farms, multi-unit dwellings in the CC Zone, home occupations, updates to fees and Wind Energy Development. The Planning Advisory Committee met prior to the council meeting to bring forward recommendations to accept the first reading of the proposed changes. Following the acceptance, the next steps are to go to public hearing.

Erin's staff reports are attached.

4. For Decision – Recommendations from PAC

The Planning Advisory Committee is recommending that council accept the first reading of the proposed amendments to the Municipal Planning Strategy and the Land Use By-Law.

Councillor Bourque reported on her attendance at her regular meetings for the Yarmouth Area Industrial Commission and the Nakile Board. She reported on the presentation that was held for a new gaming system for residents and how it's a great new tool for families and residents to share. She also reported on her attendance at the NSFM Conference.

Deputy Warden Albright reported on her attendance at the Belleville Committee Group, she mentioned there was a boundary review presentation there which was well received. She also attended the Aquaculture open house which she reported was a resounding success. She also reported on her attendance at the announcement for the Mariners Centre Expansion, where 15.9 Million dollars was announced from the federal government, and 4 million dollars from the Provincial Government. She also attended a few other Mariners Centre meetings regarding governance structure and herself and the CEO of the Mariners Centre sat with the White Caps coaches to hear their concerns surrounding the aquatics centre. Lastly, Deputy Warden reported on her attendance at the NSFM conference.

Councillor Saulnier reported on his attendance at the Aquaculture open house, the NSFM conference and a Waste Check meeting.

Councillor Surette reported on his attendance at the NSFM Conference, Mariners Centre Expansion meetings, the Mariners Centre funding announcement, the Aquaculture openhouse and Halloween on the Trail with Recreation.

Councillor Diggon reported on his attendance at the unveiling of the veteran's monument in West Pubnico, the Aquaculture open house, he mentioned it was nice to see younger residents taking an interest in the open house. He also reported on his attendance at the PAC Information Session and how he co-sponsored a Halloween party which was a success.

Councillor Boudreau attended the Aquaculture open house and the Nakile Board meeting.

Councillor Donaldson attended his regular committee meetings.

9. Warden's Report

Warden Muise reviewed his report attached to the agenda.

10. Staff Report

Deputy CAO Surette reviewed the staff report as attached to the agenda.

CAO Muise provided an update on the NSFM service exchange survey.

11. For Decision/Discussion

a. Second Reading, By-Law 35 Repeal

It is moved by Councillor Richard Donaldson and seconded by Councillor Guy Surette to approve the second reading of By-Law 35, Repeal.

Motion Carried. (8 in favour, 0 against)

b. Request from Municipality of Shelburne

initial total cost of the project with municipal partners.

Motion Carried. (8 in favour, 0 against)

17. Adjournment

It is moved by Councillor Ted Saulnier to adjourn the Regular Council Meeting at 9:03 p.m.

Motion Carried. (8 in favour, 0 against)

Respectfully Submitted,

Chantalle Newell, Executive Assistant/Recorder

Date Approved:

November 22, 2022

Chairman/Warden

_____

Chantalle Newell, Recorder/Executive Assistant

_____



Yarmouth Region
Medical Professional
Recruitment
Partnership

PROJECT UPDATE

Medical contacts

2019-2022

- ▶ 1092 conference contacts
- ▶ 113 medical students
- ▶ 40 medical residents
- ▶ 26 locums
- ▶ 21 site visits

2022-2025 projection

- ▶ + 25% = 273 more live conference connections
- ▶ +9 / year = 140
- ▶ +3 / year = 49
- ▶ Locums and site visits are beyond our ability to increase



STAFF REPORT

Planning and Development

Subject: *Proposed Amendments to the MPS & LUB for Group Dwellings, Fur Farms, Multi-Unit Dwellings in the CC Zone, Home Occupations, Housekeeping Changes, and Fees Update*

To: Municipality of Argyle CAO and Planning Advisory Committee for November 8, 2022

Date Prepared: October 19, 2022

Related Motions: None

Prepared by: Erin Ferguson, MCIP, LPP, Senior Planner, WSP Canada Inc

Reviewed by: Jess Harper, MCIP, LPP, PMP, Project Manager, WSP Canada Inc

Summary

The Planning and Development Department has received several requests for changes to Municipal Planning Strategy (MPS) policies and Land Use By-law (LUB) regulations. Following adoption of new planning documents, adjustments are often needed to fix minor errors, omissions, or inconsistencies that are discovered once the documents are put into practice. In total, seven (7) changes are considered for the Land Use By-law, and two (2) amendments are proposed for the Municipal Planning Strategy. Related changes to the Fees and Penalties policy are also proposed as part of this report.

The next step is to seek comments from the public on the changes which are outlined within this staff report and for the Planning Advisory Committee (PAC) to make a recommendation to Council. Following the PAC's recommendation, the proposed amendments would proceed to Council for first reading prior to public hearing.

Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the proposed amendments. However, should Council proceed with the proposed planning fee amendments, this will partially offset the review and administration costs for planning and development applications.

Recommendation

That the Planning Advisory Committee recommend to Council to give first reading to the proposed amendments to the Municipal Planning Strategy and Land use By-law as contained in the planner's report dated October 19, 2022.

Recommended Motion

The Planning Advisory Committee recommend that Council:

- give first reading to consider approval of the proposed amendments to the Municipal Planning Strategy as contained in the planner's report dated October 19, 2022;
- give first reading to consider approval of the proposed amendments to the Land Use By-law as contained in the planner's report dated October 19, 2022;
- proceed to a public hearing without a second meeting of Planning Advisory Committee unless substantial comments are received from the public;
- authorize staff to schedule a public hearing; and
- Approve the proposed additions to Municipality of Argyle's Policy Schedule C22 - Fees and Penalties by a resolution of Council.

Background

On June 23, 2020 Argyle Council approved the 2020 Municipal Planning Strategy (MPS) and Land Use By-law (LUB). These planning documents contain the Municipality's land use policies and regulations. The two documents work together alongside the provincial subdivision regulations to guide growth and development within the municipality.



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Council, staff, developers, and the public have been working with the new policies and regulations for about two years. In using these documents, errors, omissions, and new issues have been identified and we can see what is working well and what needs to be adjusted. Housekeeping amendments to the MPS and LUB were presented to Council and approved on October 12, 2021, since then, additional housekeeping changes have been identified. Members of the public have also approached the Municipality with desired changes to policies and regulations that staff feel align with the overall direction of the MPS and merit Council's consideration in advance of a development application. These proposed changes are identified and discussed within this report.

Discussion & Proposed Amendments

Proposed LUB Amendments: Reduce the Number of Dwelling Units Required for Group Dwellings

Group Dwellings refer to two or more residential buildings located on one lot. In Argyle, group dwellings are clusters of homes arranged around a shared outdoor area. The intention of this type of development is to create a community feel by the way it is designed - with porches, central gathering space, walkways and parking at the periphery. The Land Use By-law regulates these elements in Section 4.23 through specific site design and architectural criteria. Currently group dwellings are permitted by site plan approval in most residential zones and by development agreement in the Coastal Community (CC) zone.

The Development Officer has noted an increased interest in constructing grouped dwelling projects containing three (3) units, typically consisting of an existing house and two (2) smaller dwellings. However, under the existing LUB requirements, group dwellings must have a minimum of four (4) dwelling units. Staff are proposing to reduce the minimum number of required dwelling units to three (3). The other group dwelling requirements will remain unchanged.

WSP has reviewed the applicable policies in the MPS and in our planning opinion the proposed reduction in the minimum number of dwelling units for grouped dwellings is consistent with MPS policy. The MPS supports a diversity of housing options to help meet different household needs. One of the objectives of the MPS is to provide housing options for seniors looking to downsize and youth looking to live independently. Policy 7.2.2 states that Council will “*support the development of alternate forms of housing which expand opportunities for residents to continue to live in their rural community throughout their lives*”. Group Dwellings are one housing option that helps address these housing needs by providing ground-oriented housing on a smaller scale within existing communities.

Based on the information presented above, staff propose decreasing the minimum number of dwelling units from four (4) to three (3), through the following amendments to the Land Use By-law by replacing text shown in **red** with text shown in **green**:

4.23 Group Dwelling Development Regulations

i. Group Dwelling Use Lot Requirements

Each group dwelling development shall meet the following zone standards:

Minimum Front Yard	7.6 m (25 ft.)
Minimum Rear Yard	7.6 m (25 ft.)
Minimum Side Yard	4.5 m (15 ft.) or ½ the building height for group dwellings
Minimum Lot Area Per Dwelling Unit	Central Sewer: 302 m ² (3,250 sq. ft.) per dwelling unit On-Site Septic: 3,717 m ² (40,000 sq. ft.) per dwelling unit or as Determined by NS Dept. of Environment
Minimum Lot Frontage	18 m (20 ft.)
Minimum Flanking Yard	7.6 m (25 ft.)
Parking	See Part 5.1
Maximum Height	7.6 m (25 ft.)



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Minimum Number of Dwelling Units	4 3
Maximum Number of Dwelling Units	1 unit per 302 m ² of lot area, to a maximum of 8 units per cluster, up to 30 units per lot

Proposed LUB Amendments: Permitting Small Multi-Unit Dwellings in the CC Zone

Multi-unit dwellings refer to a residential building containing three (3) or more dwelling units. In Argyle, multi-unit dwellings are classified into two forms: smaller buildings with 3 or 4 dwelling units and larger buildings with 5 to 24 dwelling units. These two forms of multi-unit dwellings have separate requirements in the MPS and LUB recognizing their different building forms and the potential impact on adjacent properties and municipal services.

Staff have received interest in developing small multi-unit dwellings (three-to-four-unit dwellings) in the Coastal Community (CC) Zone. MPS Policy 3.3.3 supports diverse residential uses in the Coastal Communities designation. Townhouses and larger multi-unit residential buildings, 5 to 24 units, are currently permitted in the CC Zone by Development Agreement. However due to an oversight, smaller multi-unit dwellings are not reflected in the permitted use table in the LUB (Part 11).

