

# *Annapolis County*

## *Municipal Planning Strategy*



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*Effective Date: December 1, 2011*

## TABLE OF CONTENTS

<b>PART I</b>	<b>INTRODUCTION - AUTHORITY AND CONTEXT</b>	<b>PAGE</b>
i.	Purpose .....	1
ii.	Background.....	1
iii.	Goals .....	1
iv.	Components and the Land Use By-law .....	2
v.	The Planning Area and FLUM.....	2
vi.	Limitations.....	2
vii.	Statements of Provincial Interest.....	2
<b>PART II</b>	<b>REGULATING MUNICIPAL PUBLIC STREET DEVELOPMENT</b>	
1.1	Municipal Public Streets.....	3
<b>PART III</b>	<b>REGULATING WIND TURBINE DEVELOPMENT</b>	
2.1	Annapolis County Planning Area.....	3
3.1	Classifying Wind Turbines.....	4
4.1	FLUM designations .....	4
5.1	Zones, Zoning and the Zoning Maps.....	5
6.1	Secondary Area Plans and Wind Turbine Regulation.....	6
7.1	As-of-right Development .....	7
8.1	Mini Scale and Small Scale Wind Turbines .....	8
9.1	Large Scale Wind Turbines.....	10
10.1	Decommissioning & Removal of Large Scale Wind Turbines.....	14
<b>PART IV</b>	<b>GENERAL DEVELOPMENT STANDARDS</b>	
11.1	Subdivision – Private Roads & Lots without Frontage .....	15
<b>PART V</b>	<b>IMPLEMENTATION</b>	
12.1	Planning Document Review .....	15
12.2	Municipal Planning Strategy Amendments .....	16
12.3	Development Officer .....	16
12.4	Land Use By-law.....	16
12.5	Amending the Land Use By-law .....	18
12.6	Notes to Readers .....	20
12.7	Public Participation Program.....	21
Appendix:	Future Land Use Map (Map 1)	

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**PART I: INTRODUCTION – Authority and Context**

## i. Purpose

This Municipal Planning Strategy (MPS) for the Municipality of the County of Annapolis has been prepared according to the provisions of the ***Municipal Government Act (MGA)***. It is a legal document that has been adopted as a by-law of the Municipality of the County of Annapolis and is a framework of Council's land use policies, including the development and regulation of wind turbines in Annapolis County and the development of new municipal roads, created through the subdivision process, and hereinafter shall be referred to as the Annapolis County Municipal Planning Strategy. Where land use and development issues are dealt with in this Municipal Planning Strategy, they shall be implemented by the accompanying Annapolis County Land Use By-law.

This Municipal Planning Strategy applies to all lands within the Municipality of the County of Annapolis, as defined by Map 1, The Future Land Use Map, and shall be referred to as the Annapolis County Planning Area or the Planning Area.

## ii. Background

The first county-wide municipal planning strategy for Annapolis County, effective May 14, 2009, dealt solely with establishing Council's policy concerning the takeover of new municipal streets created via the subdivision process. May 13, 2010 Council adopted a county-wide municipal planning strategy and land use by-law to regulate wind power development. This municipal planning strategy and land use by-law replaces the May 13, 2010 documents.

## iii. Goals

In order to direct this Municipal Planning Strategy, Council has adopted specific goals. These goals articulate the desired future; set the direction; focus of the Planning Area programs and activities; and act as a guide for daily decision-making with respect to budgeting, projects, and program evaluation. Specific goals of this Municipal Planning Strategy include:

- G-1 To provide a basis for Municipal Council to guide and direct new development in the Annapolis County Planning Area in an orderly, economical manner.
  - G-2 To establish a planning policy framework and development control provisions for the erection of wind turbines in the Municipality and the creation of and take over of new municipal roads.
  - G-3 To regulate the development of large scale wind turbines by applying large separation requirements from off-site or surrounding structures, building or areas.
  - G-4 To regulate the development of mini and small scale wind turbines in a manner that is compatible with adjacent uses.
  - G-5 To ensure the continued enjoyment of the County's rural low density development character.
  - G-6 To ensure the continuation of protections afforded by the adoption of area secondary plans to those specific areas of the County.
  - G-7 To acknowledge that there are areas within the County where land use planning development controls are not needed for most uses at present.
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iv. Components and the Land Use By-law

Further to section i of this Part, where it is stated that the generalized purpose of this plan is to be a framework of Council's land use policies concerning the development and regulation of wind turbines and the takeover of new municipal roads created through the subdivision process, this plan also contains other land use policies. These policies include setting development standards that may vary from zone to zone and policies concerning the issuance of municipal development permits. Administrative policies include procedures on amending the plan and by-law and the review of the plan. Included also are policies pertaining to the subdivision of lots along private roads and lots with no frontage and development permit issuance on such lots created. The development control regulations themselves, which implement the policies contained in this Municipal Planning Strategy, are contained in a separate document, the "Annapolis County Land Use By-law".

v. The Planning Area and FLUM

This Municipal Planning Strategy applies to all lands within the Municipality of the County of Annapolis, as defined by Map 1, The Future Land Use Map (FLUM), and shall be referred to as the Annapolis County Planning Area or the Planning Area.

