



## **Municipality of the District Of Lunenburg**

### **Proposed Amendments of Municipal Planning Strategy and adoption of a new Municipal-Wide Land Use By-Law to include Coastal Protection Regulations**

#### **PUBLIC HEARING**

**Council Chambers – Municipality of the District of Lunenburg (MODL)  
Thursday, June 13, 2024 at 4 p.m**

#### **Public Hearing Agenda**

- 1. Call to Order at 4:00 p.m.**
- 2. Opening Remarks by Mayor Carolyn Bolivar-Getson**
  - (a) Introductions
  - (b) Review of Agenda and Rules of Conduct
- 3. Report and Presentation from Planning Staff**
- 4. Written and Verbal Presentations from the Public**
  - (a) Confirmation of Written Submissions (if any)
  - (b) Verbal Presentations by the Public (if any)

#### **5. Break**

A break will begin at a point between 6:00 or 6:30 p.m. and then return to Council Chambers promptly at 7:00 p.m. to resume the Public Hearing and continue verbal presentations to Council. The Chair will advise on break timing.

#### **6. Continuation of Verbal Presentations from the Public**

- (a) Verbal Presentations by the Public (if any)

## **7. Review of Approval Process**

Municipal Council may make a decision at a future Council meeting once the Public Hearing has closed. A Special Council meeting has been scheduled for Tuesday, June 18<sup>th</sup>, at 9:00 am, at which time Council will consider Second Reading and subsequent approval of the amended Municipal Planning Strategy and the new Municipal wide Land Use By-law. Should Council approve the documents, they are forwarded to the Department of Municipal Affairs for review and confirmation that they do not conflict with any provincial statements of interest. A Notice of Approval is then issued advising of the adoption of these documents. The date that the Public Notice is published is the date the Municipal Planning Strategy and Municipal wide Land Use By-law become effective.

## **8. Closing of the Public Hearing at approximately 9:00 p.m.**

**Special Note:** If there are still individuals waiting to speak at 9:00 p.m., the Chair will determine the next steps depending on the number of remaining speakers. The Hearing may run until no later than 9:30 p.m. or continue into additional days.



## Municipality of the District of Lunenburg

### Report to Council

**Report to: Mayor and Municipal Council**

**Submitted by: Ella R. Gindi, Planner I, Reid Shepherd, Manager of Planning**

**Date: June 13, 2024**

**Re: Coastal Protection Regulation – Public Hearing**

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### Origin

On May 14, 2024, during a regularly scheduled Council meeting, Council passed the following three motions related to coastal protection regulations:

- 1. That Municipal Council give notice of its intention to repeal the existing Municipal Planning Strategy and replace it with the amended Municipal Planning Strategy that incorporates formatting, numbering, and accessibility changes to existing sections, as well as the addition of new sections containing policies related to coastal protection and to conduct First Reading.**
- 2. That Municipal Council give notice of its intention to adopt the new Municipal-wide Land Use Bylaw and to conduct First Reading.**
- 3. That Municipal Council set a date and time for a Public Hearing for the amended Municipal Planning Strategy and new Municipal-Wide Land Use Bylaw regulations on *June 11<sup>th</sup> at 7pm*, in Council Chambers, and further that Municipal Council instruct staff in the meantime, to schedule public information meetings to inform residents about the implications of the new regulations prior to the Public Hearing.**

Municipal Council then directed staff to hold three in-person and one online public information session. The in-person sessions were held in Riverport, LaHave, and Tancook Island in late May

2024. The online session took place on June 4, 2024. These sessions served to inform the public about the proposed regulations and help answer questions.

## Recommendations

To date, establishing coastal protection regulations has involved extensive discussions and feedback from both the public and Municipal Council. On May 14, 2024, Municipal Council conducted the First Reading and directed staff to organize public information sessions and a public hearing. Implementing these regulations requires introducing a new Land Use By-law as well as amendments to the existing Municipal Planning Strategy.

Staff are recommending that Council adopt the proposed amended Municipal Planning Strategy and new Municipal-Wide Land Use By-law. These documents are attached as follows:

**Appendix 1:** Municipal Planning Strategy

**Appendix 2:** Municipal-Wide Land Use By-law

A special council meeting, with an agenda item of Coastal Protection Regulations – Second Reading, has been scheduled for June 18<sup>th</sup>, 2024. Should they wish to proceed with the recommended regulations, Council may adopt the new regulations at that meeting.

Should Council wish to proceed with the recommendations and adopt the new regulations,

## Discussion

The following information outlines in detail, the requirements, process, feedback, and considerations that went into the development of the draft Coastal Protection regulations.

### **Amended Municipal Planning Strategy**

The Municipality of the District of Lunenburg (MODL) currently has a Municipal Planning Strategy that needs to be repealed and replaced with a new document that includes edits to older sections and addition of new sections. Full replacement of the document provides better accessibility and new sections pertaining to coastal protection policies.

### **New Municipal-wide Land Use By-law**

MODL does not have a Municipal-wide Land Use By-law, and because of this, a new one has been drafted. The creation of this new document is necessary to introduce the new coastal protection regulations in the areas currently without zoning. The new Municipal-wide Land Use By-law document contains standard regulatory information such as title and purpose, definitions, administration, and general provisions that include the specific and coastal protection regulations. It should be noted that at a later date, the MODL2040 land use planning

project will significantly revise this Municipal-wide Land Use By-law and contain wide-spread and detailed zoning and development regulations in line with the provincial mandatory minimum planning requirements.

## **Background**

The following provides a summary of the overall policy and regulatory changes to the existing Municipal Planning Strategy and within the New Municipal-wide Land Use By-law.

In 2023, Council began the process of introducing municipal coastal protection regulations. The regulations are intended to protect development on the coast from the effects of climate change and to protect the coast from human development by addressing concerns such as coastal erosion, flooding, and the preservation of sensitive ecosystems.

The proposed regulations include several aspects:

### **Regulatory Framework:**

- Establishment of a regulatory boundary, excluding all tidal rivers.
- Implementation of education and awareness initiatives.
- Provision for a 5-year policy review cycle.

### **Coastal Flooding Measures:**

- Introduction of a 3.97-metre vertical elevation setback to prohibit new habitable space and institutional uses below this threshold.
- Exemption for non-habitable accessory uses.
- Consideration of non-conforming allowances and flexibility for existing structures.

### **Coastal Erosion Policies:**

- Identification of a 30-metre erosion risk area from the top of the bank or ordinary high-water mark.
- Option for erosion risk reduction through a study, allowing for a minimum setback of 15 metres.
- Requiring a 15-metre vegetative buffer.
- Incorporation of non-conforming allowances and flexibility for existing structures.

### **Protection of Sensitive Coastal Ecosystems:**

- Establishment of a 30-metre horizontal coastal wetland setback and vegetative buffer.
- Collaboration with environmental NGOs to enhance protection efforts.
- Flexibility to amend wetland mapping based on study findings regarding wetland presence or absence.

## **Background Research:**

The following outlines the steps taken to develop the coastal protection policy and regulatory framework:

- Staff prepared a background report including best practices, literature review, and jurisdictional review.
- Engaged in discussions with experts to inform decision-making.
- The first council workshop on May 9, 2023, covered topics including coastal erosion, flooding, ecosystems, as well as the bare land condominium ownership structure and cluster development style.
- Staff met with several experts from different levels of government, professors at Dalhousie University, non-profit environmental organizations, and hydrogeology experts to determine regulatory approaches for coastal protection.

## **Public Engagement Findings:**

Throughout the spring and summer of 2023, a thorough public engagement effort focused on Coastal Protection unfolded, employing online webpages, open houses, and surveys to gather input on Coastal Protection measures. The feedback from the community was summarized into a What We Heard Report (WWHR) which can be found at [engage.modl.ca](https://engage.modl.ca). Further comments from the public (compiled in Appendix A) have been collected since the beginning of the Coastal Protection project and cover a range of concerns and suggestions.

Comments included requests for clarification on terminologies and data sources used in the regulations, calls for consideration of right of ways to coastal areas amidst ongoing privatization, inquiries into the accuracy of sea level rise projections, and apprehensions regarding the potential impact the coastal regulations will have on property values and development opportunities along the coast. While some expressed general support for the proposed regulations, others voiced disappointment over the Council's decision not to endorse more stringent recommendations. Additionally, there were concerns raised about the removal of rivers from the regulatory framework.

The public information sessions held after Municipal Council passed first reading allowed members of the public to receive additional information regarding the proposed coastal protection regulations.

### **Presentation of Findings and Recommendations:**

The Coastal Protection What We Heard Report (WWHR), presented to the Council on August 29, 2023, provided Council and the public with a comprehensive summary of community perspectives on coastal protection. Following the presentation of the engagement findings, two Council workshops were held on September 19, 2023, and November 14, 2023, serving as platforms to present staff recommendations. The workshops provided Council the opportunity to thoroughly discuss the recommendations and raise any questions or concerns.

### **Planning Advisory Committee Review:**

The Coastal Protection staff recommendations were formally presented to the Planning Advisory Committee on October 12 and October 26, 2023. Following thorough review and deliberation, the Planning Advisory Committee provided a recommendation to Council, expressing support for the proposed regulations. Additionally, they suggested a modification to the policy, advocating for more frequent reviews to ensure its continued relevance and effectiveness in safeguarding coastal areas.

### **Council Direction and Subsequent Actions:**

During the November 28, 2023, meeting, Council rejected the Planning Advisory Committee recommendations. Subsequently, staff prepared alternative recommendations, which Council supported on January 9, 2024, and directed staff to draft the coastal protection regulations.

On February 27, 2024, proposed coastal protection regulations were scheduled to go before Council for first reading. However, the day before Council's meeting, the province released a document called [The Future of Nova Scotia's Coastline](#), containing measures aimed at protecting the coast. In response, Council postponed the coastal protection first reading.

On April 9, 2024, staff presented to Council, outlining the differences between the sea level, storm surge, and higher high water large tides figures provided by the province and those presented by staff. Following this presentation, provincial representatives were available to address Council's inquiries.

On April 24, 2024, the Council discussed coastal flooding maps and elevation requirements. They passed a motion to adopt staff's recommended flood risk elevation of 3.97 meters (CGVD2013) and to conduct the coastal protection regulation first reading on May 14, 2024.

On May 14, Council conducted first reading and directed staff to conduct Public Information Sessions followed by a Public Hearing on June 13. This direction was noted in the motions referenced at the beginning of the report.

### Next Steps

If Council decides to conduct Second Reading they will do so on June 18, 2024. If Second Reading is conducted, the following would then occur:

- Publish a notice on the municipal website and in the local newspaper to inform the public that the Municipal Council has conducted the Second Reading.
- Staff will prepare and send the necessary documentation to the province.
- Staff will await the province’s approval.
- Publishing of the provincial approval would serve as the final step and confirmation that the new regulations are in effect.

Report Preparation	
Department	Planning and Development Services
Report Prepared by	Ella R. Gindi, Planner I and Reid Shepherd, LPP, MCIP, Manager of Planning
Report Approved by	Reid Shepherd, LPP, MCIP, Manager of Planning
Date Reviewed by C.A.O.	