Staff propose to allow small multi-unit dwellings (three-to-four-unit dwellings) as of right in the CC Zone. This is consistent with the approach in Argyle's other residential zones: Rural Development (RD), Village (V), Residential Park (RP) and Mixed-use (MU). It is Staff's opinion that the proposed change is consistent with MPS policy and staff suggest the following amendment to the Land Use By-law shown in green below:

Residential	MU	LI	HI	RP	BP	WF	CC	CCI	V	FP	RD	MI	CW	WP
Multi-unit dwelling (Three- to four- unit dwelling building)	•			•			•		•		•			•

Proposed LUB Amendments: Marine Industrial Zone (Typo correction)

Staff noted a small grammatical error to Section 23.1 of the Land Use By-law where the abbreviation for Marine Industrial Development indicated (RD) instead of (MI). Therefore, Staff propose the following amendment:

23.1 Marine Industrial Development (~~MI~~ ~~RD~~) Zone Standards

Proposed LUB Amendments: Permitting Light Industrial Uses as Home Occupations

Residents have expressed interest in establishing new home occupations with light industrial uses, however, this is not permitted under the current zoning regulations. The Municipal Planning Strategy recognizes that many businesses start out as home occupations and that home occupations are part of a diversified economy. However, the MPS policy also acknowledges that industrial activities are not always compatible with adjacent residential uses. To minimize conflicts, the MPS requires setbacks, parking and screening requirements for home occupations (Section 7.3 and 7.4).

The current zoning approach is to allow light industrial uses by Development Agreement in zones which are primarily residential. The Development Agreement approval process includes notifying surrounding property owners of proposed developments which can help to identify and address any potential land use conflicts. Development Agreements also offer the ability to include conditions related to hours of operation for example. While Development Agreements are a flexible tool, they require a longer, more costly process for both applicants and the Municipality.

Staff are recommending that small scale light industrial uses be permitted as home occupations subject to meeting additional requirements related to maximum size, increased setbacks, additional screening, and outdoor lighting restrictions to mitigate potential impacts to adjacent properties. Larger scale operations that exceed a floor area of 50 m² (538 ft²) or a lot area of 93 m² (1,000 sq feet) would be required to go through the Development Agreement or rezoning process as applicable.



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It is anticipated that outdoor uses will have the most impact on adjacent properties and could potentially result in land use conflicts. Staff are proposing to restrict the size of outdoor areas used for light industrial home occupations to a maximum of 1,000 square feet and to introduce a nuisance clause to limit the scale and intensity of outdoor activities.

The proposed approach offers flexibility in the type of outdoor light industrial uses permitted. However, if Council is concerned about potential impacts from outdoor uses, alternative approaches include restricting the outdoor uses to storage and parking uses only, or to prohibit light industrial outdoor activities entirely, Council may choose to maintain the current approach in the LUB and require all home occupation activities to be located within a dwelling or accessory building except for automotive repair which has special provisions (Section 9.3).

Based on the information above, staff are proposing the following changes to the Land Use By-law.

1. Revise the Home Occupation definition in Part 26 of the Land Use By-law by adding light industrial uses:

Home Occupation means an accessory use of a dwelling or an accessory building thereof for gainful employment and shall include any commercial use, business or professional offices, domestic and household arts or light industrial uses.

Where “light industrial means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products and includes but not necessarily limited to Craft Alcohol Production Facilities; building and construction contractors; building supplies and equipment sales; cold storage facilities, bait freezers; commercial greenhouses, heavy equipment storage and maintenance; recycling depots; sheet metal shops; transportation and trucking; warehousing; wholesale distribution and sales; lobster pounds; fish farms; marine plant farms; and uses similar to the foregoing but does not include a welding and/or machine shop.”

2. Amend Part 9 of the Land Use By-law with the following four revisions:

- Revise Section 9.1 to read: Home Occupations shall be permitted in any dwelling or accessory building in zones where dwellings are permitted uses except as otherwise noted in ~~a-particular-zone~~ this By-law provided:
- Revise Section 9.2 by removing the reference to industrial home occupations from the text and replacing it with a greater setback requirement as follows:

Notwithstanding any other yard setbacks required by this By-law, the minimum required side and rear yards for an accessory building used for home occupations ~~excluding industrial use home occupations~~ shall be as follows:

- i. Side yard of 1.8 m (6 ft.); ~~and~~
 - ii. Rear yard of 3 m (9.8 ft.);
 - iii. Except tourist cabins as a home occupation shall meet the minimum required side and rear yards for single detached dwellings; ~~and~~
 - iv. ~~Except light industrial home occupations shall have a minimum side and rear yard of 6.1 m (20 ft.).~~
- Insert the following text shown in green as Section 9.3:
9.3 Light Industrial Home Occupation Requirements
Notwithstanding Section 9.1 above, outdoor light industrial uses shall be permitted provided:
 - i. No more than 93 m² (1,000 sq. ft.) of the lot can be used for the outdoor home occupation;
 - ii. Outdoor home occupation uses shall not be permitted in the front yard;
 - iii. Outdoor home occupation uses shall be setback a minimum distance of 6.1 m (20 ft.) from side and



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- rear lot lines;
 - iv. Screening shall be provided using natural landforms, existing or planted vegetation, or an opaque fence, or a combination of these methods of screening so as not to be visible from abutting residential, institutional or recreational uses; and
 - v. All exterior building and lot lighting shall be directed away from adjacent and abutting residential, institutional, or recreational uses to prevent any nuisance effects from the lighting.
 - vi. Outdoor home occupation uses shall not generate noise, dust, vibration, or odor beyond what is typically associated with a residential use.
- Renumbering Section 9.3 Automotive Mechanical Repair Home Occupation Permitted Use Requirements to Section 9.4.

Proposed LUB Amendments: Table of Contents (Numbering)

Staff noted errors in the Table of Contents where sections are numbered incorrectly or missing. Three (3) separate sections are numbered as 2.4: Contents of Development Permit Application; Contents of Site Plan Approval Application; and Development Through a Development Agreement.

Additionally, Section 4.6 (Lighting, Illumination & Light Pollution) is missing from the Table of Contents.

Staff propose the following amendments:

- Renumbering Section 2.4 'Contents of a Site Plan Approval' to Section 2.5 and renumbering the subsequent Sections in Part 2 through to 2.13 'Variances'; and
- Inserting 'Section 4.6 Lighting, Illumination & Light Pollution' after 'Section 4.5 Solar Panels Permitted'.

Appendix A contains the full proposed Table of Contents.

Proposed LUB/MPS Amendments: Establishing Fees for Planning & Development Applications

Staff have noted that there is currently no policy to prescribe fees for development agreements, site plan approval, development permits, variances or LUB amendment applications or to recover related advertising costs.

Under the *Municipal Government Act* (MGA), municipalities can charge for a variety of fees related to planning and development applications and permits. *MGA Section 220(4)(l)* enables municipalities to assign fees in the LUB for site plan approval, variances, development agreements or LUB amendments and *Section 221(2)* allows municipalities to recover the related notification costs. *Section 49* allows Council to create a policy setting fees for any approval, application or permit pursuant to a bylaw. Accordingly, Staff propose the following amendments to the Land Use By-law:

- Insert Section 2.14 in the Land Use By-law:

2.14 Application Fees

Every application for a development permit, variance, site plan approval, Land Use By-law amendment, and development agreement shall be subject to fees as established by Council in accordance with the Municipality of Argyle's Policy Schedule C22- Fees and Penalties.

For consistency, staff propose the following amendment to the MPS:

- Revise the title of Section 13.5 to add fees:

13.5 ADMINISTRATION & FEES



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- Insert the following green text as policy 13.5.2:

13.5.2 Every application for a development permit, subdivision, variance, site plan approval, development agreement, or amendment to the Land Use By-law or Municipal Planning Strategy shall be subject to fees as established by Council in accordance with the Municipality of Argyle's Policy Schedule C22- Fees and Penalties.

Proposed Changes to Policy Schedule C22 – Fees and Penalties

In addition to revising the MPS and LUB, Policy Schedule C22 - Fees and Penalties will need to be revised to reflect the new fee categories. Municipalities have adopted various approaches to planning and development fees. Some municipalities charge fees meant to partially or fully recover processing costs for applications, including staff time to review and administer the applications process and advertising or notification costs. Others have chosen not to charge administrative fees recognizing the cost associated with preparing plans and drawings and obtaining professional studies as part of the required application submissions, and instead only charge for advertising costs where they are required by the public engagement process or provincial legislation.

The following table summarizes the fee requirements of other municipalities in western Nova Scotia.

Municipality ¹	Development Permit	Variance	Site Plan Approval	Development Agreement	LUB Amendment	MPS Amendment	Advertising	Zoning Compliance Letter
Town of Yarmouth	NA	\$100	\$100	\$100 plus registry of deeds	\$0	\$0	\$300 ²	\$25
Municipality of the District of Lunenburg	\$26	\$79	NA	\$525	\$525	\$525	Calculated at time of application	\$53
Town of Digby	\$50 for accessory structures etc \$100 <2500 sq.ft \$150 >2500 sq.ft	\$125	NA	\$750	\$500	\$1000	\$500	\$50
Municipality of the District of Yarmouth	\$20	\$15	NA	\$800	\$600	\$0	Included with application fee	\$20
Municipality of the District of Clare	\$25 for most \$100 for commercial/ commercial livestock	NA	NA	NA	NA	NA	NA	NA
Municipality of the District of Digby	\$50 <2500 sq.ft \$100 > 2500 sq.ft	Notification costs		\$1000 plus advertising	\$500 plus advertising	\$500 plus advertising	Calculated at time of application	\$50

¹Municipality of the District of Shelburne and Municipality of the District of Barrington were not included as no fee information was available



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²Town of Yarmouth also charges \$75 fee for preparing LRO forms

The Municipality of Argyle currently only charges fees for subdivision and building permits. Based on the information above and the current fee schedule, staff are recommending changes to the Fees and Penalties policy to reflect the following:

Development Permit	Variance	Site Plan Approval	Development Agreement	LUB Amendment	Advertising ¹	Zoning Compliance Letter
\$25	\$50	\$100	\$700	\$400	\$150	\$30
¹ to be adjusted by future resolution to reflect average advertising costs						

The proposed changes to the Fees and Penalties policy require a resolution of Council. It is recommended that fee amounts be reviewed in one year to ensure they align with Council's direction, and subsequently as part of future comprehensive reviews of the LUB and MPS or as part of the regular review of the Fees and Penalties policy.