The Future Land Use Map designates all lands within the Annapolis County Planning Area to one of the following designations:

**Wind Resource:** the largely undeveloped lands of the County found on the North or South Mountain.

**General Development:** all those other lands in the Municipality not included within the Wind Resource designation.

vi. Limitations

This Municipal Planning Strategy sets out policies directed toward the attainment of specific goals, set out in Section iii of this Part. In adopting these policies, Council does not commit itself to undertaking any of the projects suggested therein. However, Council is prevented from acting in a manner that is inconsistent with or at variance with this Strategy (MGA S. 217).

vii. Statements of Provincial Interest

The *Municipal Government Act* requires that planning documents be reasonably consistent with the Provincial Statements of Interest. The five Statements of Interest include: drinking water supplies, flood risk areas, protection of agricultural land, infrastructure and housing. With the requirements that planning documents be consistent with the Provincial Statements of Interest, as this Municipal Planning Strategy focuses on the specific issues of wind turbine development and regulation and the creation of and takeover of new municipal roads, and as such is consistent with the Provincial Statements of Interest.

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## **PART II: REGULATING MUNICIPAL PUBLIC STREET DEVELOPMENT**

### **1.1 Municipal Public Streets**

Municipal public streets are roads that the County of Annapolis owns and maintains. The Municipality covers a large area and development tends to be concentrated in several areas. Outside of these areas, population density is quite low and the density of development sparse. Council feels that the cost of maintaining municipal streets in areas that are not proximate to existing development would be disproportionately high and allowing the creation of municipal streets outside of such developed areas would be premature. Council's strategy, in accordance with Section 271 (4) of the Municipal Government Act, is to limit the development of new municipal public streets through the Annapolis County Subdivision By-law, to areas where Council has adopted development-oriented land use plans; where municipal services, in the form of municipally-owned and operated sewer services, are provided or within a five kilometre radius of another municipal public street.

#### **Policy 1.1.1**

**It is the policy of Council to regulate the development of municipal public streets through the Annapolis County Subdivision By-law and permit the development of new municipal public streets only on lands within the East End Planning Area, as established by the Annapolis County East End Area Municipal Planning Strategy, the Upper Clements Planning Area, as established by the Upper Clements Area Municipal Planning Strategy, the Cornwallis Park Planning Area, as established by the Cornwallis Park Municipal Planning Strategy, within a serviced area, as identified in the Annapolis County Subdivision By-law or within a five kilometre radius of another municipal public street.**

## **PART III: REGULATING WIND TURBINE DEVELOPMENT**

### **2.1 Annapolis County Planning Area**

This Municipal Planning Strategy applies to all lands in the Municipality of the County of Annapolis, as defined by Map 1, The Future Land Use Map, and shall be referred to as the Annapolis County Planning Area or the Planning Area.

#### **Policy 2.1.1**

**It is the policy of Council that the Planning Area for this Municipal Planning Strategy shall be the entire Municipality, as defined by Map 1, The Future Land Use Map (FLUM), herein attached and forming part of this Municipal Planning Strategy, and this area shall herein be referred to as the Annapolis County Planning Area or the Planning Area.**

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### 3.1 Classifying Wind Turbines

A wind turbine is a structure that produces power by capturing the kinetic energy in surface winds created by the sun and converting it into energy in the form of electricity. A wind turbine consists of four components: the turbine which converts wind into electrical energy by means of one or more rotor blades driven by the wind; the nacelle, which is the housing for electrical components installed at the top of the tower; the wind turbine tower, which is the structure that supports the wind turbine and rotor blades; and the supporting structure at the base of the tower, which is referred to as the foundation or the base.

It is the opinion of Council that the regulation of wind turbines begins with the adoption of a classification system of wind turbines. For this, Council intends to classify wind turbines into three categories using the nameplate capacity of the turbine as a basis for the classifications. The term nameplate capacity is also equated with the size of the turbines and refers to the manufacturer's maximum rated output of the electrical generator found on the nacelle of the wind turbine. The three wind turbine classifications include mini, small and large scale.

#### Policy 3.1.1

**It is the policy of Council to adopt the classification of wind turbines into the following categories, and to include these categories in the Land Use By-law as the basis for regulating wind turbines:**

- **“mini scale wind turbines” – a wind power turbine with a nameplate capacity of less than 25 kilowatts, but not less than 1 kilowatt;**
- **“small scale wind turbines” – a wind power turbine with a nameplate capacity equal to or less than 100 kilowatts, but not less than 25 kilowatts; and**
- **“large scale wind turbines” – a wind power turbine with a nameplate capacity of greater than 100 kilowatts.**

### 4.1 FLUM Designations

The Future Land Use Map (FLUM) sets out two designations for General Development and Wind Resource. The Wind Resource Designation applies to those areas of the Municipality that Council feels are appropriate for large scale wind turbine development or are the site of a proposed wind farm development. The remaining lands within the Municipality are to be included in a General Development Designation. The General Development designation generally takes in areas already developed, or, in Council's opinion, are not suitable for large scale wind turbine development due to their close proximity to existing development. The General Development designation also takes in those areas of the County that Council feels should be reserved for future mixed use development. Areas where large scale wind turbine can be developed should be separated from other areas of the County. As such, large scale wind turbines shall not be permitted to be developed in the General Development designation. Large scale wind turbines shall only be permitted to be developed in a Wind Resource designated area. As for mini scale and small scale wind turbines, Council feels they can be developed in both the General Development designation and the Wind Resource designation, subject to appropriate development regulations set out in the land use by-law.