# **Municipality of the District of Lunenburg**

## **Municipal Planning Strategy**

Approved by Council on XXXXXX

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## 1. Part 1 – Overview

### 1.1 Background

The Municipality of the District of Lunenburg (MODL) is one of five municipal units found in Lunenburg County, Nova Scotia. The Municipality was first incorporated as a separate political entity with the concurrent incorporation of the District of Chester in 1879. The County itself was first established in 1759. Covering an area of approximately 1,760 square kilometres, the Municipality surrounds the three towns of Bridgewater, Mahone Bay and the Town of Lunenburg.

The Municipality consists of over 130 established communities, many of which date from the period of European settlement in the eighteenth and nineteenth centuries. Initial settlement created a dispersed community pattern, with many north-south roadways, reflecting the significantly higher degree of private land that was originally granted in Lunenburg County than can be found in other parts of Nova Scotia.

The 2016 Statistics Canada Census population for MODL was 24,863. Population decline for the Municipality has occurred in the last four census periods. Within the Municipality, there are identified areas of more recent population growth, with new subdivision and building occurring more intensively, while other communities are facing notable decline, specifically with a diminishment in average household sizes.

#### Population: 1991 to 2016 (taken from various Statistics Canada Censuses)

Year	1991	1996	2001	2006	2011	2016
<b>Municipality</b>	25,684	25,949	25,570	25,160	25,138	24,863
<b>County</b>	47,630	47,560	47,595	47,150	47,310	47,126
<b>Province</b>	899,945	909,280	908,005	913,465	921,725	923,598
<b>Canada</b>	27.2M	28.8M	30.0M	31.6M	33.4M	35.1M

Coupled with the evident stagnation in local population growth, the shift in local age demographics has also shaped the Municipality's development in the last two decades. Such shifts alter individual perspectives on both the use and type of services that a Municipality offers to residents.

#### Age: 1991 & 2016, Municipality & Nova Scotia Comparisons, Percentages

Age Range	Municipal		Provincial	
	1991	2016	1991	2016
<b>0-19</b>	26%	17%	28%	20%
<b>20-39</b>	30%	17%	33%	23%

<b>40-64</b>	29%	42%	26%	37%
<b>65+</b>	15%	24%	13%	20%

The Municipality’s proximity to the Halifax Regional Municipality, which has acted as the employment and population growth centre for the province for the last two decades, has also had consequences on the Municipality’s development. Where there has been a long history of interaction between the Towns the Municipality surrounds, in terms of employment and services, communities on the South Shore have increasingly identified where, as a region, local communities have been impacted by Halifax’s predominance and economic growth. Continued change resulting from broader technological, cultural, and economic transitions in society are anticipated to bring opportunities and challenges.

## 1.2 Authority and Scope

The *Municipal Government Act* allows Council to adopt a Municipal Planning Strategy which sets out Council's policies for governing the Municipality. The *Municipal Government Act* also specifies how Council adopts or amends a Municipal Planning Strategy and how to present it for the review of the Director of Planning for Municipal Affairs.

Section 212 of the *Municipal Government Act* allows Council to adopt a Municipal Planning Strategy for all or for part of the Municipality. The Strategy can address problems and opportunities in the development of land, as well as the environmental, social, and fiscal effects of developments. It can also establish programs for putting policies into effect.

Sections 213 and 214 of the Act allows a Municipal Planning Strategy to include policy statements on matters such as:

- The goals and objectives of the Municipality;
- The improvement of the physical and social environment;
- The use, protection, and development of lands;
- The protection of pits, quarries, and aggregate deposits;
- The provision of municipal services and facilities;
- Environmental protection;
- Municipal finances;

- Land subdivision;
- Use and conservation of energy;
- Public involvement in planning;
- Stormwater management and erosion control;
- Municipal investment in public and private development; and
- Any other matter related to the physical, social, or economic environment of the Municipality.

Council's policies on these matters can be put into effect through resolutions of Council or through a wide range of municipal By-laws. The *Municipal Government Act* specifically enables Council to adopt two By-laws which have special relationships with the Municipal Planning Strategy: the Land Use By-law and the Subdivision By-law. Under Section 210 of the *Municipal Government Act*, a Land Use By-law cannot be adopted or amended contrary to the policies stated in the Municipal Planning Strategy. Under Section 271(2) of the *Municipal Government Act*, a Subdivision By-law cannot conflict with the Provincial Subdivision Regulations and may address some topics only if the Municipal Planning Strategy has policies to support the By-law. Council has adopted eight Land Use By-laws applying to various parts of the Municipality, and a Subdivision By-law applying to the whole of the Municipality.

### **1.3 Purpose**

The following policies express Council's purposes in adopting this Municipal Planning Strategy:

- 1.3.1** This Municipal Planning Strategy provides a framework and a process to accommodate change in development, land use, and division of land in the Municipality.
- 1.3.2** This Municipal Planning Strategy applies to the whole of the Municipality and expresses those policies of Council which apply to the whole of the Municipality.

### **1.4 Structure**

- 1.4.1** This Municipal Planning Strategy applies to the whole of the Municipality, which is an area of land shown throughout Maps 1, 2, and 3.
- 1.4.2** This Municipal Planning Strategy is a primary policy document through which the future growth and development of the Municipality will be encouraged, guided, and controlled.

- 1.4.3** The Maps referred to in the various policies of this Municipal Planning Strategy form part of the Municipal Planning Strategy.
- 1.4.4** Throughout this Municipal Planning Strategy, the Subdivision By-law, and Land Use By-laws, the metric measurement system is used to show the required standards.

## **1.5 Administration**

The Municipal Planning Strategy is adopted under the authority of the *Municipal Government Act*. It governs the subdivision of land and the use of land within the boundaries of the Municipality. The Planning Strategy expresses Council's intentions and policies. The Subdivision By-law and Land Use By-laws provide the detailed requirements and rules which carry out the intent of the Planning Strategy. Amendments to the Subdivision By-law and to the Municipal Planning Strategy follow the same procedure and any amendment may require the approval of the Minister of Municipal Affairs. Council may amend a Land Use By-law provided the amendment conforms with the policies in the Municipal Planning Strategy.

Council's specific policies for administration of the Municipal Planning Strategy, the Subdivision By-law and Land Use By-laws are:

When considering amendments to the Subdivision By-law or to Land Use By-laws, the Council must consider the following:

- That the proposal conforms to the intent of the Municipal Planning Strategy; and
- That the proposal conforms to all applicable requirements of all municipal By-laws and the Provincial Subdivision Regulations.

A Public Participation Program must be held prior to any proposed amendment to the Municipal Planning Strategy, to the Subdivision By-law, or to a Land Use By-law as well as in conjunction with the ten-year review of the Municipal Planning Strategy, and the purpose of the Public Participation Program will be to hear the opinions of the public.

The Municipal Engineer appointed by Council will be responsible for the review and approval of all engineering drawings and proposals for all municipal services, including proposals for central sewer and central water systems.

Amendment of this Planning Strategy will be required where any policy expressed in the Planning Strategy is to be changed or where any amendment to a Subdivision By-law or a Land Use By-law would be in conflict with the policies expressed in this Planning Strategy.

This Municipal Planning Strategy and any subsequent amendments must be reviewed as required by the *Municipal Government Act*, when requested by the Minister of Municipal Affairs, or when deemed advisable by Municipal Council, but in any case, not later than ten years from the date of its coming into force and effect.

## 2. Part 2 – Land Use Control

### 2.1 Powers

Although a Municipal Planning Strategy may state policies which are carried out through resolutions of Council or through By-laws other than the Land Use By-law, the Land Use By-law has a special relationship with the Municipal Planning Strategy. Section 210 of the Act forbids Council from adopting or amending a Land Use By-law contrary to the policies stated in the Municipal Planning Strategy.

Sections 220 to 224 of the Act detail specific aspects of land use which a municipality can regulate through a Land Use By-law. They include such things as:

- Creating zones together with lists of structures and land uses permitted or prohibited in each zone;
- Lot frontage, area, yard requirements and density;
- Location, height, floor area, and external appearance of structures;
- Population density;
- The nature, kind, size and description of advertising;
- Fences, walks, landscaping and outdoor lighting;
- The excavation or filling in of land;
- Development near watercourses, on unstable ground, or adjacent to pits and quarries;
- Parking requirements; and
- Temporary developments.

Where there is a Land Use By-law in effect Section 244 of the Act states that a Municipal Development Permit is required for any development, but also allows the By-law to specifically exempt some developments from this requirement.

### 2.2 History

Council considered the possibility of regional planning in the middle 1970s, and rejected a proposal for land use control in the Village of Hebbville in 1977 after a lively public debate. Similar proposals for detailed land use control in other communities have resulted in similar lively public debates. Because of these experiences, Council has been unwilling to consider land use control under the authority of the *Municipal Government Act* unless a community requests such zoning.

Those communities which are subject to Secondary Planning Strategies and Land Use By-laws are discussed in Part 4, Secondary Planning Strategies. Land use controls which are subject to the Municipal-Wide Land Use By-law are discussed in Part 5, Municipal-Wide Land Use Policies.

## **2.3 Intent**

The following policies express Council's intentions for the control of land use within the Municipality.

- 2.3.1** It is the policy of Council to refrain from imposing land use control through a Land Use By-law on any part of the Municipality unless a community specifically requests Council to adopt a Land Use By-law for that community.
- 2.3.2** Despite Policy 2.3.1, Council may prepare a Secondary Planning Strategy and a Land Use By-law on its own initiative where Council deems that such land use control is in the best interests of the community and of the Municipality.
- 2.3.3** Despite Policy 2.3.1, Council may prepare a municipal-wide Land Use By-law on its own initiative where Council deems that such land use control is in the best interests of the Municipality.

## **2.4 Method**

Where Council wishes to regulate land use in accordance with Policy 2.3.1, Policy 2.3.2 or 2.3.3, Council can do so only by adopting a Land Use By-law. As discussed in Subsection 2.1 above, these Land Use By-laws must conform with policies set out in a Municipal Planning Strategy. Policy 1.3.2 states that this Municipal Planning Strategy applies to the whole Municipality and so any land use By-laws must conform to the policies of this Municipal Planning Strategy.

The *Municipal Government Act* provides in Section 212 for Council to adopt Secondary Planning Strategies which form part of this Municipal Planning Strategy and which apply to specific areas of the Municipality. These Secondary Planning Strategies are discussed in Part 3 (below) of this Municipal Planning Strategy, and will express Council's specific policies regarding land use control in specific areas of the Municipality.

- 2.4.1** It is the policy of Council to consider adopting a Secondary Planning Strategy and a Land Use By-law for the purpose of regulating land use in accordance with Policy 2.3.1, Policy 2.3.2 or 2.3.3.

### 3. Part 3 – Subdivision Control

#### 3.1 Powers

This Municipal Planning Strategy sets out Council's policies on the subdivision of land, in support of the Municipal Subdivision By-law.

The *Municipal Government Act* defines "Subdivision" in Section 191, Clause (q):

"subdivision' means the division of any area of land into two or more parcels, and includes a re-subdivision or a consolidation of two or more parcels."