Proposed LUB Amendments: Part 5 – Parking and Loading Spaces (Numbering Error)

Staff noted that Part 5 begins with Section 5.2 rather than 5.1. Staff propose renumbering Section 5 as follows:

Section 5.1 Parking Requirements

Section 5.2 Parking Space and Area Standards

Section 5.3 Loading Space Standards

Proposed MPS Amendments: Agriculture – Fur Farms by Development Agreement (Error Correction)

In the July 8, 2021 staff report, staff proposed changes to the Land Use By-law to allow new Fur Farms by development agreement in the Rural Development (RD) Zone. Development agreements must be enabled through policy in the Municipal Planning Strategy and the MPS should have been updated in tandem with this LUB amendment, however it was omitted by oversight. The proposed correction will align both documents.

Staff propose to add Fur Farm as a use permitted by development agreement in the RD zone by inserting item k) into Section 5.2.5 as follows:

- 5.2.5 Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14, in the Rural Development (RD) Zone:

k) Fur Farms



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Public Participation

Staff will comply with Public Participation Policies of the Municipal Planning Strategy (MPS) when processing these amendments. Figure 1 outlines the general process for amendments to the LUB.

A public information meeting was held on October 27th in Council Chambers to provide an opportunity for members of the public to learn more about the proposed amendments and to provide their input prior to the proposed amendments going to Council. This meeting was advertised on the Municipality's website and social media accounts in advance of the meeting. There were no members of the public in attendance.

Should Council give the proposed amendments First Reading, there will be another opportunity for the public to provide input at a public hearing. The public hearing will be advertised and held in accordance with Section 206 of the *Municipal Government Act*. Two weeks prior to the public hearing, an advertisement outlining the proposed amendments and providing the location and time of the public hearing will be placed in the *VanGuard*. The public is encouraged to request additional information or clarification from Staff leading up to the public hearing if they have any questions.

No mailout to surrounding property owners or posted sign is required as the amendments under consideration are not site-specific.

Conclusion

This report outlines several amendments to the Land Use By-law and Municipal Planning Strategy. The proposed amendments are required to address housekeeping edits, implement changes to the Land Use By-law to better align with the Municipal Planning Strategy or address development interests within the community.

Options

In response to the proposed amendments, the Planning Advisory Committee may recommend that Council:

- 1) Give First Reading and authorize staff to schedule a public hearing to consider proposed amendments to the Municipal Planning Strategy and Land Use By-law as presented or as specifically revised by direction of the Planning Advisory Committee;
- 2) Request further information on a specific topic prior to proceeding with First Reading; or
- 3) Refuse the proposed Municipal Planning Strategy and Land Use By-law Amendments.

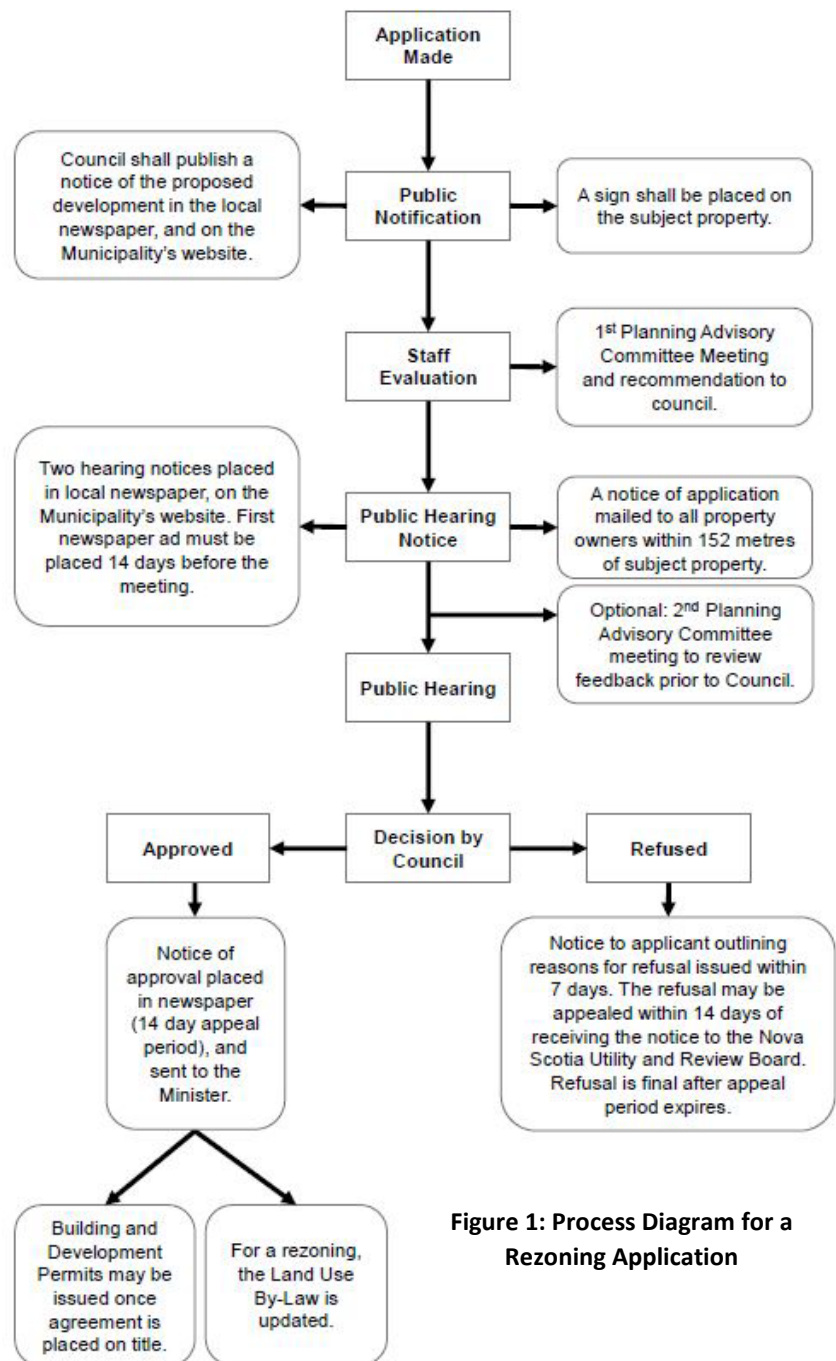


Figure 1: Process Diagram for a Rezoning Application



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Appendices

Appendix A – Draft Resolution for Proposed Amendments to the LUB

Appendix B – Draft Resolution for Proposed Amendments to the MPS



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Appendix A: Draft Proposed Amendments to the Land Use By-law

BE IT ENACTED by Council of the Municipality of the District of Argyle that the Land Use By-law is hereby further amended as follows which includes all amendments thereto which have been adopted and are in effect as of the [insert date of 'appeal date'] is hereby further amended by:

1. Amending Part 4.24: Group Dwelling Use Lot Requirements as shown below to add the text shown in green, and to remove the text shown in red:

4.23 Group Dwelling Development Regulations

- i. Group Dwelling Use Lot Requirements

Each group dwelling development shall meet the following zone standards:

Minimum Front Yard	7.6 m (25 ft.)
Minimum Rear Yard	7.6 m (25 ft.)
Minimum Side Yard	4.5 m (15 ft.) or ½ the building height for group dwellings
Minimum Lot Area Per Dwelling Unit	Central Sewer: 302 m ² (3,250 sq. ft.) per dwelling unit On-Site Septic: 3,717 m ² (40,000 sq. ft.) per dwelling unit or as Determined by NS Dept. of Environment
Minimum Lot Frontage	18 m (20 ft.)
Minimum Flanking Yard	7.6 m (25 ft.)
Parking	See Part 5.1
Maximum Height	7.6 m (25 ft.)
Minimum Number of Dwelling Units	3 4
Maximum Number of Dwelling Units	1 unit per 302 m ² of lot area, to a maximum of 8 units per cluster, up to 30 units per lot

2. Amending Part 11: ZONES - PERMITTED USES AND ZONE PROVISIONS of the Land Use By-law, as shown below to add the text shown in green.

Residential	MU	LI	HI	RP	BP	WF	CC	CCI	V	FP	RD	MI	CW	WP
Multi-unit dwelling (Three- to four- unit dwelling building)	•			•			•		•		•			•

3. Amending Part 23.1: Marine Industrial Development title of the Land Use By-law, as shown below to replace the text shown in red with the shown in green:

23.1 Marine Industrial Development (MI ~~RD~~) Zone Standards

4. Amending Part 2 by adding the following section as shown in green text below:

2.14 Application Fees

Every application for a development permit, variance, site plan approval, land use by-law amendment, and development agreement shall be subject to fees as established by Council in accordance with the Municipality of Argyle's Policy Schedule C22- Fees and Penalties.



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5. Revise the Home Occupation definition in Part 26 of the Land Use By-law by adding the text shown in **green** below:

Home Occupation means an accessory use of a dwelling or an accessory building thereof for gainful employment and shall include any commercial use, business or professional offices, domestic and household arts or light industrial uses.

6. Revising Section 9.1 of the Land Use By-law by removing the text shown in **red** below and adding the text shown in **green** below:

Home Occupations shall be permitted in any dwelling or accessory building in zones where dwellings are permitted uses except as otherwise noted in **a-particular-zone** this By-law provided:

7. Revising Section 9.2 of the Land Use By-law by removing the text shown in **red** below and adding text shown in **green** below:

Notwithstanding any other yard setbacks required by this By-law, the minimum required side and rear yards for an accessory building used for home occupations ~~excluding industrial use home occupations~~ shall be as follows:

- i. Side yard of 1.8 m (6 ft.); ~~and~~
- ii. Rear yard of 3 m (9.8 ft.);
- iii. Except tourist cabins as a home occupation shall meet the minimum required side and rear yards for single detached dwellings; ~~and~~
- iv. **Except for light industrial home occupations shall have minimum required side and rear yard of 6.1 m (20 ft.).**

8. Inserting Section 9.3 Light Industrial Home Occupation Requirements as follows:

9.3 Light Industrial Home Occupation Requirements

Notwithstanding Section 9.1 above, outdoor light industrial uses shall be permitted provided:

- i. No more than 93 m² (1,000 sq. ft) of the lot can be used for the outdoor home occupation;
- ii. Outdoor home occupation uses shall not be permitted in the front yard;
- iii. Outdoor home occupation uses shall be setback a minimum distance of 6.1 m (20 ft.) from side and rear lot lines;
- iv. Screening shall be provided using natural landforms, existing or planted vegetation, or an opaque fence, or a combination of these methods of screening so as the light industrial outdoor use is not visible from abutting residential, institutional or recreational uses; and
- v. All exterior building and lot lighting shall be directed away from adjacent and abutting residential, institutional, or recreational uses to prevent any nuisance effects from the lighting.
- vi. Outdoor home occupation uses shall not generate noise, dust, vibration, or odor beyond what is typically associated with a residential use.