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**Policy 4.1.1**

**It is the intention of Council to designate those areas of the Planning Area not suitable for the development of large scale wind turbine development, encompassing the existing developed lands of the County and those areas suitable for future mixed use development as “General Development” on the Future Land Use Map (Map 1).**

**Policy 4.1.2**

**It is the intention of Council to designate those areas of the Planning Area which are not included in the General Development designation that encompass undeveloped parcels of land found on the North and South Mountain as "Wind Resource" on the Future Land Use Map (Map 1).**

**5.1 Zones, Zoning and the Zoning Map**

The purpose of a land use by-law is to carry out the land use development policies set out in a municipal planning strategy and to establish a fair and systematic means of development control. Generally speaking, this is accomplished by dividing an area into land use zones. Land use developments are considered by way of listing them as a permitted use in a zone or, alternately, a prohibited use. Where a land use development is considered a permitted use, usually there are specific development conditions that have to be fulfilled before a development permit is issued. Council may also employ a technique where certain types of developments are permitted without standards or the requirement that a development permit be issued. The accompanying land use by-law is called the Annapolis County Land Use By-law. Like the Future Land Use Map, the Zoning Maps form an integral part of the land use by-law. The zoning maps graphically shows the divisions of areas of the County into zones. In this case, the Land Use By-law and the Zoning Maps set out three zones: for general development and wind resource development. Graphically these zones replicate the Planning Strategy designations. The Hampton Hills Wind Resource (HHWR) Zone reflects the area of land encompassing a proposed wind development.

**Policy 5.1.1**

**It is the policy of Council to establish a General Development (GD) Zone in the Land Use By-law.**

**Policy 5.1.2**

**It is the policy of Council to establish a Wind Resource (WR) Zone in the Land Use By-law.**

**Policy 5.1.2**

**It is the policy of Council to establish a Hampton Hills Wind Resource (HHWR) Zone in the Land Use By-law.**

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## **6.1. Secondary Area Plans and Wind Turbine Regulation**

Annapolis County has several existing area specific municipal planning strategies and land use by-laws. These area plans were developed to provide a framework for the development of, and the regulation of land within specific areas of the County and to provide a framework for groundwater, surface water and well-field water supply protection. Existing development orientated plans include the Annapolis County East End Area MPS & LUB, the Upper Clements Area MPS & LUB and Cornwallis Park MPS & LUB. The existing water supply protection plans include the Lake Cady Water Supply Area MPS & LUB, the Bridgetown Water Supply Area MPS & LUB and the Lawrencetown Water Supply Area MPS & LUB. Operationally, with the adoption of this plan, those area plans become “Secondary Planning Strategies”.

It is the opinion of Council that the impacts of large scale wind turbine developments are much further-reaching than a local scale. As such, Council feels that there should be a unified, county-wide development approach taken concerning large scale wind turbine development. In terms of the existing secondary area plans, it is the opinion of Council that land uses regulated by those plans should continue to be regulated in accordance with those various land use planning and development control regulations. However, should one of these secondary plans be inconsistent with this Municipal Planning Strategy or Land Use By-law, as it pertains to the development of large scale wind turbines; it is the opinion of Council that this Municipal Planning Strategy and Land Use By-law shall take precedence, in all cases.

### **Policy 6.1.1**

**It is the policy of Council that where a Secondary Municipal Planning Strategy and Land Use By-law has been adopted, land uses regulated by those planning documents, other than large scale wind turbines, shall continue to be regulated in accordance with those various land use planning and development control regulations.**

### **Policy 6.1.2**

**It is the policy of Council that, in the matter of regulating the development of large scale wind turbines, the Annapolis County Municipal Planning Strategy, and Annapolis County Land Use By-law shall take precedence in regulating the development of large scale wind turbines over a Secondary Municipal Planning Strategy and Land Use By-law.**

### **Policy 6.1.3**

**In areas of the Municipality not regulated by a secondary planning strategy, it is the policy of Council that the development and regulation of mini scale and small scale wind turbines shall be regulated in accordance with the Annapolis County Municipal Planning Strategy and Annapolis County Land Use By-law.**

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## **7.1. As-of-right Development**

While municipal planning documents often regulate many uses, Council has decided that this municipal planning strategy and land use by-law is to serve as a framework of Council's land use policies concerning the development, use and regulation of wind turbines. Thus Council is employing the technique that, other than those uses regulated by a secondary area plan, all other developments in the Planning Area shall be listed as permitted uses in all designations and zones. These other uses therefore are considered as-of-right developments and as such, these uses shall not be subject to planning or development control regulations and there is no requirement that a municipal development permit be issued.

### **Policy 7.1.1**

**It is the policy of Council to prohibit the development of large scale wind turbines in the General Development (GD) Zone.**

### **Policy 7.1.2**

**It is the policy of Council that, with the exception of mini scale wind turbines and small scale wind turbines, all other uses shall be considered permitted uses in the General Development (GD) Zone.**

### **Policy 7.1.3**

**Further to Policy 7.1.2, with the exception of mini scale wind turbines and small scale wind turbines, it is the policy of Council not to require a municipal development permit for any other permitted as-of-right use in the General Development (GD) Zone.**

### **Policy 7.1.4**

**It is the policy of Council that, with the exception of mini scale wind turbines, small scale wind turbines and large scale wind turbines, all other uses shall be considered permitted uses in the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone.**

### **Policy 7.1.5**

**Further to Policy 7.1.4, with the exception of mini scale wind turbines, small scale wind turbines and large scale wind turbines, it is the policy of Council not to require a municipal development permit for any other permitted as-of-right use in the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone.**

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## 8.1 Mini Scale and Small Scale Wind Turbines

In accordance with Council's wind turbine classification system, "mini scale wind turbines" are wind power turbines with a nameplate capacity of less than 25 kilowatts, but not less than 1 kilowatt. "Small scale wind turbines" are wind power turbines with a nameplate capacity equal to or less than 100 kilowatts, but not less than 25 kilowatts. Rather than set out various development requirements in this Municipal Planning Strategy, Council intends to regulate mini scale and small scale wind turbines through the land use by-law by requiring municipal development permits, minimum off-site separation distance requirements, differing minimum on-site property boundary setback requirements and limiting the number of mini scale or small scale wind turbines that may be developed on a lot. The intent of these requirements is to protect adjacent properties and buildings from possible unintentional events such as tower collapse, deicing or rotor blade throwing and to assist with the mitigation of possible noise.