Subsection 268(2) of the *Municipal Government Act* reduces the impact of this definition by listing ways of dividing land which the Act specifically does not affect. The following divisions of land do not require approval by a Municipal Development Officer under a Municipal Subdivision By-law:

- (a) Where all lots to be created, including the remainder lot, exceed ten hectares in area;
- (b) Resulting from an expropriation;
- (c) Resulting from an acquisition or disposition of land by His Majesty the King in right of the Province or in right of Canada or by an agency of His Majesty;
- (d) Of a cemetery into burial lots;
- (e) Resulting from an acquisition of land by a municipality for municipal purposes;
  - (i) Resulting from an acquisition of land by a village for village purposes;
- (f) Resulting from the disposal, by a municipality or His Majesty the King in right of the Province, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;
  - (i) Resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;
- (g) Of an abandoned railway right of way;
- (h) That is a consolidation of a part of an abandoned railway right of way with adjacent land;

- (i) Resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;
- (i) Resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the Condominium Act;
- (ii) Resulting from the quieting of a title; and
- (j) Resulting from a devise of land by will executed on or before January 1, 2000.

The *Municipal Government Act* further restricts the powers of a Municipality's Subdivision By-law at Section 271(2), by requiring the By-law to include all applicable parts of the Provincial Subdivision Regulations. These may not be relaxed unless a Municipal Planning Strategy explains the relaxation. Relaxing the requirements is greatly restricted by Section 208(3) which allows the Minister of Municipal Affairs to refuse approval of a Municipal Planning Strategy if it conflicts with any provincial interest. The Provincial Subdivision Regulations express provincial interests and no relaxation of requirements will be permitted without background studies to show that those interests are protected and to support Municipal Planning Strategy policy statements.

Section 271(2) of the *Municipal Government Act* also allows Council to impose requirements which are more restrictive than the Provincial Subdivision Regulations. The use of this provision is also limited by the Minister's obligation to protect Provincial interests as expressed in the Provincial Subdivision Regulations and the Provincial Statements of Interest, see also section 208(3) of the *Municipal Government Act*.

Other subsections of Section 271 list matters of Municipal interest which are not addressed by the Provincial Subdivision Regulations but may be addressed in a Municipal Subdivision By-law, such as:

- Public Street construction standards;
- Construction standards for private roads in a rural municipality;
- Standards for water mains, sanitary sewer, storm drainage and other utilities;
- Public Open Space for recreation purposes;
- Limits on the number of lots subdivided in one year from any property;

- Fees for review and approval of plans;
- Access to lots;
- Shapes of lots (including frontage and area);
- Concept Plans;
- Transportation Reserves;
- Development on roads;
- Infrastructure Charges.

The inevitable conclusion is in four parts: (1) that a Municipal Subdivision By-law must conform with the minimum requirements of the Provincial Subdivision Regulations regarding lot sizes, lot access, contents of a plan, and the procedure to be followed in approving a plan; (2) that the Municipal Planning Strategy and Subdivision By-law can be more restrictive than the Provincial Regulations; (3) that the Strategy and By-law can address subjects of Municipal interest such as recreation space and sewer, water, or road construction; and (4) that the Strategy and By-law can be less stringent than Provincial Subdivision Regulations only if they do not conflict with Provincial Interests.

### **3.2 History**

The Minister of Municipal Affairs first prescribed Subdivision Regulations for the Municipality on 5 March, 1975 and soon afterward the Municipal Council adopted a Subdivision By-law which became law on 19 December, 1975. From that time, all subdivisions of land in the Municipality required the approval of the Municipal Development Officer.

From the time the former Planning Act was amended in 1987, every subdivision of land in the province has required approval. The Provincial Subdivision Regulations applied where there was no Municipal Subdivision By-law.

The *Municipal Government Act* stipulates that in those municipal units in which there is no Subdivision By-law, the Provincial Subdivision Regulations will become the Subdivision By-law for these municipal units. Thus, under the *Municipal Government Act* subdivision controls are mandatory for all municipal units.

Since Municipal Council first adopted a Subdivision By-law in 1975 the construction and design requirements for private road design and construction have seen numerous changes.

The Subdivision By-law during the period of 1975-1993 enabled the creation of cottage lots on private “designed” roads. Cottage Subdivisions implied that the lots were to be

used for seasonal or periodic occupancy. The Subdivision By-law enabled the creation of 10 lots on a private “designed” road, without the requirement that the designed road be constructed. Upon creation of the 11<sup>th</sup> lot, the road had to be constructed to the designed road construction standards of the Subdivision By-law for cottage subdivision roads.

In 1993, Municipal Council repealed the 1975 Subdivision By-law and adopted a new Subdivision By-law. The 1993 Subdivision By-law enabled the creation of lots on private “designed” roads, regardless of whether the intended occupancy of the lot was permanent or seasonal. The Subdivision By-law further exempted the developer from a requirement to construct the road if six or fewer lots were created on a private “designed” road. Upon the creation of the seventh lot, the developer was required to construct the road to the private “designed” road construction standards of the Subdivision By-law.

In 1997 Municipal Council amended the Subdivision By-law to remove the construction standards for private “designed” roads. The result was that private “designed” roads were no longer required to be constructed.

In late 1998 the former Nova Scotia Planning Act was replaced with the *Municipal Government Act*.

In 1999 Municipal Council updated the Subdivision By-law by repealing and replacing the previous version.

During the period from 2001 to 2004 Municipal Council conducted a review of both public and private “designed” road design standards. Although private “designed” road construction standards were proposed, Council did not implement private “designed” road construction standards. Private “designed” roads were required to be designed but not constructed to the design.

Private roads are sometimes difficult to maintain. The greater the number of lots using the roadbed, the greater the traffic and increased numbers of people who must be persuaded to share the maintenance costs.

Since the last review, the Municipality has received feedback from residents on private roads who are frustrated with the challenges of maintaining their private road. Identified challenges include the construction quality of private roads; maintenance costs associated with private roads; and residents being unaware of the potential issues associated with living on a private road.

With the adoption of the Subdivision By-law in 2018, Municipal Council has approved new design, construction, and inspection requirements for public and private designed roads. These new road standards respond to feedback by private road residents and

emergency response providers and reflect Council's desire to ensure adequate access by implementing road construction standards.

### **3.3 Intent**

The following policies express Council's intentions in adopting this Municipal Planning Strategy for the subdivision of land:

- 3.3.1** This Municipal Planning Strategy provides a background and a rationale for the control of subdivision of lands in the Municipality, expressing Council's intentions for such control.
- 3.3.2** It is the intention of Council to control the subdivision of land in an orderly manner so as to: protect public health by promoting proper sewage disposal; promote public safety and cost-efficiency in the construction and use of new roads; ensure that new municipal services are constructed and maintained at minimum cost to the municipality; and provide essential information about land ownership within the municipality.

### **3.4 Method**

To carry out the intentions and purposes set out in Subsection 3.3 above, Council has adopted this Municipal Planning Strategy according to the following policies:

- 3.4.1** The Subdivision By-law applies to the whole of the Municipality, including any areas affected by a Secondary Planning Strategy.
- 3.4.2** This Municipal Planning Strategy is the policy document through which the subdivision of lands will be guided and controlled.
- 3.4.3** The Subdivision By-law provides the principle means for control of land subdivision through which the intent of this Municipal Planning Strategy is put into effect.
- 3.4.4** The Development Officer of the Municipality appointed under the authority of the *Municipal Government Act* will be responsible for the administration of the Subdivision By-law and will issue or refuse subdivision approvals.
- 3.4.5** The Subdivision By-law regulates the subdivision of lands within the Municipal boundaries so as to ensure:
  - (a)** That such subdivisions of land conform with any applicable requirements of any applicable Land Use By-law for minimum lot area and lot frontage;

- (b)** Where there is no Land Use By-law and no central sewer system, that such subdivisions of land provide an adequate lot size for on-site sewage disposal while providing flexibility for the creation of very small lots where on-site sewage disposal is not required;
- (c)** Where there is no Land Use By-law but lots are served by a central sewer system, that such subdivisions of land provide an adequate lot size for ordinary residential purposes;
- (d)** That such subdivisions of land provide for safe, adequate access from the Public Road network to each approved lot;
- (e)** That any central sewer systems and central water systems are professionally designed and constructed, as well as connected to existing municipal systems where possible;
- (f)** That provisions are made for the contribution of cash-in-lieu of land for parks, playgrounds, and similar public purposes, or that land is contributed to provide public access to waterways;
- (g)** That surveyors' plans of subdivision showing such subdivisions are approved and filed at the Registry of Deeds;
- (h)** That where a plan of subdivision involves the addition or consolidation of parcels or areas of land the deeds to effect the addition or consolidation, along with the approved plan, are filed at the Registry of Deeds.
- (i)** That sufficient information is shown on such surveyors' plans of subdivision to conform with the applicable requirements of the *Municipal Government Act* and the Provincial Subdivision Regulations as well as to enable evaluation of the proposal;
- (j)** That engineering drawings are prepared by qualified persons and filed with the Municipal Engineer to show the construction details of any new central sewer or water services and of any new Public Roads and Private Designed Roads;
- (k)** That the Municipal Engineer must inspect the construction of any new central sewer or water services and of any new Public Roads;
- (l)** That a Private Engineer must inspect the construction of any new Private Designed Road; and

- (m) That consistent procedures are followed in the review and approval of such plans so as to conform with the requirements of the *Municipal Government Act* and the Provincial Subdivision Regulations.

### **3.5 Provincial Subdivision Regulations**

As explained in Subsection 3.1 above, the Municipality must include in the Subdivision By-law all the crucial parts of the Provincial Subdivision Regulations as they are at the time the By-law is adopted. These parts govern the contents of subdivision plans and the procedure used in processing them, access to lots, and lot sizes. Where the Minister allows the Municipality to be stricter or less strict than these requirements, the variation is explained in this section of the Municipal Planning Strategy.

In the administration of regulations as complicated as the Subdivision Regulations there is always a need to interpret the meaning of various sections in order to guide the Development Officer in specific situations. Where the Municipality has adopted the exact wording of the Provincial Subdivision Regulations it is generally in the interests of developers, surveyors and lawyers to have consistent administration from one jurisdiction to another. In order to provide this consistency, Council must allow its Development Officer to follow the lead of the Department of Municipal Affairs in interpreting those parts of the By-law which directly copy the Provincial Subdivision Regulations.

In view of these considerations, Council has adopted the following policies:

- 3.5.1** To adopt a Subdivision By-law which is not inconsistent with the Provincial Subdivision Regulations and further, to include in the Subdivision By-law any provisions of the Provincial Subdivision Regulations which are applicable to the Municipality.
- 3.5.2** To be guided by any interpretation by the Department of Municipal Affairs of all provisions of the Provincial Subdivision Regulations which are directly incorporated into the Subdivision By-law.

### **3.6 Procedure and Information**

The compulsory procedures for reviewing and approving a subdivision plan are set out in the *Municipal Government Act* and the Provincial Subdivision Regulations. The Regulations also specify what information must be shown on or accompany a subdivision plan. Although these are incorporated into the Subdivision By-law, Council has additional requirements as set out in the following policies:

- 3.6.1** To allow subdivided land to be easily and accurately shown on maps, to require the subdivision plan to show the bearing and distance from the

subdivided land to a Nova Scotia High Precision Network Monument or Nova Scotia Co-ordinate Referencing System Monument wherever possible, or in lieu of Monument ties, measurements to features which are defined on existing mapping.