9. Renumbering Section 9.3 Automotive Mechanical Repair Home Occupation Permitted Use Requirements as shown in the **green** text below:

Section 9.4 Automotive Mechanical Repair Home Occupation Permitted Use Requirements

10. Renumbering Section 5 as shown in **green** text below:

Section 5.1 Parking Requirements

Section 5.2 Parking Space and Area Standards



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Section 5.3 Loading Space Standards

11. Revise the Table of Contents as below by renumbering or adding text shown in green below:

PART 1- TITLE AND PURPOSE

PART 2 - ADMINISTRATION

2.1 EFFECTIVE DATE

2.2 DEVELOPMENT OFFICER

2.3 DEVELOPMENT PERMIT REQUIRED

2.4 CONTENTS OF DEVELOPMENT PERMIT APPLICATION

2.5 CONTENTS OF SITE PLAN APPROVAL APPLICATION

2.6 DEVELOPMENT THROUGH DEVELOPMENT AGREEMENT

2.7 SIGNATURE FOR APPLICATION

2.8 DECISION IN WRITING

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APPENDIX A – FLOOD PLAIN ENVIRONMENTAL STUDY REQUIREMENTS

HEREBY CERTIFY that the amendments to the Municipality of Argyle Land Use By-law, as set out above, were duly passed by a majority vote of the Council of the Municipality of Argyle at a meeting held on the ____ day of _____, 20____.

GIVEN under the hand of the Clerk and the Corporate Seal of the Municipality of Argyle this

____ day of _____, 20____.

Municipal Clerk



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Appendix B: Draft Proposed Amendments to the Municipal Planning Strategy

BE IT ENACTED by Council of the Municipality of the District of Argyle that the Municipal Planning Strategy is hereby further amended as follows which includes all amendments thereto which have been adopted and are in effect as of the [insert date of notification] is hereby further amended by:

1. Amending the following policies as shown below to add the text shown in green:

5.2.7 Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14, in the Rural Development (RD) Zone:

k) Fur Farms

2. Revise the title of Section 13.5 by adding text shown in green:

13.5 ADMINISTRATION & FEES

3. Insert the following text shown in green as policy 13.5.2:

13.5.2 Every application for a development permit, subdivision, variance, site plan approval, development agreement, or amendment to the Land Use By-law or Municipal Planning Strategy shall be subject to fees as established by Council in accordance with the Municipality of Argyle's Policy Schedule C22- Fees and Penalties.

HEREBY CERTIFY that the amendments to the Municipality of Argyle Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Council of the Municipality of Argyle at a meeting held on the ____ day of _____, 20____.

GIVEN under the hand of the Clerk and the Corporate Seal of the Municipality of Argyle this

____ day of _____, 20____.

Municipal Clerk



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Subject: *Proposed MPS and LUB Amendments for Wind Energy Development*
To: Municipality of Argyle CAO and Planning Advisory Committee for November 8, 2022
Date Prepared: October 19, 2022
Related Motions: None
Prepared by: Erin Ferguson, LPP, MCIP, Senior Planner, WSP Canada Inc.
Reviewed by: Anne Winters, LPP, MCIP, Manager of Planning- Atlantic Canada, WSP Canada Inc.

Summary

The Planning and Development Department and WSP have identified regulations and omissions which limit the development of wind energy projects. The Municipal Planning Strategy (MPS) indicates broader support for wind energy than the Land Use By-law (LUB) regulations currently allow. The LUB wind farm regulations are focused on the existing Pubnico Point Wind Farm, and do not permit additional wind farm developments in other areas of the municipality. This report outlines recommended amendments to the Land Use By-law and Municipal Planning Strategy to better align the two documents and enable a broader use wind farm development through appropriate areas of the municipality. No changes to the small scale or micro scale wind turbine policy and regulations are proposed at this time.

Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the application.

Recommendation

That the Planning Advisory Committee recommend to Council to give first reading to amendments to the Municipal Planning Strategy and Land use By-law as contained in the planner's report dated October 19, 2022.

Recommended Motion

The Planning Advisory Committee recommend that Council:

- give first reading to consider approval of the proposed amendments to the Municipal Planning Strategy as contained in the planner's report dated October 19, 2022;
- give first reading to consider approval of the proposed amendments to the Land Use By-law as contained in the planner's report dated October 19, 2022;
- proceed to a public hearing without a second meeting of Planning Advisory Committee unless substantial comments are received from the public; and
- authorize staff to schedule a public hearing.

Background

In 2005, a seventeen (17) turbine, 30-megawatt wind farm was established at Pubnico Point. It was the first large scale wind farm project in Nova Scotia. At that time, the Municipality established wind energy policy and provisions in the Municipal Planning Strategy and Land Use By-law however, it was specifically focused on the Pubnico Point Wind Farm and did not accommodate wind energy developments in other areas of the community.

Since then, wind energy technology has evolved and there has been increased interest in developing other wind energy opportunities within the municipality. Through the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) review, the Municipality has adopted new policy and regulations to support and guide further wind energy development. However, there are inconsistencies between the intent statement, MPS policies and LUB regulations for wind projects which are currently limiting wind energy potential for Argyle.



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At present, the installation of wind farms outside of the Pubnico Point Wind Farm requires an MPS amendment despite general support for wind energy and renewable energy projects in the MPS. Due to the risk, uncertainty, and length of the MPS amendment process, wind energy developers are reluctant to pursue this process and are focusing projects in other areas of the province where land use regulations already permit wind farm developments either as-of-right or by development agreement.

Discussion

Wind Development Opportunities and Key Concerns

The Nova Scotia Wind Atlas¹ indicates that there are wind energy resources in Southwest Nova Scotia that are suitable for commercial wind farm projects. Areas with the highest potential are located along the coastline or nearby inland areas. With the available wind resources, there is sustained interest from wind farm proponents in developing wind energy facilities in this region.

Wind turbines provide community benefits including carbon-free energy, creating local investment through land leases, municipal taxes, and local employment. Wind turbines provide energy that can typically offset greenhouse gas emissions within the first year of installation. This form of energy is recognized as one of the least carbon intensive forms of energy production and is a key component of the province's renewable energy plans.

While there are many benefits to wind energy, it has the potential to adversely impact nearby communities. Impacts from wind farm developments are generally related to noise and shadow flicker, potential for ice or blade throw, or in the case of wildlife, collision. Many of these concerns are addressed on a project specific basis through the Provincial Environmental Assessment Process. In Nova Scotia, all wind energy projects over 2MW (megawatts) in size must undertake a provincial Environmental Assessment (EA), administered by the Department of Environment and Climate Change.

Setback and separation distances are commonly used to avoid any disturbance from wind turbines on a community and its citizens however there are no federal or provincial regulations in place that specify setback requirements or separation distances for wind power projects. It is left to municipalities to determine where wind farm projects are suitable, if they want to impose any setback or separation distances, and to determine appropriate distances.

Approaches to Wind Farm Regulation

Municipalities take different approaches to wind energy regulation (Table 1). These approaches vary in terms of where large wind turbines or wind farms are permitted, what conditions must be met, and the planning tool used to regulate their development. Typical approaches include allowing wind farms as-of-right in specific zones through a development permit or site plan approval; allowing wind farms through development agreement either more broadly across the municipality or in specific zones; or by creating a new overlay zone. Based on the existing MPS policy framework, the ability to consider site-specific conditions, and the requirement to provide the opportunity for community input, it is recommended that the Municipality continues to require Development Agreements for large wind turbines and wind farms.

¹ [Nova Scotia Wind Atlas \(nswindatlas.ca\)](http://nswindatlas.ca)

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Table 1. Municipal Approaches to Large Scale Wind Turbines and Wind Farm Regulation

Approach	Description	Examples
As-of-Right through Development Permit	<p>The Land Use By-law contains regulations for wind farms and if the application is in conformance with the regulations, the Development Officer issues a Development Permit. Applicant can appeal to the Nova Scotia Utility and Energy Review Board if the Development Officer declines to issue the Development Permit.</p> <p>Advantages are a simplified approvals process however there is little ability to take site-specific conditions into consideration, and no municipal public process.</p>	<ul style="list-style-type: none"> • Municipality of the District of Digby allows Large Wind Turbines in the General Development zone with a Development Permit • Current approach for micro turbines in Argyle
As-of-Right through Site Plan Approval	<p>Site Plan Approval is enabled in the MPS and implemented in the LUB. The LUB sets out specific criteria or guidelines that must be satisfied to obtain site plan approval. These criteria address items like location, driveways, signage, buffering, landscaping, stormwater or parking but cannot regulate land-use, height of a building or hours of operation. Site Plan approval is granted by the Development Officer and can be appealed to Council. Property owners within 30 m are notified (notification distance can be enlarged through MPS, in Argyle it is 250 m for small scale turbines) of the decision and have 14 days to appeal.</p> <p>Site Plan Approval allows the municipality to negotiate certain site-specific items with an applicant prior to receiving a Development Permit but it only applies to a single property.</p>	<ul style="list-style-type: none"> • East Hants allows wind farms through site plan approval process with detailed submission requirements • Current approach for small scale wind turbines in Argyle
On a site-specific basis through Development Agreement <i>(recommended approach)</i>	<p>Development Agreements are a legal agreement between the municipality and property owners and are registered on the property title. The Municipal Planning Strategy and Land Use By-law set out types of land uses (often those which have the potential to create land use conflicts) and criteria that must be considered when entering into a development agreement. Development agreements can be appealed to the Nova Scotia Utility and Energy Review Board.</p> <p>Advantages are that it allows consideration of additional items such as maintenance and hours of operation, it can apply to several properties, it can apply site specific conditions, and includes a legislated public process. Drawbacks of this approach are that it is a longer, more costly, more complex process. Often it results in less transparency for the public once the development agreement is registered as development agreements and the land uses they permit are generally not represented on zoning maps.</p>	<ul style="list-style-type: none"> • Current approach for wind farms in the Pubnico Point Wind Farm Zone • Municipality of the District of Yarmouth
Overlay zone	<p>An overlay zone is a defined geographic area that is layered on top of the regular base zoning and imposes additional or alternative requirements to the underlying base zone.</p> <p>For example, Kings County created the wind energy overlay zone using the following criteria:</p> <ul style="list-style-type: none"> - land is primarily Crown land - Located 3 km or more from existing dwellings - 3 km or more from Cloud Lake Wilderness Area - There is limited development potential for other uses <p>The overlay has additional zoning regulations specific to wind development outlined in the LUB.</p> <p>Advantages are that the location of potential wind farm areas are more transparent with a defined area shown on a zoning schedule and a simplified process. Once established, it is the same process as a Development Permit with little ability to consider site-specific context or opportunity for public input.</p>	<ul style="list-style-type: none"> • Municipality of the County of Kings uses an overlay zone



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Municipalities also have also adopted specific provisions such as separation distance, setbacks, blade clearance, appearance, and decommissioning requirements. **Appendix A** presents a jurisdictional scan of wind farm regulations adopted by rural municipalities in western Nova Scotia.