### Policy 8.1.1

**It is the policy of Council to regulate mini scale wind turbines and small scale wind turbines within the Land Use By-law.**

### Policy 8.1.2

**It is the policy of Council to consider mini scale wind turbines and small scale wind turbines as permitted uses in the General Development (GD) Zone, the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone and require a municipal development permit to be issued before a mini scale wind turbine or a small scale wind turbine is built, erected, constructed, placed, located or developed on a property in either the General Development (GD) Zone, the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone.**

Council understands that there is no standard hub height of a mini scale or small scale wind turbine, nor is there a standard ratio of hub height to rotor diameter. The availability of wind to drive a mini scale or small scale turbine is influenced by terrain, adjacent built and natural environment obstacles, such as houses or trees, and turbine size. These factors are but a few of the critical items that are used to determine the most optimum height of a given mini or small scale wind turbine. The minimum separation and setback distance thus will become a function of the total height of the mini scale or small scale wind turbine that is to be erected. Height of the mini or small scale wind turbine is defined as the total vertical height of the entire structure being the sum of the height of the support foundation above grade, measured at the base of the tower, the turbine tower itself, the nacelle and the highest vertical point of the turbine rotor blades, generally expressed as a half of the rotor blade sweep or diameter. The on-site setback distance of a mini or small scale wind turbine refers to the horizontal distance a mini or small scale wind turbine tower has to be placed from the closest property boundary line the mini or small scale wind turbine is located on. The separation distance of a mini or small scale wind turbine refers to the horizontal distance the tower structure has to be placed from a main or accessory building on an immediately adjacent and abutting property. In an effort to provide some flexibility to homeowners wanting to supplement their residential power consumption, Council shall provide a special exemption for residential dwelling roof mounted mini scale wind turbines from the minimum separation distance requirement and minimum setback requirement.

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For the purposes of this municipal planning strategy and land use by-law, buildings are defined as being any structure used, built, constructed, placed or located on a lot used for the accommodation or enclosure of persons, animals, materials or equipment. This would include, but is not limited to buildings such as a house, barn, workshop, office, restaurant, church and community hall. Accessory buildings would include, but are not limited to, a garage, wood shed, baby barn and other such accessory storage buildings, provided the accessory building measures greater than ten square metres of ground floor area. A main building is the building in which is carried on the principal purpose for which the lot is used. An accessory building is a subordinate building on the same lot as the main building devoted exclusively to an accessory use of the main building.

### **Policy 8.1.3**

**It is the policy of Council to regulate the location of mini scale wind turbines and small scale wind turbines in the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone by establishing in the Land Use By-law a minimal setback requirement from all property boundaries. Council's policy for regulating the location of mini scale wind turbines and small scale wind turbines in the General Development (GD) Zone is to establish in the Land Use By-law a significantly greater minimum setback requirement from all property boundaries.**

### **Policy 8.1.4**

**It is the policy of Council to limit the number of mini scale wind turbines and small scale wind turbines that may be developed on a lot in the General Development (GD) Zone, the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone to a maximum of two mini scale wind turbines or small scale wind turbines.**

### **Policy 8.1.5**

**In an effort to mitigate potential negative impacts related to the development of mini scale wind turbines and small scale wind turbines on main or accessory buildings on adjacent properties, it is the policy of Council to regulate the location of mini scale wind turbines and small scale wind turbines in the General Development (GD) Zone, the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone by establishing in the Land Use By-law a minimum separation distance requirement from all main buildings on an adjacent property and all accessory buildings on an adjacent property that are in excess of ten square metres (107.6 sq. ft.) of ground floor area. The separation distance requirement shall not apply to a main or accessory building located on the same lot as the mini scale wind turbine or the small scale wind turbine in the General Development (GD) Zone, the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone.**

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## 9.1 Large Scale Wind Turbines

In accordance with Council's wind turbine classification system, "large scale wind turbines" are wind power turbines with a nameplate capacity of greater than 100 kilowatts. However, Council expects that the majority of the large scale turbines will be much bigger because the intent is to sell their power to Nova Scotia Power Inc. Council's intention is to permit the construction and use of large scale wind turbines in the wind resource zones, but prohibit them entirely in the General Development (GD) Zone.

### Policy 9.1.1

**It is the policy of Council to regulate large scale wind turbines within in the Land Use By-law. It is the policy of Council to prohibit the development of large scale wind turbines in the General Development (GD) Zone.**

Due to potential negative impacts related to the development of large scale wind turbines, their immense size and the significant amount of support infrastructure required, Council feels that large scale wind turbines should be subject to more stringent regulation. Given that Council has the ability to apply various development regulation options, such as development agreements or site plan approvals, Council's preference is to consider large scale wind turbines as a permitted use in the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone. While Council understands that large scale wind turbines are often connected in an array of two or more, Council prefers to regulate each large scale wind turbine as a separate entity.

Council also understands that wind power projects are often developed in unison with various project support structures such as meteorological stations, operations and maintenance buildings, collector substations, power distribution lines and transmission towers. In an effort to provide some development flexibility to a wind power project, it is not the intention of Council to regulate the number or location of such wind power support structures like meteorological stations and operations and maintenance buildings. However, Council will require a municipal development permit to be issued for these ancillary buildings and the large scale wind turbine.