- 3.6.2** In order to ensure efficient street networks, adequate storm water management measures, adequate layout of public open space and the suitability of subdivision for on-site or central services to require in the Subdivision By-law, that where new streets or roads are proposed, the subdivider be required to submit a Concept Plan. Furthermore, to specify in the Subdivision By-law the contents necessary in order to evaluate street networks, stormwater management, layout of public open space, and suitability of site for on-site or central services.

The Provincial Subdivision Regulations require, amongst other things, that Concept Plans show the estimated lot yield figure, based on zoning requirements or requirements of Nova Scotia Environment, and that a concept plan be evaluated in terms of any proposed community and commercial uses. Council feels that these items are necessary only in areas with larger developments, as opposed to the Municipality. In addition, most of the municipality does not have any zoning regulations and as such, for many of the subdivisions there would be no requirements upon which to evaluate commercial or community uses. It is for this reason that the Subdivision By-law is less stringent than the provincial subdivision regulations with regards to the required contents of Concept Plans, as indicated in the following policy of Council.

- 3.6.3** Due to sparsely zoned areas in the Municipality and the relatively small scale, low density residential nature of development in the municipality it is Council's policy to not require Concept Plans to show the estimated lot yield or to be evaluated based upon a proposed commercial or community use.

### **3.7 Lot Size**

Minimum lot sizes for on-site sewage disposal by septic tank and disposal field are set by Nova Scotia Environment's "On-Site Sewage Disposal Systems Regulations". The Provincial Subdivision Regulations do not have a minimum lot area requirement, but rather rely on the results of an assessment conducted by Nova Scotia Environment to set the minimum lot area. In those areas in which a Land Use By-law exists that contain minimum lot area requirements, a lot being created must satisfy the more stringent requirement.

The Provincial Subdivision Regulations further require that in areas not served by a central sewer, all plans of subdivision must be forwarded to Nova Scotia Environment to determine compliance with the 'On-Site Sewage Disposal Systems Regulations'. This

requirement is waived, however, when the lot is more than 9,000 square metres; has a width of 75 metres or more; and the applicant has certified that the lot is being created for a purpose which does not require an on-site sewage disposal system.

Council has experienced considerable difficulty over the years with "remainder lots", defined as "a lot for which subdivision approval is not requested or granted, but which results from the approval of lots shown on a plan of subdivision". Because these lots are not required to satisfy one or another of the By-law requirements (in particular the survey requirement) they are often created with an area, width or frontage which renders them unsuitable for on-site sewage disposal. Council sees a definite need to have these lots assessed for the suitability to install/construct an on-site sewage disposal system. This assessment is difficult when boundaries are not clearly defined. Nova Scotia Environment's 'On-Site Sewage Disposal Systems Regulations' require that any lot less than 9,000 square metres be assessed for the suitability of the lot for the installation / construction of an on-site sewage disposal system. Nova Scotia Environment advises that lots in excess of this are usually capable of supporting an on-site sewage disposal system. Council will, therefore, require all new lots under that size threshold to be surveyed, shown on a plan of subdivision, approved by the Development Officer and approved by Nova Scotia Environment as complying with the 'On-Site Sewage Disposal Systems Regulations'. This is intended to provide more useful information to the subdivider as well as subsequent purchasers of the land.

Where there is a central sewer system the minimum lot area will continue to be the standard established in the Municipal Subdivision By-law in 1975.

In most other respects, the Subdivision By-law follows the provisions of the Provincial Subdivision Regulations in accordance Policy 3.5.1 above.

To carry out these intentions, Council adopts the following policies:

- 3.7.1** In conformity with the Provincial Subdivision Regulations, to require plans of subdivision to be forwarded to Nova Scotia Environment to determine if the lots shown comply with the 'On-Site Sewage Disposal Systems' Regulations.
- 3.7.2** To waive the requirements of Policy 3.7.1 where
  - (a)** The proposed lot:
    - (i)** Has an area more than 9,000 square metres,
    - (ii)** Has a width of 75 metres or more, and
    - (iii)** Is to be used for a purpose which does not require an on-site sewage disposal system, or

**(b)** The proposed lot:

**(i)** Is served by a central sewer system and has the minimum lot area established in the Subdivision By-law, for lots served by a Central Sewer System.

**3.7.3** In conformity with the Provincial Subdivision Regulations, to require all lots approved by the Development Officer on a Plan of Subdivision to be surveyed.

**3.7.4** In addition to the requirements of the Provincial Subdivision Regulations, to require all new lots of less than 9,000 square metres area to be surveyed, and approved by the Development Officer, pursuant to Policy 3.7.1 and Policy 3.7.2.

**3.7.5** To waive the requirements of Policies 3.7.3 where lot boundaries are being altered and no new lots are being created.

### **3.8 Lot Access**

The Provincial Subdivision Regulations require that lots must abut a public highway; a right-of-way at least 20 metres wide, or a lesser width permitted by a Subdivision By-law; or an existing right-of-way which has been listed on a schedule in the Subdivision By-law (Schedule 'B'). There is also a provision for lots on an island and a provision for one division of any existing lot without any specific access requirement.

Although Policies 3.5.1 and 3.5.2 express Council's acceptance of this general arrangement, there are two road issues of concern to Council: Public Roads and Private Designed Roads.

Prior to 1995, new public roads in subdivisions were the responsibility of the Province. However, with servicing adjustments in 1995, new public roads became the responsibility of municipalities. Now, whenever a public road is built, it is turned over to the Municipality to maintain. In 2018, Council conducted a review of the Municipal Public Roads built since 1995 in the Municipality and determined that many of them cost more to maintain than the property taxes collected from the properties they serve. Council, therefore, feels that it is premature to allow the development of any new Municipal Public Roads without careful consideration of whether that new Municipal Public Road is economically sustainable. Council will only consider new Municipal Public Roads on a case-by-case basis through amendments to Schedule 'K' of the Subdivision By-law.

To ensure consistent design and construction quality for the creation of new roads in the Municipality as well as proper emergency vehicle access, Council has adopted Municipal Road Design and Construction Standards. These standards are based on a

five-tiered road class designation system and recognize the different functions of roads in urban and rural contexts. The Municipal Road Design and Construction Standards recognize the challenges of building roads in the Municipality due to the topography in the area and therefore allow for a lower design speed road option for Private Designed Roads. In response to the challenges with topography, the Subdivision By-law also enables a limited number of flag lots and access exemption lots.

New Public Roads are to be constructed and conveyed to the Municipality prior to subdivision approval for any lots serviced by the Public Road. Alternatively, Council may enter into an agreement with the subdivider, which guarantees construction of a Public Road, and subdivision approval may be granted prior to construction provided that the agreement is backed by an appropriate bond or other security acceptable to Council. This agreement will also clearly define the subdivider's responsibilities for the work to be completed.

New Private Designed Roads must conform to the design and construction standards of the Subdivision By-law.

Private roads are sometimes challenging to maintain. The greater the number of lots using the roadbed, the greater the challenge, with increased traffic and increased numbers of people who must be persuaded to share the maintenance costs. These challenges are sometimes solved by the Municipality, upon petition by lot owners, to build the road to the required municipal standard and recover the costs from the landowners abutting the road by means of an area rate. To facilitate the construction of a Public Road at any future time, Council will require the subdivider to design the Private Road with a right-of-way width and drainage that satisfies the Municipal Road Design and Construction Standards of the Subdivision By-law.

In addition to road issues, another concern of Council is lots with no frontage. Council is aware of the provision within the Provincial Subdivision Regulations which allows for a lot with no frontage to be created within an area of land as it existed on August 1, 1987, and two lots with no frontage out of an area of land that does not meet the frontage requirements of the Subdivision By-law. However, it is Council's opinion that this provision discourages development and therefore, will enable one lot with no frontage to be created out of an area of land as it existed on December 30, 1994, and two lots with no frontage to be created out of an area of land which does not meet the frontage requirements of the Subdivision By-law.

These concerns give rise to the following policies:

- 3.8.1** Where the Subdivision By-law enables lots to be approved with frontage on a right-of-way 15.2 metres wide, to require such rights-of-way to be acceptable to the Municipal Engineer as having sufficient width and drainage provisions

to satisfy Municipal Road Design and Construction Standards of the Subdivision By-law, in order to facilitate construction of a Public Road at any future time.

**3.8.2** To enable the division of land into lots which do not have frontage on a Public Road provided that such lots have frontage on any private right-of-way which is indexed on Schedule "B" of the Subdivision By-law.

**3.8.3** To consider proposals for indexing private rights-of-way on Schedule "B" of the Subdivision By-law provided Council is satisfied that:

- (a)** The existing road is constructed within a right-of-way which was being used to provide access to three or more developed lots prior to 19 December, 1975;
- (b)** The right-of-way intersects with a Public Road, and the intersection point has been approved by the authority having jurisdiction over the Public Road;
- (c)** The minimum width of the right-of-way was on 19 December, 1975, and is at the time of indexing, 7.62 metres;
- (d)** The length of the right-of-way to be included in the schedule does not extend beyond the last existing residential use;
- (e)** The road and the right-of-way are shown on a survey plan prepared by a licensed Nova Scotia Land Surveyor, unless Council is satisfied that existing surveys are sufficient to determine the exact location of the right-of-way;
- (f)** The road within the right-of-way is soundly constructed on a stable base, with a gravel or asphalt surface, well-drained by means of ditches, culverts or storm sewers as appropriate so that it is capable of carrying the anticipated traffic load;
- (g)** It is not feasible to provide a Public Road to serve the proposed lots and it is not feasible to provide a right-of-way with a minimum width of 15.2 metres.

**3.8.4** To include in the subdivision By-law standards for design and construction of Public Roads and Private Designed Roads.

**3.8.5** To enable the approval of a final plan of subdivision prior to construction of the required Public Roads and Private Designed Roads where:

- (a) The developer has entered into an agreement, which is satisfactory to Council, to carry out and complete the required work within a period of time as specified in the agreement; and
- (b) The developer has posted a performance bond or other security acceptable to Council, and
- (c) The agreement provides that the developer may receive subdivision approval for lots after posting the performance bond or other acceptable security, but prior to construction of the proposed Public Roads and Private Designed Roads; and
- (d) The agreement provides for the conveyance of all road rights-of-ways and road beds necessary to the operation of the Public Road, together with easements sufficient for the maintenance of all associated road drainage systems.

**3.8.6** Notwithstanding Policy 3.4.5(d) to enable the division of one lot with no frontage from an area of land as it existed on December 30, 1994 and the division of two lots with no frontage from an area of land which does not meet the frontage requirements of the Subdivision By-law, as it existed on December 30, 1994.

**3.8.7** To only permit the development of new Public Roads in areas identified in Schedule 'K' of the Subdivision By-law. In considering adding areas to Schedule 'K' of the Subdivision By-law, Council will evaluate whether or not the proposal for new Public Roads is economically-premature based on the density of development, required length of road, expected market uptake of created lots, proximity to existing Municipal Public Roads, and any other factor that Council deems relevant.

