

**Subject: Zoning - Renewable Energy Generation Facility and Battery Energy Storage Systems Interim Regulations and Increasing Opportunity for Access to Retail Food Stores**

**File Number: ACS2023-PRE-EDP-0010**

**Report to Planning and Housing Committee on 5 July 2023**

**and Agriculture and Rural Affairs Committee on 6 July 2023**

**and Council 12 July 2023**

**Submitted on May 26, 2023 by David Wise, A/Director, Economic Development and Long Range Planning**

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**Ward: City Wide**

**Objet : Règlements intermédiaires sur l'installation de production de l'énergie renouvelable et sur les systèmes de stockage de l'énergie dans des batteries et amélioration des perspectives d'accès aux magasins d'alimentation au détail**

**Dossier : ACS2023-PRE-EDP-0010**

**Rapport au Comité de la planification et du logement**

**le 5 juillet 2023**

**et Comité de l'agriculture et des affaires rurales le 6 juillet 2023**

**et au Conseil le 12 juillet 2023**

**Soumis le 26 mai 2023 par David Wise, I/Directeur, Développement économique et planification à long-terme**

**Personne-ressource : Mitchell LeSage, urbaniste, Unité du Zonage**

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**Quartier : À l'échelle de la ville**

## REPORT RECOMMENDATIONS

That Planning and Housing Committee and Agriculture and Rural Affairs Committee recommend Council approve the following amendments to Zoning By-law 2008-250, as detailed in Document 1:

1. Permit a retail food store in additional zones;
2. Add a new definition for Renewable Energy Generation Facility and modify the definition of Utility installation to exclude Renewable Energy Generation Facilities; and
3. Limit the size of battery energy storage systems in Agricultural Zones.

## RECOMMANDATIONS DU RAPPORT

Que le Comité de la planification et du logement et le Comité de l'agriculture et des affaires rurales recommandent au Conseil d'approuver les modifications suivantes à apporter au Règlement de zonage (n° 2008 250) selon les modalités précisées dans la pièce 1 :

1. Autoriser l'aménagement d'un magasin d'alimentation au détail dans des zones supplémentaires;
2. Ajouter une nouvelle définition pour l'installation de production de l'énergie renouvelable et modifier la définition de l'installation des services publics afin d'exclure les installations de production de l'énergie renouvelable;
3. Limiter la taille des systèmes de stockage de l'énergie par des batteries dans les zones agricoles.

## BACKGROUND

As directed by Council on [February 22, 2023](#), a complete set of provisions to regulate renewable energy generation facilities will be brought to Council for approval in the Fall of 2023. Until that time, this interim amendment is needed to prevent a renewable energy generation facility from being established in a location that is not supported by the policies in [Section 4.11](#) of the Official Plan. This report also proposes interim amendments to limit the size of battery energy storage systems in Agricultural Zones.

For the sake of efficiency, also as part of this report, amendments are proposed to permit retail food stores in more locations in the city.

## DISCUSSION

### Amendments concerning retail food stores:

Food is a basic requirement for a healthy, walkable 15-minute neighbourhood. The Zoning By-law already permits retail food stores broadly across the city. Generally, where a retail store is a permitted use, a retail food store is also a permitted use. However, for the remaining zones where retail store is permitted and a retail food store is not a permitted use, amendments are proposed to add a retail food store as a permitted use. These zones include: certain R5 subzones (where limited non-residential uses are already permitted on the ground floor of a building), the I2 - Major Institutional Zone, L2B – Major Leisure Facility Subzone, MC7 - Mixed Use Commercial Subzone 7, and T2 – Ground Transportation Zone. A **retail food store** and a **retail store** are defined in the Zoning By-law as:

***Retail food store** means a store where primarily food, as well as other personal, convenience and household items and services, is provided for sale directly to the public and includes a supermarket, butcher shop, bakery shop, produce outlet, delicatessen or farmer's market. (magasin d'alimentation au détail)*

***Retail store** means a place where consumer goods are displayed for sale or rent, or sold directly to the public for the purchaser's own use, and includes a garden centre and a home sales display court. (magasin de détail)*

### Amendments concerning renewable energy generation facilities and battery energy storage systems:

The City of Ottawa is initiating an amendment to the Zoning By-law to implement interim zoning provisions for renewable energy generation facilities and battery energy storage systems until a full set of provisions to regulate these facilities is brought to City Council for approval in Q4 2023.