### Policy 9.1.2

**It is the policy of Council to consider large scale wind turbines as a permitted use in the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone. Council will also require a municipal development permit to be issued before a large scale wind turbine is built, erected, constructed, placed, located or developed on a property in either the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone.**

### Policy 9.1.3

**It is the policy of Council to require a municipal development permit for wind turbine ancillary meteorological stations and operations and maintenance buildings to be built, erected, constructed, placed, located or developed on a property in either the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone.**

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While Council prefers to regulate each large scale wind turbine as a separate entity, Council does not want to limit the height or the number of large scale wind turbines that may be developed on a lot in the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone. In terms of minimum on-site setback requirements, Council wants to ensure some flexibility is given. Rather than establish large onerous property boundary setback requirements for large scale wind turbines, Council wishes to apply minimal on-site property setback requirements in the land use by-law. Council's rationale for this comes from understanding that large scale wind turbines are seldom developed in isolation; but rather developed in conjunction with other large scale turbines. Council also appreciates that the land subdivision patterns in the County have tended to result in the creation of elongated and rather narrow lots and Council is aware that an excessively large property boundary setback requirement could preclude the development of a large scale wind turbine on a property entirely. Additionally where the rotational nature of a large scale wind turbine causes a turbine rotor blade to overhang a property boundary line, Council shall also provide a property boundary requirement setback waiver where an easement is registered against the deed for the property.

#### **Policy 9.1.4**

**It is the policy of Council to regulate the location of large scale wind turbines in the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone by establishing in the Land Use By-law a minimum setback requirement from all property boundaries and public roads.**

Council understands that the availability of wind to drive a large scale turbine, also called location specific wind resource characteristics, terrain, built and natural environment obstacles, turbine size and other large scale wind turbines in the array are but a few of the critical items that are used to determine the most optimum height for a given wind turbine project. While Council does not intend to regulate or limit the height of large scale wind turbines, Council is concerned with the potential negative impacts of large scale wind turbines, and intends to establish substantial off-site separation distance requirements within the Land Use By-law. To regulate the location of large scale wind turbines in the Hampton Hills Wind Resource (HHWR) Zone, Council will require a minimum separation distance of seven hundred metres (700 m) from all habitable buildings. Council intends that the minimum separation distance for the Hampton Hills Wind Resource (HHWR) Zone be less than that required for the Wind Resource (WR) Zone because they recognize that a large scale wind turbine project has already been contemplated for the Hampton Mountain Road area.

#### **Policy 9.1.5**

**In an effort to mitigate potential negative impacts related to the development of large scale wind turbines, it is the policy of Council to regulate the location of large scale wind turbines in the Hampton Hills Wind Resource (HHWR) Zone by establishing in the Land Use By-law a minimum separation distance requirement of seven hundred metres (700 m) from all habitable buildings in the Planning Area. The separation distance requirement shall not apply to habitable buildings located on the same lot as the large scale wind turbine in the Hampton Hills Wind Resource (HHWR) Zone.**

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To regulate the location of large scale wind turbines in the Wind Resource (WR) Zone, Council will require a separation distance of one kilometre (1000 m) from all habitable buildings in the Planning Area to be set out in the Land Use By-law. For clarification purposes, the separation distance requirement shall not apply to habitable buildings located on the same lot as the large scale wind turbine. The off-site separation distance of a large scale wind turbine refers to the horizontal distance a large scale wind turbine tower has to be placed from a habitable building on another property in the Planning Area.

#### **Policy 9.1.6**

**In an effort to mitigate potential negative impacts related to the development of large scale wind turbines, it is the policy of Council to regulate the location of large scale wind turbines in the Wind Resource (WR) Zone by establishing in the Land Use By-law a minimum separation distance requirement of one kilometre (1000 m) from all habitable buildings in the Planning Area. The separation distance requirement shall not apply to habitable buildings located on the same lot as the large scale wind turbine in the Wind Resource (WR) Zone.**

Council defines habitable buildings as being any structure built, constructed, placed or located on a lot, designed and used for the accommodation, enclosure or assembly of human beings including residential, commercial, institutional, industrial or recreational buildings. Council also considers a habitable building as being any structure for human habitation, regardless of whether the structure is intended for seasonal or permanent use or whether or not it is used for the overnight accommodation. Colloquially, Council considers a habitable building as any building where people eat, work, sleep, play or pray. Council, however, does not intend that the definition of habitable building include any accessory buildings or structures such as camps, sheds, recreational vehicles or storage areas. Camps typically are temporary or seasonal use residential structures that are rustic in nature and while they may be used for overnight accommodation they lack an on-site sewage disposal system and a piped-in water supply. Recreational vehicles are Class A, Class B and Class C motor homes, travel trailers, fifth wheel recreational vehicles, folding or pop-up trailers or pick-up camper.

While Council's intent is to only regulate wind turbines, where a habitable building is developed within the established separation distance of an existing large scale wind turbine, Council's position is that developer who does so will be fully aware of the distance their new building will be to a large scale wind turbine and will have accepted the adverse effect, if any, the turbine will have on them. Regardless, Council's intent is that any new large scale wind turbine must meet the applicable minimum separation distance requirement as set out in the Land Use By-law.

#### **Policy 9.1.7**

**Further to Policies 9.1.5 and 9.1.6, regardless that a habitable building was developed after the effective date, so as to be located within an established large scale wind turbine separation distance, it is the policy of Council that new large scale wind turbines to be developed in the Wind Resource (WR) Zone or the Hampton Hills Wind Resource (HHWR) Zone shall meet the minimum separation distance requirement applicable to that zone.**

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Council is sensitive to the fact that a large scale wind turbine project had been contemplated for the Hampton Mountain Road area of the County. Thus Council created a Hampton Hills Wind Resource (HHWR) Zone in the Land Use By-law. This zone attempts to emulate the proponent's project. However, Council's opinion is that the proposed Hampton Hills development is a "one-off project". Going forward, Council feels that any new large scale wind turbines should be developed under a consistent development control scheme, such as what is set out in the Wind Resource (WR) Zone. Because Council feels that the Hampton Hills development is a special instance, Council does not want to add more land to the Hampton Hills Wind Resource (HHWR) Zone. Nor does Council want to consider a simple land use amendment to add more land to the Wind Resource (WR) Zone.