### **3.9 Sewer Services**

Other than specifying minimum sizes for lots in serviced areas, the Provincial Subdivision Regulations are silent about central sewer systems. These services are the responsibility of municipal government, and Council has a number of concerns because of experience in dealing with sewer services.

The Municipality owns and operates central sewer systems and sewage treatment plants in the New Germany area, Cookville, and in the Riverside Subdivision in Conquerall Bank. In addition, the Municipality owns the sewage collection system including easements, pipes and pumping stations in Hebbville, but has connected this system to the Town of Bridgewater system for sewage disposal.

Council encourages the extension of the existing Municipally-owned sewer systems and encourages connection of future development to the existing municipal systems, subject to the operating capacity of these systems.

Past experience with privately-owned central sewer systems has convinced Council that these systems often cause maintenance problems for lot owners, especially if the construction of the system is inadequate in the first place.

Where there is no central sewer system available, Council will permit new lots to be serviced by on-site sewage disposal systems on each lot. A lot which satisfies the minimum lot size requirement of the "Regulations Respecting On-site Sewage Disposal Systems" may be perceived by the public to be suitable for on-site sewage disposal. However, because not all such lots are suitable due to shallow soil depth, proximity to watercourses, steep slopes, impermeable soil, development density, etc., Council wishes to ensure that these lots are assessed by Nova Scotia Environment and that their suitability or lack of suitability is shown on the Plan of Subdivision in accordance with Policies 3.7.1 and 3.7.4 above.

These concerns give rise to the following policies:

- 3.9.1** To enable the subdivision of land into lots serviced by any existing central sewer system owned and operated by the Municipality.
- 3.9.2** To enable the subdivision of land into lots which are to be serviced by a central sewer system where:
  - (a)** The developer has entered into an agreement which is satisfactory to Council, to carry out and complete the required work within a specified period of time as set out in the agreement; and
  - (b)** The developer has posted a performance bond, or other security acceptable to Council; and
  - (c)** The agreement provides that the developer may receive subdivision approval for lots after posting the performance bond, or other acceptable security, but prior to construction of the proposed sewer system; and
  - (d)** The agreement provides for the conveyance of all assets necessary to the operation of central sewer systems, together with easements sufficient for the maintenance of all services.

### 3.10 Water Services

The Municipality does not own or operate any central water supply. Dug wells and drilled wells on individual lots are the normal sources of drinking water in the Municipality and this is likely to continue. A limited area of the Municipality has access to central water systems. The Municipality will consider the creation of new lots on these existing systems according to the standards of the Subdivision By-law.

In view of these possibilities, Council's policies are:

- 3.10.1** To permit the subdivision of land into lots which are to be serviced by on-site wells.
- 3.10.2** To permit the subdivision of land into lots serviced by an existing central water system provided that the system is constructed to the standards of the Subdivision By-law.

### 3.11 Public Open Space

The Municipality is responsible for providing recreation services. To this end, the Municipality offers public recreational services and programs through the Municipal Recreation Department. The Municipality also provides recreational opportunities through the provision of a recreation complex in Dayspring, as well as a Municipal Beach at Lake Mush-A-Mush, and walking trails at Miller Point Park, along the LaHave River. In addition to these facilities and parklands, the Municipality has acquired numerous parcels through the former Public Open Space requirements of the Subdivision By-law.

The Municipality had been acquiring Public Open Space within their Subdivision By-law for developments that have occurred between the years 1975 and 2001. The *Municipal Government Act* enables Council to require, within the Subdivision By-law, that a subdivider convey land, equivalent value to land, or a combination of both for public open space purposes. Council is also able to specify those instances where land or an equivalent value is required. Prior to July 2001, Council required that the developer convey useable land or cash-in-lieu of land.

Between June 1999 and March 2000 municipal staff undertook research related to Public Open Space. The objective of this research was to determine whether the former public open space requirements were satisfying the needs of the Municipality, based upon the past 25 years of development and the anticipated development pattern. This report concluded that the recreational needs of the Municipality were not being satisfied (Public Open Space Study, March 2000). The report further recommended that Council adopt a municipal wide approach to public open space,

being that public open space should benefit all of the municipality's residents, not just those in a local subdivision. To this end, Council, in September 2001, removed the former public open space requirements of the Subdivision By-law, and has incorporated new policy and subdivision By-law requirements into this Planning Strategy and accompanying Subdivision By-law.

As provided for in the *Municipal Government Act*, Council will require that a subdivider contribute two percent (2%) of the market value of all new lots created. Council does not wish to impose this requirement on any division in which the lot(s) created contains an existing main building, is a remainder lot, is a consolidation of two or more lots, is a private designed road approved as a separate lot, is an alteration of lot boundaries in which no new additional lots are created, or is on land owned by the Municipality.

Council also recognizes that some subdivisions may provide the opportunity to acquire waterfront land that was not necessarily considered and planned for through the Open Space Strategic Plan. Therefore, Council will consider proposals from subdividers for the contribution of at least 5% of the area of the subdivision lands in lieu of the cash dedication. Where accepted, open space lands must be usable and must include public access on a Public Road.

As required by the *Municipal Government Act*, Council will use the funds for no other purpose other than the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on the funds not expended for these purposes for the operation and maintenance costs of parks, playgrounds, and similar public purposes. This will enable Council to strategically acquire and develop recreational lands in a location and of a quality and quantity that will benefit the municipality as a whole. To ensure that land is strategically acquired, Council will develop a strategic plan for the acquisition of future land. As part of this strategic plan, Council will review the existing municipal land inventory to determine the usefulness of these parcels in relation to the Strategic Plan. This plan will include estimated times and budget expenditures necessary to reach Councils' goals.

To provide the residents in the Municipality with reasonable access to park, playground and similar public areas, Council's policies are:

- 3.11.1** To require subdividers to contribute cash in the amount of two percent of the market value of all new lots created and for which subdivision approval has been requested or is required.
- 3.11.2** To waive the requirements of Policy 3.11.1 where:
  - (a)** A lot created contains an existing main building;

- (b)** A lot created is a remainder lot;
- (c)** An approval is for the consolidation of two or more lots;
- (d)** Lot boundaries are altered and no new additional lots are created;
- (e)** An approval is for a designed road as a separate lot; or
- (f)** The Municipality owns the property being subdivided.

**3.11.3** To develop a Strategic Plan for the acquisition and disposition of land by the Municipality, which will identify Councils' goals with respects to recreational lands and incorporate projected budget expenditure estimates and the time frames necessary to reach these goals.

**3.11.4** To consider proposals for usable land consisting of at least 5% of the subdivided lands, by area, in lieu of the cash dedication. Such lands must include water access and must include frontage on a Public Road.

## 4. Part 4 – Secondary Planning Strategies

### 4.1 Background

Where Council has adopted a Municipal Planning Strategy for the whole municipality such as this one, the *Municipal Government Act* provides that Council may adopt a secondary planning strategy which applies, as part of the Municipal Planning Strategy, to specific areas within the municipality. Where planning strategies are put in place in conformance with Policy 2.3.1 because of a request from a community for land use control, or in conformance with Policy 2.3.2, they will be secondary planning strategies included within this Municipal Planning Strategy.

Considering the powers set out in the *Municipal Government Act*, and in order to carry out intentions and policies set out in Sections 2.3 and 2.4 of this Municipal Planning Strategy, Council has adopted the following policies:

- 4.1.1** It is the policy of Council to provide planning staff and to consider adopting a Secondary Planning Strategy for any community which specifically requests Council for such services and consideration.
- 4.1.2** The Secondary Plan Areas Map (1) which is attached to this Municipal Planning Strategy is a generalized representation of the location of areas affected by Secondary Planning Strategies and Land Use By-laws.
- 4.1.3** The exact boundaries of the areas affected by Secondary Planning Strategies are shown on the Future Land Use Maps and Zoning Maps appended to the Secondary Planning Strategies and Land Use By-laws in effect in various parts of the Municipality.
- 4.1.4** Where there is any conflict between the policies expressed in this Municipal Planning Strategy and the policies expressed in any Secondary Planning Strategy, the most stringent will prevail.
- 4.1.5** The Coastal Protection Area Map (2) which is attached to this Municipal Planning Strategy is a generalized representation of the location of areas affected by Coastal Protection policies and regulations.
- 4.1.6** The Municipal-Wide Land Use Map (3) which is attached to this Municipal Planning Strategy is a generalized representation of the location of areas affected the Municipal-Wide Land Use policies and the associated Municipal-Wide Land Use By-law.

## **4.2 Village of Hebbville**

On February 14, 2012, Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for the Village of Hebbville. The Minister of Services Nova Scotia and Municipal Relations reviewed these documents and deemed them not to require ministerial approval. The Secondary Planning Strategy for the Village of Hebbville is to be included within this Municipal Planning Strategy as a Secondary Planning Strategy. On March 21, 2012 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.2.1** It is the policy of Council that the Secondary Planning Strategy for the Village of Hebbville as approved by Municipal Council, effective March 21, 2012, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **4.3 Oakland**

On September 9, 2003, Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for the community of Oakland. The Minister of Service Nova Scotia and Municipal Relations reviewed the Oakland Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On October 22, 2003 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.3.1** It is the policy of Council that the Secondary Planning Strategy for the community of Oakland as approved by Municipal Council, effective October 22, 2003, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **4.4 Riverport and District**

On July 12, 2005 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Riverport and District plan area. The Minister of Service Nova Scotia and Municipal Relations reviewed the Riverport and District Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On August 10, 2005 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.4.1** It is the policy of Council that the Secondary Planning Strategy for Riverport and District as approved by Municipal Council, effective August 10, 2005, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **4.5 Princes Inlet and Area**

On January 12, 2016 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Princes Inlet and Area. The Minister of Service Nova Scotia and Municipal Relations reviewed the Princes Inlet and Area Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On February 17, 2016 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.5.1** It is the policy of Council that the Secondary Planning Strategy for the Princes Inlet and Area, as approved by Municipal Council, effective February 17, 2016 is incorporated into this Municipal Planning Strategy for the Municipality, as a Secondary Planning Strategy.

## **4.6 Blockhouse**

On September 9, 2008 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Blockhouse. The Minister of Service Nova Scotia and Municipal Relations reviewed the Blockhouse Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On October 14, 2008 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.6.1** It is the policy of Council that the Secondary Planning Strategy for the Blockhouse Area, as approved by Municipal Council, effective October 14, 2008, is incorporated into this Municipal Planning Strategy for the Municipality, as a Secondary Planning Strategy.

## **4.7 Osprey Village**

On December 12, 2006 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Osprey Village. The Minister of Service Nova Scotia and Municipal Relations reviewed the Osprey Village Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On January 24, 2007 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

**4.7.1** It is the policy of Council that the Secondary Planning Strategy for Osprey Village as approved by Municipal Council, effective January 24, 2007, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **4.8 Hemford Forest**

On April 13, 2021 Municipal Council approved a Secondary Planning Strategy and Land Use By-law for Hemford Forest Plan Area, following a plebiscite conducted on September 22, 2018 to regulate land use planning.