Separation from Dwellings and Setbacks from Property Lines

To reduce noise, safety, and shadow impacts, municipalities often require separation distances between wind turbines and other uses or increased setbacks between wind turbines and property lines.

Separation distances usually specify the required distance between wind turbines and dwellings but can be applied to other uses or features such as parks or watercourses. There is no provincial standard and municipalities have set separation distances varying from 1.5 times the total turbine height to 3 kilometers. Other municipalities have chosen not to prescribe a minimum separation distance. Based on a review of wind energy information and regulations², and previous public input from local residents, a minimum separation distance between wind turbines and existing dwellings of 1 kilometer (1000 m) is suggested to mitigate safety and nuisance concerns. This is consistent with the existing policy direction in the MPS.

In reviewing the one (1) kilometre separation distance, there was concern that it might be too restrictive and severely limit wind opportunities if all seasonal dwellings (including camps) were included. The proposed amendments detailed in the following section of this report address this concern by excluding seasonal dwellings and camps from the required one (1) kilometre separation distance. To address potential safety hazards from ice throw or blade throw for nearby properties with seasonal dwellings or future development, a minimum setback distance equal to two (2) times the total turbine height, and not less than 300 m is proposed. The setback will be measured from base of the wind turbines to adjoining property lines where the adjoining property is not a wind energy development. The proposed setback aligns with available information on ice throw, modelling for blade throw, and with the Model Wind Turbine By-laws and Best Practices for NS Municipalities. A review of recent EA studies for wind farms in Nova Scotia suggests that blade throw isn't typically addressed through the provincial EA process. It should be noted that blade throw is a rare occurrence and there is no consensus on appropriate setbacks based on both potential distance and associated risk levels. The furthest reported incident of a blade fragment is 500 m³. The required setback for a wind farm can also be varied through the development agreement process should Council feel an alternate distance is more appropriate.

Lastly, while a reduced required minimum setback is proposed for dwellings with temporary or seasonal occupancy, the Provincial Environmental Assessment process for wind farms includes modeling and analysis of noise and shadow flicker impacts which may result in a larger required separation than the municipal regulations. The current provincial guidelines are that noise levels should not exceed 40 dBA at the exterior of receptors (eg. dwellings, schools, campgrounds) and shadow flicker that does not exceed 30 min a day or 30 hours per year at any receptor⁴.

Policy Analysis and Proposed Amendments

Staff feel that the existing approach to wind energy development by development agreement is appropriate following a review of MPS policy, and best practice review of wind energy information and regulations. However, amendments are required to align the MPS policies and LUB regulations and to better address Argyle's specific community context. Proposed amendments are shown using **green** text to indicate additions or revisions, and **red** text to indicate removal. A map showing the proposed wind development areas is included as **Appendix B**.

² This included a review of municipal regulations, Provincial Environmental Assessment Registration Documents for Wind Farm projects, and available information on noise thresholds

³ Chief Medical Officer of Health Report (2010). The Potential Health Impact of Wind Turbines. Available at: [The Potential Health Impact of Wind Turbines - Ministry Reports - Publications - Public Information - MOHLTC \(gov.on.ca\)](https://www.gov.on.ca/moh/ltrc/pubs/HealthImpactWindTurbines.pdf)

⁴ Guide to Preparing an EA Registration Document for Wind Power Projects in Nova Scotia, Revised 2021. Available at [EA.Guide-Proponents-WindPowerProjects.pdf \(novascotia.ca\)](https://www.novascotia.ca/ea/guide-proponents-wind-power-projects.pdf)



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Staff have proposed amendments based on a review of available information but the wind industry is rapidly growing and technology is rapidly evolving, and there are few federal or provincial guidelines available. Consistent with MPS policy, staff recommend revisiting wind energy policy and regulations should new information or guidelines emerge and in relation to growing experience with local wind farm operations.

Proposed LUB Amendments: Permitting Large Scale Wind Turbines in the RD Zone and Wind Farms in the CC and RD Zones by Development Agreement

Policy 12.10.6 of the MPS states “To establish in the Land Use By-law provisions for regulating the use and location of Large Scale WTG in the Rural Development Zone and Coastal Community Zone only and to require a Development Agreement to enable their use”. Part 11 of the LUB permits a single large scale wind turbine by development agreement in the CC Zone and in the WP Zone but not in the RD zone.

The Wind Farm use is currently restricted to Pubnico Point Wind Farm. Staff are recommending allowing wind farm use to the CC and RD Zones where large scale wind turbines will be permitted. This will require a concurrent amendment to MPS Policy also outlined in the report below.

The MPS contains conflicting policy with **12.10.6** above and policy **5.2.7** which states that Council may consider a Large Scale Wind Turbine Generator in the Wellhead Protection (WP) Zone through a development agreement. The small size of the wellhead protection area and proposed setbacks make siting a large turbine impractical, and the proposed amendments will result in a substantial land area in the RD and CC zoned lands available to wind energy development (**Appendix B**). For these reasons, staff suggest amending the MPS and LUB to remove the large wind turbine use from the WP Zone.

Staff are proposing the following amendments to better align the wind energy policies in the MPS with LUB regulations:

- Permit Wind Farms by development agreement in the Coastal Community (CC) and Rural Development (RD) zones and removing large scale wind turbines from the Wellhead Protection Zone by amending **Part 11** of the Land Use-Bylaw as follows:

Wind Energy (See Part 8)	MU	LI	HI	RP	BP	WF	CC	CCI	V	FP	RD	MI	CW	WP
Large Scale Wind Turbine Generator						DA	DA				DA			DA
Wind Farm						DA	DA				DA			

Proposed MPS Amendments: Allow Wind Farms in CC and RD Zones By Development Agreement (Addition)

Staff are proposing to amend **Part 12** of the MPS to permit Wind Farms in the CC and RD zones as follows:

- 12.10.6** To establish in the Land Use By-law provisions for regulating the use and location of Large-Scale WTG and Wind Farms in the Rural Development Zone and Coastal Community Zone only and to require a Development Agreement to enable their use.

Proposed MPS Amendments: Remove Large Wind Turbine Use from Wellhead Protection Zone

As discussed above, there is an inconsistency in the wind energy policies in the MPS. Staff are proposing to remove the Large Scale Wind Turbine Generator Use from the list of uses permitted by development agreement in the WP Zone as follows:



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- Council may consider the following uses through development agreement, pursuant to the requirements of Policy 13.14, in the Wellhead Protection Zone:

~~c) Large Scale Wind Turbine Generator~~

Proposed LUB Amendments: Revising the Wind Farm Definition

The Land Use By-law defines wind farms as “*more than one Wind Turbine Generator located on a lot*”. Wind farms typically cover a large area and involve several Large Wind Turbines which may be located on several different lots, often on land leased from the Crown, private property owners or a combination of both.

Staff suggest revising the wind farm definition in **Part 26** of the LUB to provide more flexibility and better reflect wind development practices:

- *Wind Farm* means an array of two or more wind turbines that are connected to the local utility grid for the principal purpose of generating electricity for off-site consumption.

Proposed LUB Amendments: Separation Distances and Setbacks for Large Scale Wind Turbine Generators

A minimum separation distance of one (1) kilometer between large scale wind turbines and permanent dwellings is recommended to address both safety and nuisance concerns. In order not to overly restrict the location of wind turbines in relation to temporary or seasonal dwellings, camps and seasonal dwellings have been separated from principal dwellings.

Reducing the required separation distance may not fully mitigate nuisance concerns for nearby camps and seasonal dwellings, however noise and shadow impacts are addressed through the provincial EA process. Potential safety impacts from ice or blade throw are mitigated by requiring wind turbines to be setback 2 times the height of the wind turbine from property lines and at least 300 m. From a review of available information, ice throw events typically happen within 100 m from the tower base and are mitigated through blade design and monitoring weather. A review of available information indicates that blade fragments can travel larger distances than ice (farthest reported incidence was 500 m) but modeling indicates that the risk of a person or dwelling being struck by a blade fragment are exceptionally rare. There is the ability to vary the required setback distance for a specific wind development project through the Development Agreement process should Council feel it is appropriate given the surrounding rural context.

Staff are proposing the following amendments to address separation and setback distances for wind turbines.

- Insert the following provisions (shown in green text) into **Section 8.1** of the Land Use By-law:

8.1 LARGE SCALE WIND TURBINE GENERATORS (See Definitions)

- A Development Agreement is required for a Large-scale Wind Turbine Generator or Wind Farm.
- Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.
- The required separation distance between Large Scale Wind Turbine Generators and existing dwellings shall be not less than 1 kilometre (1000 m).
- For the purpose of determining the separation distance in 8.1(iii) above, a dwelling shall not include a Camp or Seasonal Dwelling.
- Large Scale Wind Turbine Generators shall be setback from lot lines by a minimum distance equal 2 times the height of the wind turbine or 300 m, whichever is greater. Turbine height is measured from grade to the highest point of a wind turbine at the top of the rotator's arc.
- Notwithstanding 8.1 (v), where a lot line is common to two lots located within the same wind energy project, no setback is required from that common lot line.



