

The Corporation of the Township of Huron-Kinloss



# BY-LAW

2014 -106

---

BEING A BY-LAW TO ESTABLISH A FIRE SAFETY AND EMERGENCY PLAN AND INSTALL FIRE DETECTION AND SUPPRESSION SYSTEMS FOR INDUSTRIAL WIND TURBINES

---

**WHEREAS** Section 7.1(1) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, states that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

**WHEREAS** Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act, 2001*"), states that a municipality has the authority to govern its affairs as it considers appropriate and enables the municipality to respond to municipal issues;

**WHEREAS** Section 11(3) of the *Municipal Act, 2001* states that a municipality has the authority to pass by-laws regulating structures, and by-laws respecting the health, safety and well-being of persons and the protection of persons and property;

**AND WHEREAS** the Council of The Corporation of the Township of Huron-Kinloss deems it advisable and in the public interest to require Industrial Wind Turbines to have fire detection and suppression systems to prevent the spread of fires;

**NOW THEREFORE** the Council of The Corporation of the Township of Huron-Kinloss enacts as follows:

## Definitions

1. In this By-law:

**"Council"** means the Council of the Township;

**"Fire Chief"** means an individual appointed by the Township under subsection 6(1), (2) or (4) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, or his or her designate(s);

**"Industrial Wind Turbine"** means a wind energy conversion system erected to produce electrical power by capturing the kinetic energy in wind and converting it into electricity, with a minimum capacity of 1.5 megawatts;

**"Municipal Law Enforcement Officer"** means a person appointed by the Township under section 15 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended;

**"Owner"** means an owner of an Industrial Wind Turbine and/or an owner of land upon which an Industrial Wind Turbine is situate;

**"Township"** means The Corporation of the Township of Huron-Kinloss.

**"Wind Farm"** means an electrical generating facility comprised of an array of Industrial Wind Turbines.

### **Fire Detection and Suppression Systems**

2. Prior to the activation or operation of an Industrial Wind Turbine, an Owner shall submit, to the satisfaction of the Fire Chief, a plan for an automatic Industrial Wind Turbine fire detection and suppression system which must:
  - (a) detect fires in Industrial Wind Turbines;
  - (b) be able to suppress fires that occur in Industrial Wind Turbines; and,
  - (c) prevent the spread of fires that occur in Industrial Wind Turbines.
3. A plan submitted for approval under section 2 of this by-law may address all Industrial Wind Turbines contained or included in a Wind Farm.
4. Once the plan submitted under section 2 of this by-law has been approved by the Fire Chief, an Owner shall install and maintain an automatic Industrial Wind Turbine fire detection and suppression system in or on all Industrial Wind Turbines referred to in the submitted plan.
5. Subject to the provisions of section 6 of this by-law, an Owner shall not activate or operate an Industrial Wind Turbine that:
  - (a) was not referenced or included in a plan submitted for approval under section 2 of this by-law; or,
  - (b) does not have an automatic Industrial Wind Turbine fire detection and suppression system.

### **Existing Industrial Wind Turbines**

6. For those Industrial Wind Turbines in existence on the date this by-law is passed, an Owner shall:
  - (a) submit a plan for an automatic Industrial Wind Turbine fire detection and suppression system in accordance with section 2 of this by-law within sixty (60) days of the date this by-law is passed; and,
  - (b) following the review and approval of the plan by the Fire Chief, install and maintain an automatic Industrial Wind Turbine fire detection and suppression system in or on all Industrial Wind Turbines referred to in the submitted plan, in accordance with section 4 of this by-law, within one hundred and twenty (120) days of the plan's approval by the Fire Chief.
7. Should an Owner be unable to meet the timelines contained in section 6 for whatever reason, an Owner may ask Council to extend such timelines and Council may do so for whatever period of time it deems reasonable.

### **Inspections**

8. The Township may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (a) this by-law;
  - (b) a direction or order of the municipality made under the *Municipal Act, 2001* or made under a by-law of the municipality passed under the *Municipal Act, 2001*; or,
  - (c) an order made under section 431 of the *Municipal Act, 2001*.
9. For the purposes of conducting an inspection pursuant to section 8 of this by-law, the Township may, in accordance with the provisions of section 436 of the *Municipal Act, 2001*:
  - (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and,

- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

### **Work Orders**

- 10. Where the Fire Chief or a Municipal Law Enforcement Officer is satisfied that a contravention of this by-law has occurred, the Fire Chief or a Municipal Law Enforcement Officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
- 11. An order under section 10 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the work to be done and the date by which the work must be done.
- 12. An order under section 10 of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
- 13. Any person who contravenes an order under section 10 of this by-law is guilty of an offence.

### **Remedial Actions**

- 14. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the Township may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The Township may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 15. The costs outlined in section 14 of this by-law shall include interest calculated at a rate of 15 per cent (15%) or such lesser rate as may be determined by the Township, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.
- 16. The amount of costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under section 15 of this by-law to the date the payment is made. Upon receiving the payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

### **Enforcement**

- 17. This by-law may be enforced by the Fire Chief or by a Municipal Law Enforcement Officer.

### **Penalties**

- 18. Every Owner who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001* all contraventions of this by-law are designated as continuing offences.
- 19. Every person, excluding a corporation, who is convicted of this offence, is liable:
  - (a) to a minimum fine of Three Hundred Dollars (\$300.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence; and
  - (b) to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- 20. Every corporation which is convicted of an offence is liable:
  - (a) to a minimum fine of Five Hundred Dollars (\$500.00) and a maximum fine of One Hundred Thousand Dollars (\$100,000.00) for the first offence; and
  - (b) to a maximum fine of One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.

21. In addition to the fine amounts set out in sections 19 and 20 of this by-law, for each day or part of the day that an offence continues, the minimum fine shall be Four Hundred Fifty Dollars (\$500.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

**Fees & Charges**

22. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.
23. All of the Township's costs relating to the suppression of an Industrial Wind Turbine fire shall be borne, on a full cost recovery basis, by the Owners.
24. All of the Township's costs relating to third parties reviewing plans submitted for Industrial Wind Turbine fire detection and suppression systems shall be borne, on a full cost recovery basis, by the Owners.

**Short Title**

25. This by-law shall be known as the "Industrial Wind Turbine Fire Suppression By-Law."

**Severability**

26. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

**Coming Into Force**

27. This by-law shall come into force and effect upon final passage.

**READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED** this 17<sup>th</sup> day of November, 2014

Original Signed by Mitch Twolan

Mayor

Original Signed by Sonya Watson

Clerk