- 4.8.1** It is the policy of Council that the Secondary Planning Strategy for Hemford Forest as approved by Municipal Council is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **5. Municipal-Wide Land Use Policies**

In response to concerns over unregulated development occurring along the coastline, as well as similar unregulated cluster developments occurring in inland areas, Council initiated the process of introducing targeted land use controls to address these concerns in 2023 through new policies and the introduction of a municipal-wide land use By-law. These land use regulations are recognized as temporary measures to control specific types of development, particularly in areas outside of the existing Secondary Plan Areas, recognizing that full land use controls will be implemented shortly. However, as they impact areas across the municipality, the policies contained in the Coastal Protection section also applies to Secondary Plan Areas. Therefore, in cases where similar policies or regulations overlap, the most stringent ones will apply.

### **5.1 Reserved for Future Use**

### **5.2 Reserved for Future Use**

### 5.3 Coastal Protection

In response to the dynamic challenges posed by climate change and our coastal environment, Council has introduced a comprehensive set of coastal protection policies. In the face of sea-level rise, erosion, and the potential loss of critical ecosystems, these policies stand as a guide for responsible coastal development, fostering environmental sustainability, and safeguarding both our communities and the natural beauty of our coast.

These policies outline a framework addressing coastal flooding, erosion control, and the preservation of sensitive coastal ecosystems. At its core, they are a commitment to striking a harmonious balance between development and the natural environment. By guiding responsible land use and incorporating climate change resilience, these policies are in place to safeguard human developments from the coast and, equally crucial, to protect the coast from the adverse impacts of human development. These policies signify Council's commitment to the well-being of our communities and the preservation of the unique ecological diversity inherent to our coastal region.

Considering these issues, the following general policies regarding coastal protection are as follows:

- 5.3.1** Council will build public awareness about coastal flooding, erosion issues, the protection of coastal ecosystems, and the regulations intended to deal with them. Council will also promote utilizing natural-based solutions such as vegetative buffers and living shorelines.
- 5.3.2** Council will conduct periodic reviews of the coastal protection regulations outlined in the Land Use By-law every five (5) years, with a commitment to updating them in alignment with the most current information on erosion and climate change models and projections.
- 5.3.3** Coastal protection policies generally apply to areas along the coastline, as shown in Map 2, Designated Coastal Protection Area. The Municipal-Wide Land Use By-law will also include boundaries of areas requiring development permits and where specific coastal protection regulations apply.

### 5.4 Coastal Flooding

The Municipality of the District of Lunenburg is facing sea level rise, erosion, and the loss of sensitive ecosystems along its coastline. If measures to combat the effects of climate change are not put in place, local sea levels are projected to rise by 1.57 metres by the year 2100. When combined with a significant storm surge and Higher High Water Large Tides, areas with elevations of up to 3.97 metres could be

periodically inundated with sea water. New development along the coast must consider the risks associated with climate change, and existing structures below the Higher High Water Large Tide must be prepared to either adapt or retreat from the coast over time.

Of particular concern in MODL are dense coastal communities, where a substantial amount of existing development lies within areas known to be at risk of the effects of sea level rise and climate change. Implementing policies and strategies to regulate development along the coast is vital to ensure the resilience and sustainability of MODL's coastal communities. These policies outline key actions that will help manage the risks imposed by rising sea levels and protect current and future development in the face of climate change uncertainties.

Policy Objectives:

- To reduce the risk and impact of coastal flooding on communities.
- To effectively manage land use and development along the coast.
- To safeguard public health, safety, and welfare by minimizing exposure to coastal inundation and storm surge risks.
- To promote sustainable land use practices that consider the long-term resilience of the community in the face of rising sea levels and increased storm events.
- To balance economic and environmental sustainability.

## **5.5 Coastal Flood Area Policies**

The Flood Risk Area delineates areas along the coastline which are most at risk of coastal flooding due to tide levels, sea level rise and storm surges. It shows areas that may be either permanently or temporarily inundated by water by the year 2100. Policies that apply to these areas are designed to help safeguard residents and developments from the risks posed by coastal flooding. The following policies apply to this area:

- 5.5.1** The Municipal-Wide Land Use Bylaw will include a Coastal Flood Risk Area to protect development from flooding in areas that are projected to be vulnerable to flooding by 2100.
- 5.5.2** Council, through the Municipal-Wide Land Use Bylaw, will prohibit the construction of habitable floor space below an elevation of 3.97 metres with reference to the Canadian Geodetic Vertical Datum of 2013.

- 5.5.3** Council recognizes the critical importance of safeguarding vulnerable communities and will protect them from the threats of flooding and potential emergency evacuations by prohibiting institutional uses within the Coastal Flood Risk Area, regardless of elevation.
- 5.5.4** Within the Municipal-Wide Land Use Bylaw, Council will grant exemptions for non-habitable accessory structures and marine related uses.
- 5.5.5** Despite Section 5.5.2, Council will, through the Land Use Bylaw, authorize non-conforming structures to undergo renovations, rebuilding, or relocation.
- 5.5.6** Despite Section 5.5.2, Council may, through the Land Use Bylaw, authorize limited additions to non-conforming structures that do not meet the elevation requirements.
- 5.5.7** Council, through the Land Use By-law, may grant property owners the authority to relocate existing developments, so long as the relocation does not reduce the elevation requirement, by relaxing development standards, including property lines setbacks.

## **5.6 Coastal Erosion**

Coastal shoreline erosion is an inherent and continuous process, that can pose adverse impacts on shoreline developments. The extent of erosion within the Municipality varies along the coastline due to distinct surficial geological conditions and differing exposure levels to wind, waves, runoff and storm events. Erosion rates range from as high as 0.7 metres per year in some areas to a much slower pace in others. Consequently, certain erosion control methods, like seawalls, can contribute to adverse environmental effects, disrupting natural coastal processes, reducing marine life habitat, and exacerbating erosion in neighbouring areas.

Recognizing these challenges, Council acknowledges the wealth of academic research supporting natural-based solutions for erosion mitigation. These solutions include initiatives such as coastal salt marsh restoration and the creation of ‘living shorelines.’ These strategies employ grading techniques and meticulous vegetation selection to provide adequate stabilization.

Council will implement land use controls governing shoreline development in response to erosion risk concerns. These regulations involve the establishment of a Coastal Erosion Risk Area and Vegetative Buffers. These measures aim to safeguard development and human life from potential erosion threats while preserving the natural environment from harmful human development.

Policy Objectives:

- To safeguard human health, safety, and welfare by minimizing the risks to public safety associated with coastal erosion.
- To effectively manage development along the coast.
- To preserve and protect coastal ecosystems by implementing measures to mitigate the impact of human development.
- To increase public awareness on the options that exist for reducing erosion on their property.
- To increase public awareness and understanding of the benefits of soft barriers such as living shorelines.

## 5.7 Coastal Erosion Risk Area Policies

The Coastal Erosion Risk Area represents an area within 30 horizontal metres from the coast. This area is designed to safeguard properties within the structure's lifetime from risks associated with erosion and preserve coastal ecosystems. It is designed as an overlay approach where some areas experience higher or lower erosion rates. The following policies apply to this area:

- 5.7.1** Council, through the Municipal-Wide Land Use Bylaw, will establish a Coastal Erosion Risk Area and prohibit development within a 30-metre area along the coastal shoreline.
- 5.7.2** Despite Section 5.7.1 the Municipal-Wide Land Use By-law will include exemptions for non-habitable accessory and marine related uses.
- 5.7.3** Through the Municipal-Wide Land Use Bylaw, Council will establish a structured process that allows property owners seeking to build within the Coastal Erosion Risk Area, the ability to submit a site-specific erosion study conducted by a qualified professional. The study must demonstrate that building within the Erosion Risk Area does not pose any hazards to the proposed development.
- 5.7.4** Under the provisions outlined in the Municipal-Wide Land Use Bylaw, Council will authorize property owners with existing structures to undertake expansions that extend beyond their current footprints, provided such expansions are situated away from the Coastal Erosion Risk Area.
  - (a)** Despite Section 5.7.1 additions to existing structures within the Erosion Risk Area that consist of habitable space and which are proposed to be

closer to the coastal shoreline will require a study done by a qualified professional in line with the requirements outlined in Section 5.7.3

- 5.7.5** The Municipal-Wide Land Use By-law will include regulations allowing flexibility in certain lot requirements for property owners to relocate existing structures away from eroding banks on undersized lots and improve compliance with buffer requirements when moving existing buildings.

## **5.8 Vegetative Buffer Area Policies**

The Vegetative Buffer represents a strip of land situated between the edge of the coastline and areas further inland that is intended to serve as a naturalized buffer that protects the natural functions of the coast and shoreline from potential impacts of development. This area is important because it helps prevent erosion along the coast, filters run-off and provides key habitat for wildlife. The following policies apply to this area:

- 5.8.1** Through the Land Use Bylaw, Council will require a 15-metre Vegetative Buffer to help mitigate erosion, reduce flood risk, and safeguard sensitive coastal ecosystems.
- 5.8.2** Despite Section 5.8.1 the Municipal-Wide Land Use By-law will allow a portion of the vegetative buffer to be cleared to provide water views, water access and accessory use provisions.
- 5.8.3** Despite Section 5.8.1 the Municipal-Wide Land Use By-law will specify certain marine-related uses that require direct access to the coastline and which are exempt from the buffer requirements.

## **5.9 Sensitive Coastal Ecosystems**

Sensitive Coastal Ecosystems form an interdependent and intricate system, including salt marshes, dunes, and beaches. Their sensitivity to development pressure is notable, as they collectively contribute to a multifaceted ecosystem. These environments provide essential functions such as coastal protection and serve as habitats for diverse plant and animal species. However, human actions like development can disrupt wetland habitats and hinder their crucial ecological roles.

Policy Objectives:

- To protect existing coastal ecosystems such as wetlands, dunes, and beaches from disruption caused by development.
- To encourage the maintenance of vegetation along the coast to help prevent erosion and avoid disrupting coastal ecosystems.

- To increase public awareness around the importance of coastal ecosystems to biodiversity and our natural landscape and ways to protect them.

As it relates to the protection of beaches and dunes, the following general policy applies:

**5.9.1** Council recognizes the invaluable role that ecosystems, including beaches and dunes, play in ensuring the health and well-being of our coastline. The regulations addressing flooding and erosion mitigation are recognized as helping to safeguard these sensitive coastal environments by directing development away from the coast.

## **5.10 Coastal Wetland Protection Policies**

The Sensitive Coastal Ecosystems policies pertain to coastal wetlands have been primarily identified by the province. These policies aim to protect and conserve these areas from the negative impacts of development through prohibiting development within the wetlands and extending the prohibition to areas surrounding the wetlands by employing a vegetative buffer. The vegetative buffer is intended to help with filtration of contaminants and provide crucial habitat for wildlife and aquatic life. The following policies apply to this area:

**5.10.1** Through the Municipal-Wide Land Use By-law, coastal wetlands will be recognized in a Development Constraints Map which is based on the provincial Wetlands, Vegetation and Classification Inventory map.

**5.10.2** Under the provisions outlined in the Municipal-Wide Land Use Bylaw, Council will establish a 30-metre horizontal development setback and vegetative buffer around identified coastal wetlands in the Development Constraints Map to safeguard wetlands from the impacts of development.