Council understands that the construction of a large scale wind turbine development is not solely based upon their approval. Large scale wind turbines may require approval from other governmental bodies such as Department of National Defense, Transport Canada and Nav Canada. These agencies review a large scale wind turbine development for potential impacts on things such as defense radar systems, airport flight operations and radio and telecommunication systems. Additionally, the Province and the Federal Government may require the project proponent to undertake an environmental impact assessment before sanctioning the project. Council wants to be assured that the project has received approval from any other applicable authority before it will consider an amendment application to add land to the Wind Resource designation and the Wind Resource (WR) Zone. As such, Council will require the applicant to submit copies of such approvals as part of their application.

#### **Policy 9.1.8**

**In order to preserve the integrity of the Wind Resource (WR) Zone and the Hampton Hills Wind Resource (HHWR) Zone, and to minimize land use conflicts between large scale wind turbine developments and other uses within the Annapolis County Planning Area, it is the policy of Council to refuse to consider rezoning applications to rezone additional land to the Wind Resource (WR) or the Hampton Hills Wind Resource (HHWR) Zone.**

#### **Policy 9.1.9**

**Notwithstanding Policy 9.1.8, it is the intention of Council to consider applications to amend this Municipal Planning Strategy and to concurrently amend the Annapolis County Land Use By-law, where the intent of the application is to include additional land in the Wind Resource designation and the Wind Resource (WR) Zone, subject to the proponent having first received any permit, license, authorization or approval for the large scale wind turbine project from any other applicable department, authority or agency, such as but not limited to: Department of National Defense, Transport Canada, Nav Canada, the Province of Nova Scotia or the Government of Canada where a provincial or federal environmental assessment is required, and to submit copies of any required project specific permit, license, authorization or approval for the large scale wind turbine project as part of the amendment application.**

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## **10.1 Decommissioning & Removal of Large Scale Wind Turbines**

By virtue of the Municipal Government Act, Council has the option of including requirements in a municipal planning strategy and land use by-law to ensure the removal of a large scale wind turbine and their supporting infrastructure from a site after the productive lifecycle of the wind turbine project development is reached. Similarly, Council may also choose from a range of options requiring the decommissioning of the site of a wind power project and requiring the restoration of the site back to a naturalized condition. Rather than implementing a municipal regulatory land use planning regime to deal with this issue, Council feels that public education is a better route to take. Council's opinion is that, ultimately, it is the responsibility of the registered property owner to remove any defunct large scale wind turbines from a property. It is the registered property owner that permits the development of the large scale wind turbine on their property initially. The property owner also is the one who enters into the land lease agreement with a wind developer and benefits from any monetary considerations to be paid by the wind developer for the use of their land. As such, Council feels that a property owner should educate themselves as to their responsibilities when the wind turbine is no longer operational and must be removed. Council feels that the best practice for the Municipality to follow is to remind a property owner considering permitting a large scale wind turbine to be developed on their property to seek proper legal counsel and that ultimately, it is their responsibility to remove any defunct large scale wind turbines from a property.

### **Policy 10.1.1**

**It is the intention of Council to raise the awareness of Annapolis County property owners of their obligations concerning the potential decommissioning requirements of large scale wind turbine developments that may include the removal of the wind turbine from their property and the reinstatement of their property to a reasonable natural condition.**

### **Policy 10.1.2**

**It is the policy of Council to include provisions in the Land Use By-law that will require the registered property owner or the wind turbine developer to notify Council of a decision to remove a large scale wind turbine from a property and to notify Council as to the time when the large scale wind turbine removal and the reinstatement of the property shall be completed.**

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**PART IV GENERAL DEVELOPMENT STANDARDS****11.1 Subdivision - Private Roads & Lots without Frontage**

The Provincial Subdivision Regulations require that where a land use by-law is in effect, certain subdivision by-law sections are inoperative unless a land use by-law permits development on a lot created pursuant to that section and a planning strategy provides policy support for both the subdivision and development of such lots. As it relates to the creation of a lot without frontage and the provision that a lot abut a private road, Council wishes to provide such flexibilities.

**Policy 11.1.1**

**It is the policy of Council that all new lots created in the Annapolis County Planning Area shall abut a municipal public street, a provincial public street or highway or a private road and provisions shall be set out in the Annapolis County Land Use By-law to permit the development of such lots created along a private road.**

**Policy 11.1.2**

**Notwithstanding Policy 11.1.1, it is the policy of Council to provide for the relaxation of the requirement for frontage of a lot to abut a municipal or provincial public street or highway or a private road in accordance with the provisions of Section 27 of the Subdivision By-law for the Municipality of Annapolis County and to include provisions in the Land Use By-law to permit the development of such lots so created.**

**PART V IMPLEMENTATION****12.1 Planning Document Review**

Municipal Council recognizes that huge technological strides have been made concerning the harvesting of wind for the production of electricity. Council also recognizes that this renewable energy technology is continually evolving. While Council does make provisions in every plan to consider policy changes and amendment requests to its planning documents, Section 214 (2) of the Municipal Government Act requires a Municipality to include policies in their planning documents on how it intends to review a municipal planning strategy and land use by-law. For this purpose, Council intends this plan to be a five year plan and Council's intent is to include a five year commencement review time horizon to meet the requirements of the MGA.

**Policy 12.1.1**

**It is the intention of Council to commence a review of the Annapolis County Municipal Planning Strategy and the Annapolis County Land Use By-law five years after the effective date in order to ensure that these planning documents remain consistent with the planning and development control needs of the Municipality.**

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## 12.2 Municipal Planning Strategy Amendments

A municipal planning strategy, by its very virtue of being a strategy, is a document that should evolve with changing circumstances. As such this Plan may need to be amended from time to time where Council may wish to change policy intent.