### Official Plan Policies

The Official Plan provides policies to guide where renewable energy generation facilities that require provincial approval may be permitted. Policies in [Section 4.11](#) of the Official Plan permit renewable energy generation facilities as a principal use of land only in the following designations on Schedule B9 and Schedules [C11-A](#), [C11-B](#) and [C11-C](#):

- Rural Countryside
- Greenbelt Rural and Greenbelt Facility

- Natural Environment Area (Greenspace sub-designation)

Large-scale provincially regulated wind turbines are not permitted in the Agricultural Resource Area designation, however small-scale wind generation associated with a residential or agricultural use is permitted. Energy produced by small-scale wind turbines may not be sold to the grid and the energy generated would be for the sole use of the property owner. A small wind turbine that is mounted on a barn to provide energy to the farm operation would be an example of small-scale wind generation.

Regarding policies for battery energy storage systems, policies in the Official Plan for the Agricultural Resource Area designation direct that prime agricultural areas should be preserved for agricultural uses. On-farm diversified uses and agriculture-related uses that are compatible with and do not hinder surrounding agricultural operations are also permitted by the policies, subject to limitations on size, scale and location on the property as determined by the Zoning By-law. Staff recommend a similar approach to regulate a battery energy storage system located in an Agricultural Resource Area designation to maintain the primacy of agricultural operations.

### **Proposed Interim Zoning Provisions**

Renewable energy generation facilities and battery energy storage systems currently fall within the definition of **Utility installation** in the Zoning By-law. [Utility installations](#) are permitted in all zones except the EP – Environmental Protection, ME - Mineral Extraction and MR - Mineral Reserve Zones. This means that renewable energy generation facilities and battery energy storage systems are currently permitted throughout the city without regulations to address land use impacts. A utility installation is defined in the Zoning By-law as:

***Utility installation*** means the equipment used to make or deliver a utility product, commodity or service and includes the actual building, plant, works, utility line, tower, relay, pedestal, and may also include a storm water management facility, but excludes antenna systems.

Battery energy storage systems (BESS) can store energy from the power grid during periods when supply exceeds demand, and discharge energy when additional energy is needed. A BESS may support a utility installation or a renewable energy generation facility. A BESS falls within the definition of utility installation in the Zoning By-law and like utility installations, are permitted in all zones except EP – Environmental Protection, ME – Mineral Extraction and MR – Mineral Reserve Zones.

This report proposes to add a new definition for renewable energy generation facility to the Zoning By-law, as follows:

**“Renewable energy generation facility** means a facility as defined in the *Electricity Act*, 1998, S.O. 1998, C. 15 Sched A, and not exempt under section 62(1) of the *Planning Act*, R.S.O, 1990, c. P.13..”

The definition of Utility installation is proposed to be modified to exclude renewable energy generation facilities,

**“Utility installation** means the equipment used to make or deliver a utility product, commodity or service and includes the actual building, plant, works, utility line, tower, relay, pedestal, and may also include a storm water management facility, but excludes antenna systems and **renewable energy generation facility.**”

However, renewable energy generation facilities will not be listed as a permitted use in any zone. As a result, a proponent for a renewable energy generation facility will be required to apply for a zoning by-law amendment to permit a proposed facility. This requirement will continue until a complete set of provisions to permit and regulate such facilities are brought to Council for approval in Q4 2023.

Staff propose maintaining the current permissions for BESS in all zones except EP – Environmental Protection, ME – Mineral Extraction and MR – Mineral Reserve Zones. However, a new interim provision is proposed that would limit the area of land used for such systems by applying provisions that mirror the current size limitations in the Zoning By-law for on-farm diversified uses. This interim amendment protects agricultural lands for agricultural uses until a review is conducted as part of the development of provisions for renewable energy generation facilities. Any modified provisions based on the findings of the study, such will be proposed as part of the Fall 2023 report. For details of recommended zoning concerning renewable energy generation facilities and BESS, please see Document 1 – Zoning Details.