**5.10.3** Council acknowledges there are potential inaccuracies in the provincial mapping. Property owners may request revisions to the Development Constraints Map by submitting a study conducted by a qualified professional, with the purpose of either incorporating or excluding specific wetland areas from the map.

**(a)** The Municipality may require confirmation from the Department of Environment and Climate Change prior to accepting changes to wetland protection boundaries shown on the Development Constraints Map.

**5.10.4** At its sole discretion, Council may enhance the Development Constraints Map by including additional wetlands that have been properly documented by qualified professionals. This may be achieved through accepting

documentation provided or collaborating with environmental organizations to obtain wetland delineation documentation.

- 5.10.5** Council will foster collaboration and partnerships with environmental groups and organizations to aid in facilitating scientific knowledge pertaining to coastal ecosystems and thereby therefore promoting an understanding of coastal ecosystems and encouraging informed decisions for their conservation and effective management.

## **Attachments**

Map 1: Secondary Plan Areas

Map 2: Designated Coastal Protection Area

Map 3: Municipal-Wide Land Use



**Municipality of the District of Lunenburg**

**Municipal-Wide Land Use By-Law**  
**Pertaining to Coastal Protection Regulations**

**(MODL By-law 049)**

Adopted by Council: YYYY-MM-DD

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## **1. Title and Purpose**

### **1.1 Title**

This By-law is titled the Municipality of the District of Lunenburg Municipal-Wide Land Use By-law.

### **1.2 Purpose**

The purpose of this By-law is to carry out the intent of the Municipality of the District of Lunenburg Municipal Planning Strategy, under the Municipal Government Act, by regulating the land use and structures within the Municipality.

### **1.3 Compliance with Other By-laws and Regulations**

This By-law does not exempt any person from complying with the requirements of other laws or regulations in force within the Municipality of the District of Lunenburg, or from obtaining any license, permission, permit, authority, or approval required thereunder. Where any provisions of this By-law conflicts with those of any other Municipal, Provincial or Federal regulation, by-law or code, the more stringent requirement will apply.

### **1.4 Effective Date**

This By-law will take effect on the date a notice is published in a newspaper, circulating in the Municipality, informing the public that the Regional Municipal Planning Strategy and its implementing Land Use By-law are in effect.

## 2. Definitions

**Annual Erosion Rate** means the measurement of the quantity of soil or land that is lost through the process of erosion over a one-year period.

**Boathouse** means a permanent or temporary roofed structure, which does not contain toilet facilities, and which is used for the shelter or storage of boats, watercraft and associated marine accessories and equipment. No part of a boathouse may be used as a Dwelling Unit, for the habitation of animals, or for commercial uses. A boathouse does not include a garage.

**Building Footprint** means the horizontal area, measured from the outside of all exterior walls and supporting columns of a building. Excluded from this measurement are carports, patios, decks, balcony areas, porches, projections, as well as ramps and stairways necessary for access.

**Coastal Erosion Risk Area** means an area along a coastline prone to erosion. These areas are vulnerable to the gradual loss of land due to natural forces like geological conditions, lack of vegetation, waves, and tides.

**Coastal Flood Risk Area** means the temporary inundation of land along coastlines, caused by the overflow of water that can threaten communities, ecosystems, and infrastructure.

**Coastal Wetland** means a Wetland dominated by rooted herbaceous plants that drains directly into coastal waters and has the potential to be at least partially inundated with salt or brackish water.

**Commercial Use** means the use of land for the primary purpose of buying, selling or trading of merchandise or services.

**Council** means the Council of the Municipality of the District of Lunenburg.

**Development** means any construction, erection, alteration, placement, replacement, location, relocation of, or addition to any structure and any change or alteration in the use made of land or structures.

**Development Agreement** means a legal agreement between Council and a property owner governing the use of the property owner's land, as enabled by the Municipal Government Act and Municipal Planning Strategy and registered on title.

**Development Permit** means the permit issued by the Development Officer certifying that a proposed development complies with the provisions of the Land Use By-law.

**Dune** means an unconsolidated sand or gravel deposit found in a beach environment and recognized by raised topography. Dunes may be vegetated with salt-tolerant vegetation such

as marram grass or may be established with ericaceous vegetation or tree species (e.g. forested Dune).

**Dwelling** means a building containing at least one Dwelling Unit for human habitation, which is capable of being occupied as a home or residence.

**Dwelling Unit** means one or more habitable room(s) that may be used as a residence by an independent, separate household, which: has a bathroom for exclusive use of the household; has a kitchen for the exclusive use of the household; and has a private entrance from outside the building or from a common hallway or stairway.

**Elevation Setbacks** means a mandate that structures, or the uses within a structure to be located at a certain elevation above the projected water levels to mitigate risks associated with natural events like flooding, storm surges, or other environmental factors.

**Floor Area** means the total area of all floors of a building, above and below grade, measured between the exterior faces of the exterior walls of the building or from the centreline of a wall separating two buildings.

**Habitable Floor Space** means the interior area within a building that is designed and suitable for human occupancy. This includes spaces such as living rooms, bedrooms, kitchens, and other areas where people can reside or carry out daily activities and does not include unfinished basements or attached garages.

**Institutional Use** means the use of land, building or structures for religious, educational, health or charitable purposes.

**Lot** means any parcel of land as described by its boundaries.

**Marine-Related Uses** means non habitable activities tied to the marine environment, including but not limited to industrial, commercial, and recreational pursuits such as boat building, marinas, fisheries, and fish processing plants.

**Marine-Related Accessory Uses** means activities or structures on land that support or complement marine activities, such as boat storage, marine equipment, repair facilities, and boat launching ramps.

**Municipal Planning Strategy** means the Municipal Planning Strategy of the Municipality of the District of Lunenburg.

**Non-Conforming Use** means a non-conforming structure and use as described in Sections 238-241 of the Municipal Government Act.

**Non-Habitable Accessory Uses** means a separate non habitable structure located on the same Lot as the main building or principal use, and of a nature customarily and clearly subordinate and incidental to the main building or main use of land.

**Person** means an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee or agent, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.

**Qualified Professional** means an individual who has undergone proper educational training and gained experience and expertise to become certified or recognized as able to practice in a particular profession in the province of Nova Scotia and, if required by applicable legislation, is a member in good standing in the professional body representing and/or regulating the profession in Nova Scotia.

**Recreational Vehicle Parking Site** means a pad or area of land designated for the parking of a recreational vehicle.

**Site Plan Approval** means an approval process that evaluates the layout of site features such as buildings, parking areas, and landscaping for compliance with the Land Use By-law.

**Top of Bank** means the location up-slope from the scoured channel of a stream, or shoreline, where an abrupt change of slope occurs.

**Use** means the purpose for which any land, building or structure is utilized, and also means the purpose for which any land, building or structure is designed, arranged, or intended or the purpose for which any land, building or structure is occupied or maintained or leased.

**Vegetated Buffer** means a designated strip of land containing a mix of species including trees, shrubs and grasses, whether naturally occurring or planted during restoration, that provides filtration of pollutants and sediment, and promotes bank stability as a means to protect water quality and habitat of all waterbodies and Watercourses and protects property from flooding and erosion.

**Watercourse** means the bed and shore of every lake, river, stream, ocean, estuaries, or other body of water.

**Wetland** means a distinct ecosystem located in low-lying area of land where water is present either permanently or seasonally, featuring unique hydrology, soils, and vegetation.

### **3. Administration**

#### **3.1 Development Officer**

This By-law will be administered by the Development Officer appointed by the Council of the Municipality of the District of Lunenburg, and the Development Officer will issue Development Permits under this By-law.

#### **3.2 Acting Development Officer**

In the absence or incapacity of the Development Officer, the Acting Development Officer appointed by Council will act in the Development Officer's stead.

#### **3.3 Requirement for Development Permits**

No person may undertake, or cause or permit to be undertaken, any development in the Designated Coastal Protection Area identified on Schedule A, unless a Development Permit has been obtained in relation to such development from the Development Officer or Acting Development Officer, as appointed by Council.

#### **3.4 No Development Permit Required**

Despite Section 3.3, a Development Permit is not required for:

- 3.4.1** A development that involves interior renovations of a building that will not add more Dwelling Units or will not involve a change in the use of the building.
- 3.4.2** Minor structures such as retaining walls, children's play structures, hot tubs, cold frames, garden trellises, clothesline poles, dog houses, propane cylinders, and heat pumps.

#### **3.5 Requirement for Development Permit Application**

Development Permits submitted to the Development Officer must be in the form prescribed by the Development Officer.

- 3.5.1** The application for a Development Permit must be signed by the owner of the Lot, or by their authorized agent.
- 3.5.2** The application for a Development Permit must set forth in detail the current and proposed use of the Lot and each building or structure, or part thereof, together with all information necessary to determine whether the proposed development conforms to the requirements of this By-law.

#### **3.6 Contents of Development Permit Application**

Every application for a Development Permit must be accompanied by a plan drawn to an appropriate scale and showing:

- 3.6.1** The true shape and dimension of the Lot to be used or upon which the development is proposed;
- 3.6.2** The proposed location, height and dimensions of any building or structure for which the permit is applied and the locational information must include measurements of the Lot frontage and front, side and rear yards;
- 3.6.3** The location of every building or structure already constructed, or partly constructed, on such Lot and the location of every building or structure existing upon abutting Lots;
- 3.6.4** The proposed location and dimensions of parking areas, parking spaces, loading spaces, driveway accesses, and curbs;
- 3.6.5** The location of existing and proposed landscaping, fencing, and outdoor storage;
- 3.6.6** The location of any Watercourse and location of any existing or proposed building or structure in relation to the Watercourse;
- 3.6.7** The location of existing and proposed public and private roads; and
- 3.6.8** Other such information as may be necessary to determine whether or not the proposed development conforms to the requirements of this By-law.

### **3.7 Requirement for Site Plan Approval Application**

Every person wishing to obtain a Site Plan Approval must submit an application for such Site Plan Approval to the Development Officer in the form prescribed from time to time by Council.

### **3.8 Contents of Application for Site Plan Approval**

An application for a Site Plan Approval must be accompanied by a plan or sketch, drawn to an appropriate scale and showing sufficient detail to address any additional matters as contained in this By-law.

### **3.9 Survey of Lands**

Where the Development Officer is unable to determine whether the proposed development conforms to this By-law, the Development Officer may require that the plans submitted under Section 3.6 be based upon an actual survey by a Nova Scotia Land Surveyor.

### **3.10 Signatures**

The application for a Development Permit must be signed by the owner(s) of the Lot, or by their authorized agent, and must demonstrate in detail the current and proposed use of the Lot and each building or structure, or part thereof, together with

all information necessary to determine whether or not the proposed development conforms to the requirements of this By-law.

### **3.11 Issuance of Development Permit**

The Development Officer will not issue a Development Permit unless:

- 3.11.1** The proposed development is in conformance with this By-law;
- 3.11.2** A site sketch has been approved by the Development Officer in conformance with this By-law, pursuant to the Municipal Government Act and the time for appeal has elapsed or the appeal has been disposed of.

### **3.12 Deviations**

No developer may deviate, or allow deviations to be made, from the description of the proposed development that is contained in the Development Permit, unless the developer has obtained a new Development Permit from the Development Officer.