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- Add the following definitions to **Part 26** of the Land Use By-law:

Dwelling, Seasonal means a cottage or secondary residence used from time to time throughout any season of the year but not used or intended to be used for year-round occupancy or as a principal residence.

Camp means a building or structure intended to provide basic shelter for a person engaged in hunting, fishing, or other recreational activities on an occasional or seasonal basis in a remote location and not satisfying the requirements for a dwelling under the National Building Code.

Proposed LUB Amendments: Part 18 – Coastal Communities (CC) Zone and Part 22 – Rural Development (Addition)

The LUB currently restricts development, other than single unit dwellings, to lots that have frontage on a public road.

Staff propose the following amendments to permit wind farms and large-scale wind turbines to be accessed by private road if access is secured.

- **18.4 Wind Energy Development without Frontage on a Public Road**
A development permit for large scale wind turbine generators or wind farms may be issued on a lot without frontage on a public road provided proof of secured access can be demonstrated.
- **22.2 Wind Energy Development without Frontage on a Public Road**
A development permit for large scale wind turbines or wind farms may be issued on a lot without frontage on a public road provided proof of secured access can be demonstrated.

Proposed MPS Amendments: Rural Development Policies (Addition)

As discussed above, MPS Policy 12.10.6 states that Large Scale Wind Turbines should be permitted by development agreement in the Rural Development (RD) Zone.

Staff are proposing to add Large Wind Turbines and Wind Farms as uses permitted by Development Agreement to align MPS policies and reflect wind energy practice:

- 5.2.5 Council shall consider the following uses through development agreement, pursuant to the requirements of Policy 13.14, in the Rural Development (RD) Zone:
 - l) Wind Farms and Large-Scale Wind Turbine Generators

Proposed MPS Amendments: Renewable Energy Policies (Formatting Correction & Policy Revision)

Staff noted a formatting error in Section 12.10, where criteria for the development agreement as listed as separate policies rather than a numbered list. Staff are also proposing text revisions to better align the MPS policies with the required separation distances outlined above. The reference to new large-scale wind turbines maintains the established separation distances at Pubnico Point Wind Farm but requires all new turbines to meet the 1 km separation distance.

Therefore, Staff propose the following amendments:

- 12.10.10 To consider the following criteria prior to entering into a development agreement for a large-scale



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wind turbine generator or wind farm development:

- a) ~~12.10.11~~ That new large-scale wind turbine generators be separated from ~~habitable~~ dwellings, ~~excluding seasonal dwellings or camps~~, a minimum distance of one (1) kilometre.
- b) ~~12.10.12~~ That mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on the community.
- c) ~~12.10.13~~ That safety concerns are addressed both on site and off site for matters of electrical safety, ice throw, blade throw, turbine collapse, and emergency response. ~~A required setback from a wind turbine to a lot line may be amended if an impact study shows that a lesser or greater setback is appropriate to mitigate safety concerns.~~
- d) ~~12.10.14~~ That all documentation required for the Canadian Environmental Assessment Act and the Nova Scotia Environment Act for the proposal is included in the documentation submitted by the proponent.
- e) ~~12.10.15~~ That all documentation required by the Department of National Defence, Environment Canada, Navigation Canada, Transport Canada, Canadian Coast Guard, and Nova Scotia Department of Natural Resources is included in the documentation submitted by the proponent.
- f) ~~12.10.16~~ That a decommissioning plan be included in the development agreement to be enacted after two years of the cessation of electrical power generation on the site.
- g) ~~12.10.17~~ That the proposed development is in accordance with the Implementation Chapter of this Strategy.

Due to the above formatting change, policy 12.10.18 will be renumbered to 12.10.11. Staff are also proposing removing a redundancy related to notification requirements and inserting imperial measurements for reference as follows:

- 12.10.11 To consider the following criteria prior to approving a site plan for Small Scale Wind Turbine Generator developments:
 - a) That wind turbine generators be separated from dwellings a minimum of 200 metres (656 ft.).
 - ~~b) —That the distance between wind turbine generators and existing residences for notification of site plan approval for small scale wind turbine generators be 250 m (820 ft.).~~
 - ~~e) b)~~ That mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on adjacent uses.
 - ~~d) c)~~ That all documentation required by the Department of National Defence, Navigation Canada, Transport Canada, Nova Scotia Environment and Nova Scotia Department of Natural Resources is included in the documentation submitted by the proponent.
 - ~~e) d)~~ That no commercial advertising other than the manufacturer's name be permitted on any WTG or accessory structures.
 - ~~f) e)~~ That written notification be sent to all property owners within ~~200~~ 250 m (820 ft) advising of the Site Plan Approval and outlining the Site Plan Approval appeal provisions of the MGA.



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Public Participation

Staff will comply with Public Participation Policies of the Municipal Planning Strategy (MPS) when processing these amendments. Figure 1 outlines the general process for amendments to the LUB.

A public information meeting was held on October 27th to provide an opportunity for members of the public to learn more about the proposed amendments, and to provide their input prior to the proposed amendments going to the Planning Advisory Committee and Council. This meeting was advertised on the Municipal website and social media accounts in advance of the meeting. There were no members of the public in attendance.

Following First Reading of the proposed MPS and LUB amendments, there will be another opportunity for the public to provide input at a public hearing. The public hearing will be advertised and held in accordance with Section 206 of the *Municipal Government Act*. Two weeks prior to the public hearing, an advertisement outlining the proposed amendments and providing the location and time of the public hearing will be placed in the *VanGuard*. The public is encouraged to request additional information or clarification from Staff leading up to the public hearing if they have any questions.

No mailout to surrounding property owners or posted sign is required as the amendments under consideration are not site-specific.

Conclusion

Wind policy and regulation is evolving along with technology. Council has expressed support for appropriate wind energy development in the MPS. The proposed amendments reflect modern wind policy and regulatory approaches and are largely in keeping with the existing wind energy policy intent in MPS. **Therefore, staff suggest that the Planning Advisory Committee recommend to Council to give First Reading to the Municipal Planning Strategy and Land Use By-law amendments as outlined in the Planner's report dated October 19, 2022.**

Options

In response to the proposed amendments, the Planning Advisory Committee may recommend that Council:

- 1) Give First Reading and authorize staff to schedule a Public Hearing to consider proposed amendments to the Municipal Planning Strategy and Land Use By-law as presented or as specifically revised by direction of the Planning Advisory Committee;

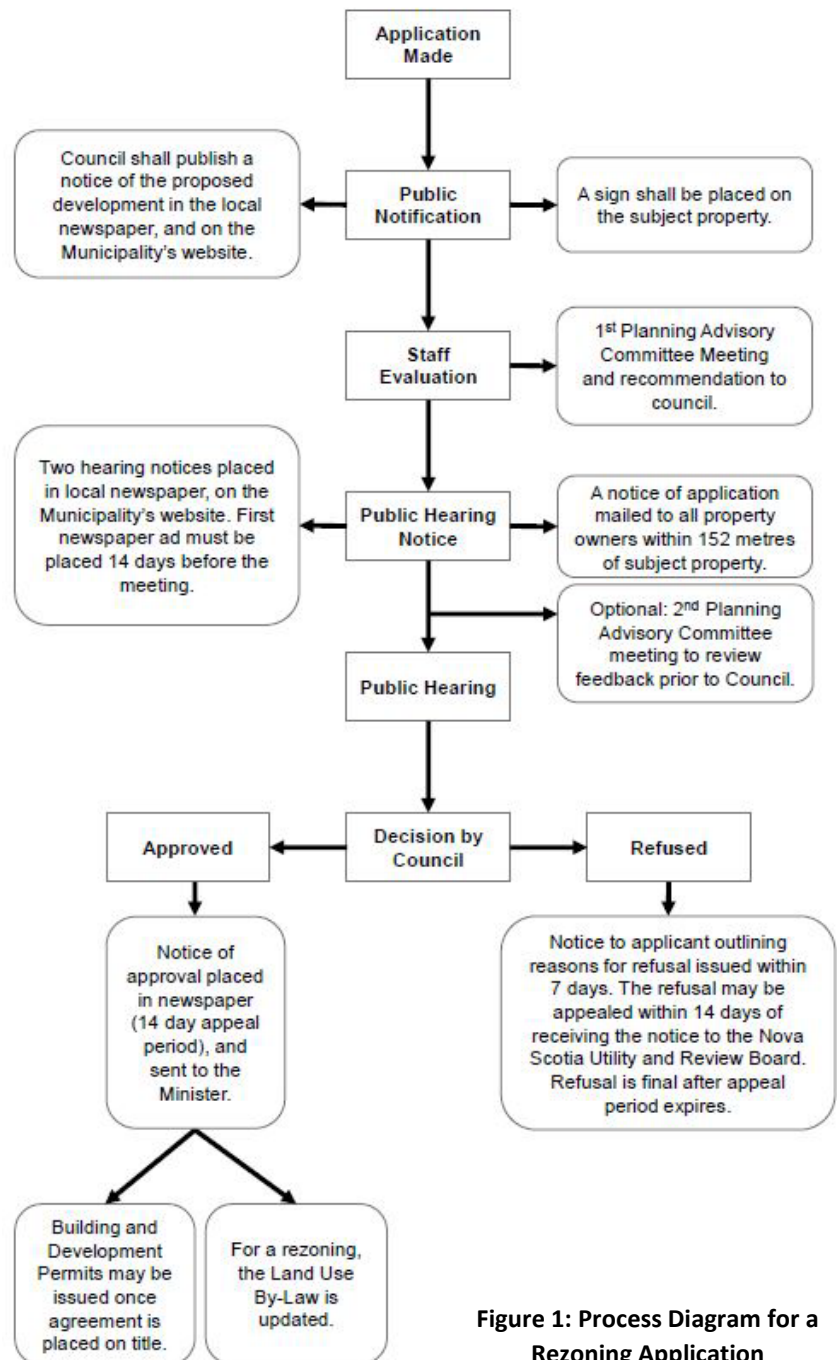


Figure 1: Process Diagram for a Rezoning Application



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- 2) Request further information on a specific topic prior to proceeding with First Reading; or
- 3) Refuse the proposed Municipal Planning Strategy and Land Use By-law Amendments.