Section 62(1) of the *Planning Act* exempts certain projects from regulation under the *Planning Act*. Jurisdictional issues regarding the applicability of the *Planning Act* to various forms of energy generation will be studied as part of the development of provisions for renewable energy generation facilities. The findings of that work and the implications for zoning provisions relating to energy generation will be presented in the Fall 2023 report. Please see Document 2 for relevant excerpts from the *Planning Act* and *Electricity Act*.

The proposed provisions would limit the size of a BESS in an AG – Agricultural Zone to 2% of the total lot area, to a maximum of 1 hectare.

### **Public consultation**

A public circulation was undertaken in accordance with the requirements of the *Planning Act* and the Official Plan. Comments were received concerning the impacts of large-scale wind turbines. Please see Document 3 – Consultation Details.

### **Provincial Policy Statement**

The proposed amendments are consistent with the Provincial Policy Statement 2020

### **RURAL IMPLICATIONS**

This report is an interim step towards regulating renewable energy generation facilities in accordance with policies in the Official Plan which direct renewable energy generation facilities that require provincial approval to certain rural designations. Once the amendments proposed in this report come into effect, renewable energy generation facilities will not be permitted in any zone until such time as a subsequent report is approved with appropriate provisions to regulate such facilities.

### **LEGAL IMPLICATIONS**

There are no legal impediments to adopting the recommendations in the report. As noted in the report, there will be a subsequent report brought forward this year to complete the Council direction with respect to renewable energy generation facilities.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications with the recommendations of this report.

### **ASSET MANAGEMENT IMPLICATIONS**

Receipt of this report does not carry asset management implications. The implementation of the Comprehensive Asset Management program enables the City to effectively manage existing and new infrastructure to maximize benefits, reduce risk, and provide safe and reliable levels of service to community users. This is done in a socially, culturally, environmentally, and economically conscious manner. When the City commits to the acquisition of new assets, consideration must also be given to the City's commitment to fund future operations, maintenance and renewal costs. It must also account for future depreciation when reviewing long term financial sustainability. When reviewing the long-term impacts of asset acquisition, it is useful to consider the

cumulative value and lifecycle costing of the acquired assets being taken on by the City.

## **CLIMATE IMPLICATIONS**

Since the Green Energy Act was repealed in 2018, municipal authority over the siting of new renewable energy generation projects was restored through amendments to the Planning Act. Section 4.11 of the Official Plan contains policies to direct where large-scale provincially approved renewable energy generation projects are permitted.

In 2020, City Council approved updated short, mid and long-term reduction targets with the ultimate goal of reducing community emissions by 100% by 2050 and corporate emissions by 100% by 2040 to align with the Intergovernmental Panel on Climate Change's target to limit global warming increases to 1.5 degrees Celsius. The Energy Evolution Strategy describes a modeled pathway for what it will take to achieve deep greenhouse gas (GHG) emissions reductions aligned with current science. The pathway requires a transition of the energy system to clean electricity by 2050 with a focus on 1) energy conservation, 2) energy efficiency, and 3) the deployment of renewable energy.

Energy Evolution is a community wide initiative with a vision "to transform Ottawa into a thriving City powered by clean, renewable energy by 2050". Local renewable electricity generation was contemplated in the model as electricity demand is expected to increase over the next 30 years and in order to offset the GHG content of electricity supplied by the provincial bulk transmission grid. Specifically, the model contemplated generation from wind solar and battery energy storage systems.

The demand for electricity in Ontario is expected to increase in the coming decades as a result of moving away from fossil fuel sources for energy generation to renewable sources such as wind and solar. Grid-scale energy storage systems are useful to support the integration of renewable resources by saving surplus energy for use in peak demand periods and in helping smooth out the variability of energy output caused by unpredictable weather. Through recent procurements, the province is currently seeking to establish energy storage as a major contributor to increase the efficiency, reliability and sustainability of the electricity grid. The proposed interim zoning amendments are necessary to meet the intent of the Official Plan and address future energy projects in an orderly manner.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications.

**ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with the recommendations in this report.

**SUPPORTING DOCUMENTATION**

Document 1 – Zoning Details

Document 2 – *Planning Act* and *Electricity Act* Excerpts

Document 3 – Consultation Details

**CONCLUSION**

The recommendations of this report maintains the intent of the Official Plan with regard to healthy communities and renewable energy generation facilities and ensures that appropriate zoning provisions are applied prior to a renewable energy generation facility being established.