### **3.13 Right of Entry**

The Development Officer, at all reasonable times, may enter into or upon any property within the area to which this Land Use By-law applies for the purposes of any inspection necessary in connection with the administration of this By-law, (pursuant to the Municipal Government Act).

### **3.14 Lapse of Permits**

Every Development Permit issued under this By-law will automatically lapse, and become null and void, if the development to which it relates has not commenced and one year has passed since its issuance.

### **3.15 Decision in Writing**

Any decision of the Development Officer to refuse the issuance of a Development Permit will be given by a written and or electronic notice, whereas any decision to revoke a Development Permit will be given by written notice served by registered mail, and such revocation will become effective on the third business day after it was sent.

### **3.16 Revocation of Development Permit**

The Development Officer may revoke a Development Permit where the Development Permit was issued based upon false or mistaken information.

### **3.17 Violations**

In the event of any alleged breach of the provisions of this By-law, the Municipality of Lunenburg may take action as outlined in the Municipal Government Act.

### **3.18 Service of Notice of Amendments or Development Agreement**

Where Council has given notice of its intention to adopt an amendment to this By-law, which is not general in scope but which is in direct response to a specific development proposal, or has given notice of its intention to enter into a Development Agreement or to amend a Development Agreement, Council will serve notice of the proposed amendment, Development Agreement or amendment thereto, to affected property owners whose property lies within 305 metres of the property which is the subject of the proposed amendment, Development Agreement or amendment thereto. The notice will:

- 3.18.1** Provide a synopsis of the proposed amendment, Development Agreement, or amendment thereto,
- 3.18.2** State the date, time, and place set for the public hearing on the amendment, Development Agreement, or amendment thereto, and
- 3.18.3** Be served by ordinary and/or electronic mail.

A suitable notice, containing the above-mentioned information, must also be erected upon the property that is the subject of the proposed amendment or Development Agreement or amendment thereto.

### **3.19 Cost of Advertising & Notice for Amendments or Development Agreement**

An advertising deposit must be paid to the Municipality as part of any application to amend this By-law, the Municipality Planning Strategy, or a development agreement. The deposit will be based on the costs of conducting a public participation program. After the advertisement is complete, the applicant must pay any additional advertisement costs; the Clerk will refund any surplus to the applicant.

### **3.20 Effective Date**

Pursuant to the Municipal Government Act, this By-law will take effect on the date a notice is published in a newspaper, circulating in the Municipality, informing the public that the Planning Strategy and its implementing Land Use By-law are in effect.

### **3.21 Service of Notice of Site Plan Approval**

Pursuant to the Municipal Government Act, where the Development Officer has approved a site plan, the Development Officer will serve a notice of the approval upon affected property owners whose property lies within 30 metres (100 feet) of the property which is subject of the Site Plan Approval. Such notice will:

- 3.21.1** Provide a synopsis of the Site Plan Approval;
- 3.21.2** Identify the property where the Site Plan Approval is granted; and

**3.21.3** Set out the right to appeal the decision of the Development Officer.

## **4. General Provisions**

### **4.1 Application**

The provisions of Part 4, General Provisions will apply to the entire Municipality except where otherwise stated.

### **4.2 Scope**

No person may undertake a development, nor will a Development Permit be issued, unless the proposed development conforms to all of the provisions of this Land Use By-law.

### **4.3 Compliance with Other By-Laws and Regulations**

**4.3.1** This By-law does not exempt any person from complying with the requirements of other by-laws or regulations in force within the Municipality of Lunenburg or from obtaining any license, permission, permit, authority, or approval required thereunder.

**4.3.2** Where any provisions of this By-law conflict with those of any other Municipal, Provincial, or Federal regulation, by-law or code, the more stringent requirement will apply.

### **4.4 Non-Conforming Uses**

**4.4.1** Uses of land that existed on the date of adoption of this By-law and that do not conform to the requirements of this By-law are considered non-conforming under section 238 of the Municipal Government Act and may continue to exist subject to the provisions of the Act (sections 239-241) or applicable policies of the Municipal Planning Strategy. Non-conforming uses that have been discontinued for a period less than 12 months will be permitted to be recommended.

**4.4.2** Non-conforming structures for residential uses may be:

- (a) Rebuilt, replaced or repaired if destroyed or damaged by fire or otherwise, if it is substantially the same as it was before the destruction or damage and it is occupied by the same use;
- (b) Enlarged, reconstructed, repaired or renovated where:
  - (i) The enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the Land Use By-law, and
  - (ii) All other applicable provisions of the Land use By-law except minimum frontage and area are satisfied.

## **4.5 Non-Conforming Structures**

**4.5.1** A structure lawfully in existence on the date of adoption of this By-law that does not meet the requirements of the zone in which it is located, is considered a non-conforming structure under section 238 of the Municipal Government Act.

**4.5.2** Non-conforming structures must be subject to the following requirements:

- (a) Non-conforming structures may expand provided the expansion to the building or structure does not further reduce the setback that does not conform to the requirements.
- (b) Non-conforming structures containing main residential uses may be rebuilt or replaced in substantially the same location and be occupied by the same use.

## **4.6 Reserved for Future Use**

## **4.7 Multiples Uses in a Building**

Where any main building is to be used for more than one purpose and applicable requirements are in conflict, the more stringent requirement(s) apply.

## **4.8 Miscellaneous Minor Accessory Structures**

**4.8.1** An accessory structure may be used only as an accessory use to the main building or use.

## **4.9 Reserved for Future Use**

## **4.10 Reserved for Future Use**

## **4.11 Reserved for Future Use**

## **4.12 Coastal Protection**

**4.12.1** Within the Designated Coastal Protection Area, as indicated in Schedule A, all developments must submit a development permit application to the Development Officer that demonstrates adherence to the regulations specified in subsections 4.13, 4.14 and 4.15, in addition to any other requirements outlined in the Municipal Land Use By-law.

## **4.13 Coastal Flooding**

**4.13.1** In all coastal areas on lands within the Coastal Flood Risk Area, as shown in Schedule C, no building may be constructed with the finished floor level of any

habitable space located below a vertical elevation of 3.97 metres, relative to the Canadian Geodetic Vertical Datum of 2013.

- 4.13.2** Institutional uses are explicitly prohibited in the Coastal Flood Risk Area regardless of elevation.
- 4.13.3** Despite Subsections 4.13.1 and 4.13.2, existing structures may be reconstructed, rebuilt, renovated, repaired, moved, or replaced. New additions may expand at or above the elevation of the current structure, up to 100% of the existing footprint, as it existed as of the date of the first publication of the notice of intention to adopt the Land Use By-law, provided that all other applicable provisions of this Bylaw are met.

#### **4.14 Coastal Erosion**

- 4.14.1** Within the Coastal Erosion Risk Area, all developments are strictly prohibited within 30 horizontal metres measured from the top of the bank to the main wall of the building.
  - (a) If the top of the bank is not discernible within a 30-metre range of the marine shoreline, the ordinary high watermark will be used and defined by a Nova Scotia land surveyor.
- 4.14.2** Within the Coastal Protection Area, a 15-metre Vegetated Buffer area consisting of natural vegetation is required to lessen the impact of runoff and erosion and protect sensitive coastal ecosystems. The following requirements apply to the buffer:
  - (a) No natural vegetation may be removed within 15-metres of the Top of Bank or the ordinary high watermark.
  - (b) Despite Section 4.14.2 natural vegetation may be removed to a maximum of the lesser of either 25% or 10-metres, of the waterfrontage to enable water views, access, and the development of marine-related accessory uses.
  - (c) In undeveloped areas, it is mandatory to restore a Vegetated Buffer featuring a blend of woody and grassy vegetation before obtaining a development permit, unless the natural landscape is inherently unvegetated.
  - (d) Despite Section 4.14.2 the removal of dangerous or severely diseased vegetation is permitted.
  - (e) Despite Section 4.14.2, Commercial, Industrial, Recreational, and Scientific uses that require direct access to the water are exempt from maintaining a vegetative buffer.
- 4.14.3** Under the provisions of Non-Conforming Structures the following must be met:

- (a) Within the Coastal Erosion Risk Area, existing structures may undergo reconstruction, renovation, repair relocation or replacement.
- (b) New additions to a Building Footprint must be developed furthest from the risk area, unless a qualified professional under the provisions stated in 4.14.5 determines the addition is not at risk of coastal erosion.
- (c) All other applicable provisions of this Land Use By-law.

**4.14.4** Permitted developments within the Coastal Erosion Risk Area include:

- (a) Boat houses, fishing gear sheds, docks, decks, wharves, piers, slipways, and other marine related uses;
- (b) Scientific research structures;
- (c) The removal of vegetation and grade alterations necessary for erecting erosion control and flood control measures above the ordinary high-watermark. Natural vegetation must be reinstated when excess vegetation has been removed within the vegetative buffer area;
- (d) Removal of windblown, diseased, or dead trees in hazardous conditions;
- (e) Trimming tree branches to improve the view plane and ventilation, and
- (f) Safety fences not exceeding a height of 1.9 metres.

**4.14.5** Despite Sections 4.14.1 and 4.14.2, the Development Officer may grant a permit for building within the Erosion Risk Area. This is contingent upon the completion of a Coastal Erosion Risk Factor Assessment that shows the proposed development is not at risk due to coastal erosion. The study must be conducted in accordance with the methodology outlined by the Nova Scotia Department of Environment and Climate Change's Development of a Coastal Erosion Risk Factor Assessment Standard Technical Background and Guidance report. The assessment, including a site plan carried out at the applicant's expense by a qualified professional must also demonstrate the following:

- (a) The proposed development maintains a minimum setback of 15 metres from the top of the bank.

## **4.15 Sensitive Coastal Ecosystems**

**4.15.1** All Development is prohibited within 30 metres of Coastal Wetlands, as specified in Schedule B, the Development Constraints Map.

**4.15.2** All Development is prohibited within a 30-metre vegetative buffer surrounding Coastal Wetlands, as specified in Schedule B, the Development Constraints Map. This buffer must be maintained in a naturalized state.

**4.15.3** Despite Sections 4.15.1 and 4.15.2, a property owner may submit a study as evidence to demonstrate the absence of a Wetland and request the removal of the Wetland from Schedule B, the Development Constraints Map.

- (a) The Municipality may require confirmation from the Department of Environment and Climate Change prior to accepting changes to wetland protection boundaries shown on the Development Constraints Map.

**4.15.4** Permitted developments within Coastal Wetlands or the associated vegetative buffers include:

- (a) Boardwalks or nature interpretation stands;
- (b) Conservation projects;
- (c) Walking or hiking trails; and
- (d) Recreational trails;

**4.15.5** Under the provisions of Non-Conforming Structures the following must be met:

- (a) Existing structures may undergo reconstruction, renovation, repair relocation or replacement.
- (b) New additions to a Building Footprint must be developed furthest from coastal wetlands.
- (c) All other applicable provisions of this Land Use Bylaw.

## 5. List of Attachments / Schedules

<b>Schedule A</b>	Designated Coastal Protection Area
<b>Schedule B</b>	Development Constraints Map
<b>Schedule C</b>	Flood Risk Area