Appendices

Appendix A – Jurisdictional Scan of Municipal Wind Energy Regulations

Appendix B – Map of Proposed Areas for Wind Energy Development

Appendix C – Draft Resolution for Proposed Amendments to the MPS

Appendix D – Draft Resolution for Proposed Amendments to the LUB



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Appendix A: Jurisdictional Scan of Municipal Wind Energy Regulations



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	Municipality of the District of Digby	Municipality of the District of Barrington	Region of Queen's Municipality	Municipality of the District of Shelburne	Municipality of the County of Kings	Municipality of the District of Yarmouth	Municipality of East Hants
Approach: (Development Agreement, Development Permit Only, Site Plan Approval)	Only development permit required in general development zone	Development Agreement required for large scale wind turbine generator developments	By Development Agreement in specific zones	Development Permit only in the general development zone	Overlay zone and Development Permit	Development Agreement required for large scale wind turbine generator developments	Site plan approval required, dependent on meeting regulations of land use bylaw, permitted in all zones except residential CR, LR, R1, R2, R2-T, R3 and MH
Submission requirements	<ul style="list-style-type: none"> - True shape and dimension of lot, proposed location, height, and dimensions, existing buildings on abutting lots, watercourse location - May require survey 	Location, existing and proposed utility lines, existing and proposed roads, noise levels, all property lines, type, size and location of fencing, landscaping	Lands subject to proposal, make and model of turbine, contact info for public, regular DA requirements	Study by professional including: noise impact assessment, visual impact assessment	<ul style="list-style-type: none"> - Site plans showing all proposed and existing wind turbines, buildings, roads, boundaries, and natural features; - an emergency response and fire safety plan approved by the municipal emergency coordinator; - a letter of no objection from department of National Defence, Transport Canada, NavCan, and/or other applicable agencies - The location of all large-scale wind turbines or 	-DA requirements -That all documentation required for the Canadian Environmental Assessment Act and the NS Envi Act for proposal is included in documentation submitted by proponent	accurate and to scale site plan (proposed and existing: wind turbine and related structures, test tower sites, property lines, utility lines, topography and contours, landscaping, ESA, prevailing winds, noise levels at adjoining property lines, type, size location of security fencing) Noise and Visual Impact study for all



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					utility-scale wind turbines shall be confirmed by a location certificate prepared by a surveyor licensed to practice in Nova Scotia.		property owners within 1000m of property manufacturer's Details
Setback Distance	Utility Scale - Setback min 750 m from any property boundary	- 1 km from habitable dwellings, institutional and recreational uses	Small Scale - 1.5x total height from property line	- Setback for large scale wind turbines: 1x wind turbine height from property line & 220m from public road	- Setback distance 1.5 times the height of the wind turbine from lot lines and public ROW - overlay embeds 3 km separation distance from existing dwellings and wilderness area	- 1 km from habitable dwellings	- Not less than 4x the height of the turbine, measured from grade to the highest point of the rotors arc, from adjoining property lines - For wind farms where impact study shows lesser or greater setback is appropriate, setbacks may be amended from max setback distance depending on number of wind turbines in a group or proximity, if owner of adjacent property agrees then setback min of 1.5 x height of turbine - 1.5 x turbine height from publicly owned lands if they are



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							determined to be culturally insignificant
Definition for Residential Dwelling	means a building, occupied or capable of being occupied as a home or fulltime residence by one or more persons containing one or more dwelling units and shall not include a hotel, a motel or an apartment hotel.	means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons containing one or more dwelling units and shall not include a hotel, motel, apartment hotel or travel trailer. Dwelling, Single Detached means a completely detached dwelling unit and shall include a cabin or cottage.	DWELLING means a building or a part of a building occupied or capable of being occupied as a home or residence by one or more persons, containing one or more dwelling units, and shall include a modular home but shall not include a fixed-roof overnight accommodation, mobile home, or recreational vehicle.	Means structured designed to accommodate people including residential, cottages and cabins, but not including accessory structures such as sheds or storage areas.	Not applicable as separation or setback is not dependant on proximity to dwelling	Dwelling means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons containing one or more dwelling units and shall not include a hotel, motel, apartment hotel or travel trailer.	- Not applicable as separation or setback is not dependant on proximity to dwelling



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Blade Clearance	Not specified	Not specified	Not specified for large turbines	- Rotor clearance min 8 m from grade	- Rotor blade clearance shall be at least 25 ft from grade	Not specified	- Minimum blade clearance of 8 m
Separation Distance	- 1 km from existing residential dwellings	- 1 km between wind farms and residences	Not specified	- Separation of a min 500m * Allows you to be within the prescribed distance if the wind turbine and dwelling are on the same property OR written consent is obtained	- separation distance between turbines equal to at least the height of the tallest wind turbine - overlay zone criteria was no closer than 3 km to existing dwellings	- 1 km from habitable dwellings	Not specified
Noise Levels	- Not specified for large wind turbine generators	mitigation of noise, visual, shadow effects and environmental impacts of wind turbines is undertaken to minimize any negative effects of the development	Not specified	- Ensure does not result in noise levels at location of any habitable dwellings in excess of 40 dBA at any time during	Not specified	mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on the community	- Noise levels at adjoining properties shall not exceed 40 dBs or above existing background noise



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Discontinuation of power requirements & decommissioning plan	Not specified	-wind turbines required to be decommissioned and removed within 2 years of cessation of electrical power generation	- decommissioning plan which is a part of DA agreement; meet policies -development permit shall expire within 3 years from date issued if development hasn't commenced		- Owner or lease of land on which wind turbines are located shall notify the Municipality within 1 calendar year of wind turbine inactivity and remove any wind turbines and associated infrastructure within 2 calendar years of inactivity - decommissioning and reclamation plan that includes provisions for the removal of all structures associated	- wind turbines required to be decommissioned and removed within 2 years of cessation of electrical power generation (both small and large scale)	- Decommissioning/ Reclamation required - If wind turbine/farm discontinues power production for a min of 1 year operator shall provide Municipality with a status report identifying future plans for the site
Other Provisions		-No advertising other than the manufacturer's name is permitted on any wind structures - all documentation required to demonstrate compliance with	- project must have a webpage/website that identifies subject land, make and model of turbine	- Shall be finished in non-reflective matte and solid colour, no advertising logos - No artificial lighting except lighting required - All power lines must be underground - Climbing apparatus min	- shall not present flight hazard or interfere with radio, telecommunications, or radar, as evidenced by a letter of no objection from department of National Defence, Transport Canada, NavCan, and/or other applicable agencies	- That no commercial advertising other than the manufacturer's name be permitted on any WTG or accessory structures. - That all documentation required for the Canadian Environmental Assessment Act and the NS Envi Act for	- Only signage that appears on wind turbine is the owner's or manufacturer's identification, which can't exceed 5% of the total surface area of the wind turbine



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		requirements of Department of National Defence, Env Can, NavCan, Transport Canada, Canadian Coast Guard, RCMP and NS Department of Natural Resources for proposal included in documentation submitted by developer to Municipality.		3.5 m above grade 4 - Guy wires visible to height of 2 m above guy wire anchor lines		proposal is included in documentation submitted by proponent	
Safety concerns	Not specified	- Address on site and off site for matters of ice throw, blade throw, turbine collapse, and emergency response	Not specified	- Not dominate view from any habitable dwelling within 1000 m of proposed development, Not expose adjacent properties, particularly habitable	Not specified	- That safety concerns are addressed both on site and off site for matters of electrical safety, ice throw, blade throw, turbine collapse, and emergency response.	



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				<p>dwelling, to risk of collapse, blade throw or ice throw</p>			
<p>No Setback required</p>	<p>- where a lot, located immediately adjacent to and abutting a lot where a utility scale wind turbine is erected, is subject to lease for purposes of wind turbine development setback requirement from property line shall be waived</p>	<p>-any required setback or separation distance that can't be satisfied shall be waived for the siting of a wind turbine and development permit shall be issued for its use where a registered legal agreement is obtained by developer for siting of wind turbine from owners of all affected adjacent properties within required yard setback or separation distance</p>	<p>Not specified</p>	<p>- Separation distance shall be waived if following conditions are met; located on same property as habitable dwelling and no other habitable dwellings are within required separation distance or, written consent is obtained from all owners of habitable dwellings located within separation distance</p>	<p>Not specified</p>	<p>- Any required setback, yard requirement or separation distance not satisfied shall be waived for siting of wind turbine and development permit shall be issued for its use where registered legal agreement is obtained by the developer for the siting of the wind turbine from the owners of all affected adjacent dwelling owners and property owners within the required setback or separation distance</p>	<p>Not specified</p>



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		- required separation distance from a habitable dwelling for siting of WTG waived and Development Permit issued for its use where the WTG is situated on same lot as habitable dwelling.					



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Appendix B: Map of Proposed Areas for Wind Energy Development