### Policy 12.2.1

**It is the intention of Council to amend this Plan where either of the following occurs, any policy intent be changed, the Future Land Use Map be changed, where the plan is in conflict with a Provincial Government land use policy or regulation, where a requested amendment to the land use by-law is in conflict with this Plan and there are valid reasons for the amendment or where a secondary planning strategy is to be incorporated into this Municipal Planning Strategy.**

## 12.3 Development Officer

The Municipal Government Act requires a municipality to appoint a Development Officer to administer their land use by-law and subdivision by-law.

### Policy 12.3.1

**In accordance with the *Municipal Government Act*, it is the policy of Council to appoint a Development Officer to administer the Annapolis County Land Use By-law and the Subdivision By-law for the Municipality of the County of Annapolis.**

## 12.4 Land Use By-law

The Annapolis County Land Use By-law is the principle mechanism by which these land use policies are implemented and, as such, the land use by-law defines applicable land use zones, permitted uses, and development standards that reflect the policies of this Plan.

### Policy 12.4.1

**The Annapolis County Land Use By-law shall be the principle mechanism by which the policies of the Annapolis County Municipal Planning Strategy shall be implemented. The Land Use By-law shall state in both text and map form the zones, permitted or prohibited uses, and development standards, which shall be generally compatible with the policies of the Annapolis County Municipal Planning Strategy. The Zoning Maps, appended as Schedules "A", "B", "C", "D", "E" and "F" to the Land Use By-law, shall represent the geographical extent of all zones in the Planning Area and the following zones shall be established in the Land Use By-law:**

<b>General Development</b>	<b>GD</b>
<b>Wind Resource</b>	<b>WR</b>
<b>Hampton Hills Wind Resource</b>	<b>HHWR</b>

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The Annapolis County Land Use By-law shall set out development standards which may vary according to the use, zone and location. The common theme throughout the Land Use By-law is that Council has set appropriate development standards that aim to maintain sufficient control to ensure good quality development within the Annapolis County Planning Area.

#### **Policy 12.4.2**

**Further to Policy 12.4.1, it is the policy of Council to regulate the use and development of land, buildings and structures in the Land Use By-law. This Land Use By-law shall also contain provisions, regulations and development standards, which may vary according to the use, zone and location, including, but not limited to:**

- provisions with respect to requiring of municipal development permits and the submission of supporting documentation and the waiving the requirement of municipal development permits;
  - provisions to the listing of permitted or prohibited uses in a zone;
  - provisions with respect to requiring new lots to have frontage on provincial or municipal public streets or private roads;
  - provisions to provide for the relaxation of the requirement for frontage of a lot to abut a municipal or provincial public street or highway or a private road for new and existing lots;
  - provisions with respect to permitting multiple uses, buildings or structures to be developed on a lot and provisions with respect to permitting multiple uses to be developed within a building;
  - provisions to regulate the location of buildings and structures from other buildings and structures;
  - provisions to regulate the location of buildings and structures from public roads and watercourses;
  - provisions to regulate the location of buildings and structures from property boundaries;
  - provisions with respect to waiving the minimum property setback requirement so as to permit the rotor blade of a large scale wind turbine to overhang a property boundary;
  - provisions with respect to waiving the minimum setback requirement and the minimum separation distance requirement for mini scale wind turbines that are mounted on the roof of a residential dwelling;
  - provisions to regulate the height of buildings or structures;
  - provisions to regulate the color of buildings or structures;
  - provisions to regulate or prohibit the placing of commercial advertising on buildings, structures or property;
  - provisions with respect to nonconforming uses of land, nonconforming structures and nonconforming uses in a structure;
  - provisions with respect to the regulation of main buildings and structures and accessory buildings and structures on a lot; and
  - provisions with respect to the regulation of mini scale wind turbines, small scale wind turbines and large scale wind turbines;
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## **12.5 Amending the Land Use By-law**

Policy 9.1.9 sets out conditions whereby Council may entertain application to amend this Municipal Planning Strategy and Land Use By-law and what additional information must be submitted. However, there may be instances where Council may wish to entertain amendments to the Land Use By-law concerning the requirements established in the Land Use By-law.

### **Policy 12.5.1**

**In considering an application for an amendment to the Land Use By-law, Council shall ensure that the amendment is in conformity with the intent and policies of this Plan, the requirements of the Municipal Government Act and the Land Use By-law, and Council shall ensure that the proposal is not premature or inappropriate by reason of:**

- i. the financial capability of the Municipality to absorb any costs relating to the development;**
  - ii. the proposal not meeting the requirements of the land use by-law;**
  - iii. the extent to which development might conflict with any adjacent or nearby land uses, buildings or structures by reason of the type of use proposed, the compatibility of its design, the impact of height, bulk and lot coverage of proposed buildings or structures, the impact of nuisance factors from the proposed development such as illumination, flicker, noise, vibration, shadows, dust, odors and other safety concerns related to the development;**
  - iv. the adequacy of road networks, in, adjacent to, or leading to the development, the adequacy of provisions for vehicle access to and from the site and the adequacy of provisions for on and off-site parking and loading areas;**
  - v. the adequacy of physical site conditions for, and the provision of, on-site sewage disposal, water and storm water management, where not connected to a municipal system;**
  - vi. the adequacy of municipal services with particular regard to the demand the proposed development will have on the municipal storm water system, sanitary sewer system and water system;**
  - vii. the presence of significant natural features or buildings or sites of historical or architectural significance;**
  - viii. the suitability of the proposed site in terms of steepness of grades, soil or geological conditions and the potential for the creation of erosion or sedimentation;**
  - ix. the potential impact of the development on watercourses, protected wetlands or other sensitive habitat and on endangered species in the area of the proposed site; and**
  - x. the proposal not meeting the requirements of any other applicable municipal, provincial or federal government department, authority, board or agency and not having been granted a permit, license, authorization or approval of any other applicable provincial or federal government department, authority, board, tribunal or agency.**
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Applications for a land use by-law amendment, whether a rezoning or a text amendment, require careful consideration of the circumstances surrounding the request. Thus, it is incumbent on the applicant to supply adequate information to Council so as Council can adequately evaluate the application.