**DISPOSITION**

Office of the City Clerk, Council and Committee Services to notify Krista O'Brien, Program Manager, Tax Billing & Control, Finance Services Department (Mail Code: 26-76) of City Council's decision.

Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

Legal Services, Innovative Client Services Department to forward the implementing by-law to City Council.

Planning Operations, Planning Services to undertake the statutory notification.

## Document 1 – Zoning Details

The proposed change to the City of Ottawa Zoning By-law No. 2008-250 to implement interim measures for Renewable Energy Generation Facilities and battery energy storage system facilities and increasing opportunity for access to retail food stores.

Amend By-law No. 2008-250 by adding provisions similar in intent to the following:

1. Amend Section 54 by replacing the definition of utility installation with the following:

**“Utility installation** means the equipment used to make or deliver a utility product, commodity or service and includes the actual building, plant, works, utility line, tower, relay, pedestal, and may also include a storm water management facility, but excludes antenna systems and **renewable energy generation facility.**”

2. Further amend Section 54 by adding a new definition for Renewable generation facility as follows:

**“Renewable energy generation facility** means a facility as defined in the *Electricity Act*, 1998, S.O. 1998, C. 15 Sched A, and not exempt under section 62(1) of the *Planning Act*, R.S.O., 1990, c. P.13..”

3. Add a new subsection (5) to Section 91 as follows:

“(5) In the AG zone, a utility installation consisting of a battery energy storage system is limited to 2% of the total lot area, to a maximum of 1 hectare.”

4. Amend Table 164B by adding “retail food store” to the additional uses permitted in endnotes 7, 12, and 44.
5. Amend Subsection 171(3) by adding “retail food store” to the list of permitted uses.
6. Amend Clause 176(2)(a) by adding “retail food store” to the list of permitted uses.
7. Amend Clause 192(7)(g) by adding “retail food store” to the list of permitted uses.
8. Amend Clause 209(2)(b) by adding “retail food store” to the list of permitted uses.

**Document 2 – *Planning Act* and *Electricity Act* Excerpts****Renewable energy generation facility definition from the *Electricity Act*:**

<https://www.ontario.ca/laws/statute/98e15#BK2>

“renewable energy generation facility” means a generation facility that generates electricity from a renewable energy source and that meets such criteria as may be prescribed by regulation and includes associated or ancillary equipment, systems and technologies as may be prescribed by regulation, but does not include an associated waste disposal site, unless the site is prescribed by regulation for the purposes of this definition”

***Planning Act* 62(1):**

<https://www.ontario.ca/laws/statute/90p13#BK95>

(1) A project within the meaning of the *Environmental Assessment Act* is not subject to this Act or to section 113 or 114 of the *City of Toronto Act, 2006* if,

(a) the project is undertaken by a transmitter in respect of a transmission system, within the meaning of those terms under the *Electricity Act, 1998*, and,

(i) the project is approved under Part II.3 of the *Environmental Assessment Act*, or

(ii) the prescribed requirements for commencing the project under Part II.4 of the *Environmental Assessment Act* have been satisfied; or

(b) the project is undertaken by Ontario Power Generation Inc. and has been approved under Part II.3 of the *Environmental Assessment Act, 2021*, c. 25, Sched. 23, s. 1 (1).

## **Document 3 – Consultation Details**

### Notification and Consultation Process

Notification and public consultation was undertaken in accordance with the Public Notification and Public Consultation Policy approved by City Council for Zoning By-law amendments.

### Public Comments and Responses

#### **Comment:** From Ottawa Wind Concerns

Ottawa Wind Concerns has concerns about the location and impacts of renewable energy generation facilities and their proximity to residents. Concerns were also raised about the lack of City regulation with respect to renewable energy generation facilities.

#### **Response:**

The purpose of this report is to introduce interim measures that would limit renewable energy generation facilities to site-specific locations where a zoning by-law amendment has been obtained to permit the facility. These interim measures are needed until the complete set of provisions to regulate these facilities are brought to Council for approval in Q4 2023. The comments and concerns from Ottawa Wind Concerns will be forwarded to the file lead of that report for their consideration. The public consultations for the Q4 2023 report will include consultations with Hydro Ottawa and other industry stakeholders.