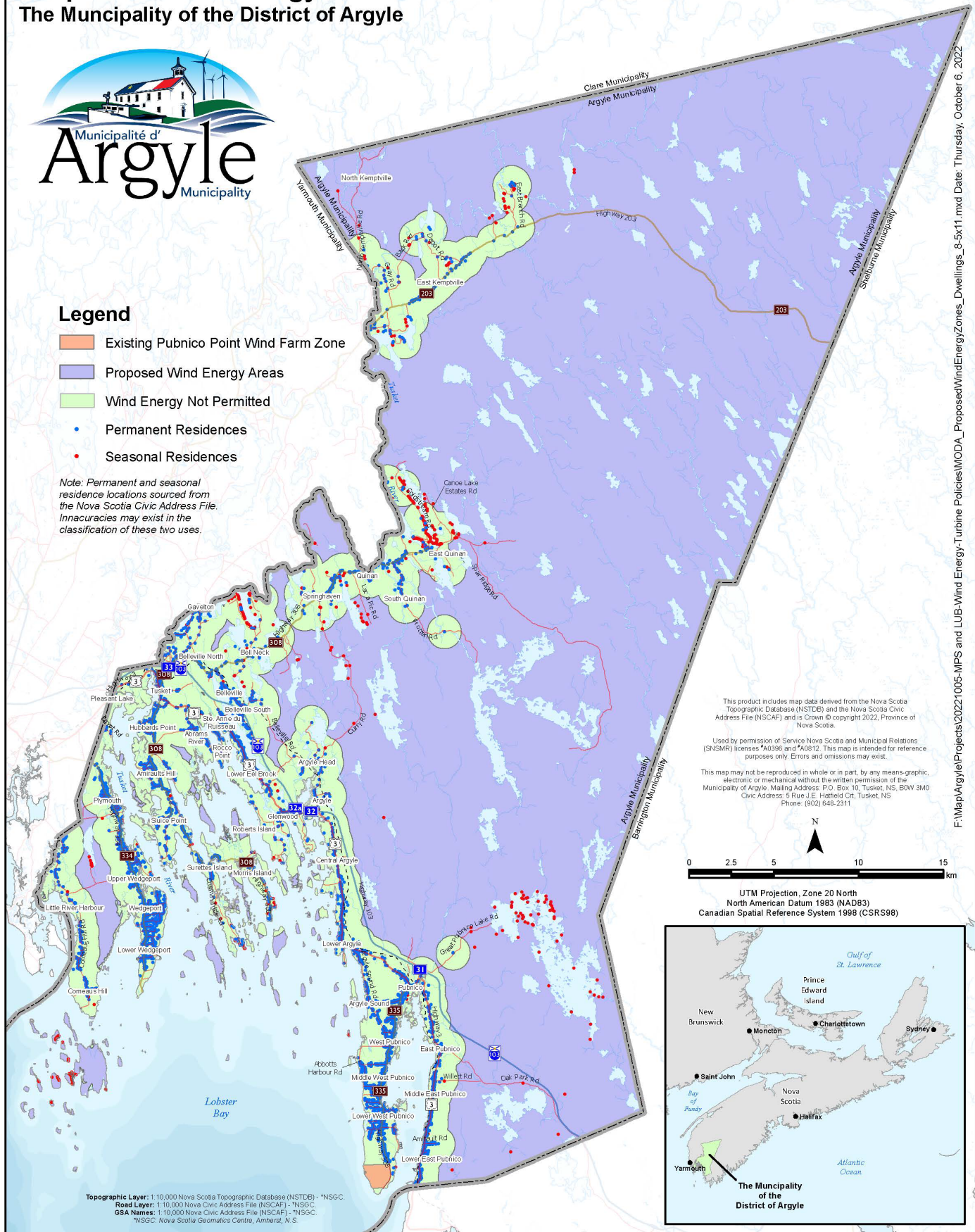
Proposed Wind Energy Areas The Municipality of the District of Argyle



Legend

- Existing Pubnico Point Wind Farm Zone
- Proposed Wind Energy Areas
- Wind Energy Not Permitted
- Permanent Residences
- Seasonal Residences

Note: Permanent and seasonal residence locations sourced from the Nova Scotia Civic Address File. Inaccuracies may exist in the classification of these two uses.





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Appendix C: Draft Resolution for Proposed Amendments to the Municipal Planning Strategy

BE IT ENACTED by Council of the Municipality of the District of Argyle that the Municipal Planning Strategy is hereby further amended as follows which includes all amendments thereto which have been adopted and are in effect as of the [insert date of 'notice'] is hereby further amended by:

1. Amending Part 12 of the MPS to permit wind farms in the CC and RD zones by development agreement as shown in **green** text below:

12.10.6 To establish in the Land Use By-law provisions for regulating the use and location of Large-Scale WTG and Wind Farms in the Rural Development Zone and Coastal Community Zone only and to require a Development Agreement to enable their use.

2. Amending policy 5.2.7 by removing the large-scale wind turbine generator use from the Wellhead Protection Zone as shown in **red** text below:

5.2.7 Council may consider the following uses through development agreement, pursuant to the requirements of Policy 13.14, in the Wellhead Protection Zone:

~~c) Large Scale Wind Turbine Generator~~

3. Amending Policy 5.2.5 as shown in **green** text below to add large wind turbine generators and wind farms as uses permitted by development agreement in the RD zone:

5.2.5 Council shall consider the following uses through development agreement, pursuant to the requirements of Policy 13.14, in the Rural Development (RD) Zone:

m) Wind Farms and Large-Scale Wind Turbine Generators

4. Amending policy 12.10.10 up to and including policy 12.10.17 by reformatting these policies as a list of criteria related to large scale wind turbine and wind farm development. Proposed additions are shown in **green** text and text to be removed is shown in **red**.

12.10.10 To consider the following criteria prior to entering into a development agreement for a large-scale wind turbine generator or wind farm development:

- ~~a) 12.10.11~~ That new large-scale wind turbine generators be separated from ~~habitable~~ dwellings, **excluding seasonal dwellings or camps**, a minimum distance of one (1) kilometre.
- ~~b) 12.10.12~~ That mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on the community.
- ~~c) 12.10.13~~ That safety concerns are addressed both on site and off site for matters of electrical safety, ice throw, blade throw, turbine collapse, and emergency response. **A required setback from a wind turbine to a lot line may be amended if an impact study shows that a lesser or greater setback is appropriate to mitigate safety concerns.**
- ~~d) 12.10.14~~ That all documentation required for the Canadian Environmental Assessment Act and the Nova Scotia Environment Act for the proposal is included in the documentation submitted by the proponent.
- ~~e) 12.10.15~~ That all documentation required by the Department of National Defence, Environment Canada, Navigation Canada, Transport Canada, Canadian Coast Guard, and Nova Scotia Department of Natural Resources is included in the documentation submitted by the proponent.



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- f) ~~12.10.16~~ That a decommissioning plan be included in the development agreement to be enacted after two years of the cessation of electrical power generation on the site.
- g) ~~12.10.17~~ That the proposed development is in accordance with the Implementation Chapter of this Strategy.
5. Renumbering policy 12.10.18 to 12.10.11 and removing the redundancy related to notification distances. Proposed additions are shown in **green** text and text to be removed is shown in **red**.
- 12.10.11 To consider the following criteria prior to approving a site plan for Small Scale Wind Turbine Generator developments:
- a) That wind turbine generators be separated from dwellings a minimum of 200 metres **(656 ft.)**.
 - ~~b) That the distance between wind turbine generators and existing residences for notification of site plan approval for small scale wind turbine generators be 250 m (820 ft.).~~
 - e) b) That mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on adjacent uses.
 - d) c) That all documentation required by the Department of National Defence, Navigation Canada, Transport Canada, Nova Scotia Environment and Nova Scotia Department of Natural Resources is included in the documentation submitted by the proponent.
 - e) d) That no commercial advertising other than the manufacturer's name be permitted on any WTG or accessory structures.
 - f) e) That written notification be sent to all property owners within ~~200~~ **250 m (820 ft)** advising of the Site Plan Approval and outlining the Site Plan Approval appeal provisions of the MGA.

HEREBY CERTIFY that the amendments to the Municipality of Argyle Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Council of the Municipality of Argyle at a meeting held on the ____ day of _____, 20____.

GIVEN under the hand of the Clerk and the Corporate Seal of the Municipality of Argyle this

____ day of _____, 20____.



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Appendix D: Draft Resolution for Proposed Amendments to the Land Use By-law

BE IT ENACTED by Council of the Municipality of the District of Argyle that the Land Use Bylaw is hereby further amended as follows which includes all amendments thereto which have been adopted and are in effect as of the [insert date of 'appeal date'] is hereby further amended by:

1. Amending Part 11 by inserting 'Wind Energy' division into the table of permitted uses, and adding Large Scale Wind Turbine as a use permitted by development agreement in the RD zone, removing Large Scale Wind Turbine Generator as a use permitted by development agreement in the WP zone, and permitting a wind farm by development agreement in the CC zone and RD zone. Additions are shown in green text and removals are shown in red text.

Wind Energy (See Part 8)	MU	LI	HI	RP	BP	WF	CC	CCI	V	FP	RD	MI	CW	WP
Large Scale Wind Turbine Generator						DA	DA				DA			DA
Wind Farm						DA	DA				DA			

2. Amend Part 26 of the Land Use By-law to revise the wind farm definition as shown in green text below:

Wind Farm means an array of two or more wind turbines that are connected to the local utility grid for the principal purpose of generating electricity for off-site consumption.

3. Amend Part 26 of the Land Use By-law to add definitions for season dwellings and camps as shown in green text below:

Dwelling, Seasonal means a cottage or secondary residence used from time to time throughout any season of the year but not used or intended to be used for year-round occupancy or as a principal residence.

Camp means a building or structure intended to provide basic shelter for a person engaged in hunting, fishing, or other recreational activities on an occasional or seasonal basis in a remote location and not satisfying the requirements for a dwelling under the National Building Code.

4. Amend Section 8.1 of the Land Use By-law to include text shown in green:

- i. A Development Agreement is required for a Large Scale Wind Turbine Generator or Wind Farm.
- ii. Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.
- iii. The required separation distance between Large Scale Wind Turbine Generators and existing dwellings shall be not less than 1 kilometre (1000 m).
- iv. For the purpose of determining the separation distance in 8.1(iii) above, a dwelling shall not include a Camp or Seasonal Dwelling.
- v. Large Scale Wind Turbine Generators shall be setback from lot lines by a minimum distance equal 2 times the height of the wind turbine or 300 m, whichever is greater. Turbine height is measured from grade to the highest point of a wind turbine at the top of the rotator's arc.
- vi. Notwithstanding 8.1 (v), where a lot line is common to two lots located within the same wind energy project,



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no setback is required from that common lot line.

5. Amend Part 18 (Coastal Community Zone) of the Land Use By-law by inserting Section 18.4 as follows:

18.4 Wind Energy Development without Frontage on a Public Road

A development permit for large scale wind turbine generators or wind farms may be issued on a lot without frontage on a public road provided proof of secured access can be demonstrated.

6. Amend Part 22 (Rural Development Zone) of the Land Use By-law by inserting Section 22.2 as follows:

22.2 Wind Energy Development without Frontage on a Public Road

A development permit for large scale wind turbines or wind farms may be issued on a lot without frontage on a public road provided proof of secured access can be demonstrated.

HEREBY CERTIFY that the amendments to the Municipality of Argyle Land Use By-law, as set out above, were duly passed by a majority vote of the Council of the Municipality of Argyle at a meeting held on the ____ day of _____, 20____.

GIVEN under the hand of the Clerk and the Corporate Seal of the Municipality of Argyle this

____ day of _____, 20____.

Municipal Clerk