### **Policy 12.5.2**

**Council may require that any or all of the following information be submitted (in text, map or photographic form) by the applicant with respect to applications for land use by-law amendments:**

- i. information as to the physical and environmental characteristics of the proposed site, including information regarding topography, contours, elevations, dimensions, natural drainage, soils, geological features, watercourses, wetlands, swamps, marshes, fens or bogs, existing vegetative cover and vegetative cover to be retained**
  - ii. information as to the lot size, area, dimensions, ownership and location of the property;**
  - iii. information as to the proposed location, height, color, dimensions, nameplate capacity and use of all existing and/or proposed buildings or structures to be built, erected or altered on the site;**
  - iv. information as to the adequacy of the proposed provisions of central piped services for servicing with water and sewage disposal and site drainage and storm water management;**
  - v. information, where central piped services are not to be provided, as to the adequacy of physical site conditions for on-site sewage and water and storm water management;**
  - vi. information as to the adequacy of the proposed access to and from the lands and estimated traffic flows to be generated by the proposed development and parking and loading provisions;**
  - vii. information as to intended hours of operation, outdoor storage and/or display and commercial signage;**
  - viii. information as mitigation of the impact of nuisance factors such as illumination, flicker, noise, vibration, shadows, dust, odors and other safety concerns related to the development;**
  - ix. information as to the separation distance of the development from other buildings or structures, setback distance from public roads, watercourses and property boundaries and buffering between the proposed development and buildings, structures and properties;**
  - x. information as to the presence of significant natural features or buildings or sites of historical or archaeological significance;**
  - xi. information as to the presence of sensitive habitat or endangered species on the site of the proposed development; and**
  - xii. copies of a permit, license, authorization or approval from any other applicable provincial or federal government department, authority, board, tribunal or agency approving the design and operation of the proposed use, building, structure or project.**
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The MGA permits a municipality to recover notification and advertisement costs associated with land use by-law amendments and variances.

#### **Policy 12.5.3**

**It is the intention of Council to include provisions in the Land Use By-law regarding an administration deposit fee to cover the cost of advertising for Land Use By-law Amendments and Variances and the processing costs for notification of affected property owners. As estimated by the Council, the applicant shall deposit to the Municipality an amount sufficient to pay the cost of all advertising and notification with respect to the application. Should the notification or advertising cost be more than the established deposit, then the applicant may be billed for the difference, or if the cost is less than the established deposit, the applicant shall be refunded the difference.**

The MGA permits a municipality to recover processing costs associated with development permits, land use by-law amendments and variances.

#### **Policy 12.5.4**

**It is the intention of Council to include provisions in the Land Use By-law regarding an administrative processing fee to recover costs associated with applications for Municipal Development Permits, Land Use By-law Amendments and Variances.**

### **12.6 Notes to Readers**

To assist in the use of this Municipal Planning Strategy and the accompanying Land Use By-law, it is useful to include unofficial notes to the readers in the form of examples, diagrams, or explanations.

#### **Policy 12.6.1**

**It is the intention of Council to include a number of “Notes to Readers” in this Planning Strategy and its accompanying Land Use By-law. These “Notes to Readers” are for information and clarification purposes only, and does not form part the Annapolis County Municipal Planning Strategy or the Annapolis County Land Use By-law. Altering, deleting or adding such “Notes to Readers” shall be by resolution of Council and shall not require official amendment of this Planning Strategy or the Land Use By-law.**

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## **12.7 Public Participation Program**

As outlined at the beginning of this Municipal Planning Strategy, the Municipal Council undertook an extensive public consultation process. It was designed to involve the residents Annapolis County and to solicit their input in the development of this Planning Strategy and Land Use By-law. It is the opinion of Council that this plan and by-law are public documents and the public must be informed of changes to, or the entering into of development agreements made pursuant to the documents, above and beyond the statutory public hearing as set out in the *Municipal Government Act*.

### **Policy 12.7.1**

**It is the intention of Council that a public participation program for land use by-law text or rezoning amendments and amendments to this Municipal Planning Strategy shall consist of the following:**

- i. Referral of the application to the Planning Advisory Committee;**
- ii. Setting the date of the Planning Advisory Committee Public Meeting;**
- iii. Advertising the Planning Advisory Committee Public Meeting in a local newspaper (with the advertisement specifying the date, time and place of the public meeting, the matter to be discussed, the specific property affected, where applicable, and the place where application information is available);**
- iv. At the Planning Advisory Committee Public Meeting, prior to any discussion among Planning Advisory Committee members, members of the public are to be afforded an opportunity to speak, ask questions or obtain further information about the application;**
- v. At the Planning Advisory Committee Public Meeting, prior to any discussion among Planning Advisory Committee members, written submissions from members of the public are to be heard.**

### **Policy 12.7.2**

**It is the intention of Council to extend the public participation program, where Council deems it to be applicable and warranted, in relation to applications for land use by-law text or rezoning amendments and amendments to this Municipal Planning Strategy so as to require more advertisements or more information in the advertisement or otherwise vary the public information process set out in Policy 12.7.1.**

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