



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

### **Amendments to the Municipal Planning Strategy and Land Use By-law to include new sections containing the regulations related to cluster development.**

#### **Public Hearing**

**Council Chambers – Municipality of the District of Lunenburg (MODL)  
Tuesday, March 11, 2025 at 8:30 a.m.**

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#### **Public Hearing Agenda**

- 1. Call to Order at 8:30 a.m.**
  
- 2. Opening Remarks by Mayor Elspeth McLean-Wile**
  - (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) Review of Written Submissions
  - (b) Verbal Presentations by the Public (if any)

#### **5. Review Of Approval Process**

Municipal Council may make a decision at the Council meeting after the close of this Public Hearing. If Council deems it advisable to adopt the amendments to the Municipal Planning Strategy and Land Use By-law to include new sections containing the regulations related to cluster development found in Appendix A and B., Council will conduct Second Reading. Once Council has approved the documents, they are forwarded to the Department of Municipal Affairs for review.

Upon confirmation from Municipal Affairs that the documents do not conflict with any provincial interest, a Notice of Approval is inserted into the local newspaper advising of the

adoption of these documents. The date that the Public Notice appears in the paper is the date the documents become effective.

## **6. Closing of the Public Hearing**

## **Rules of Conduct**

Persons who wish to speak at the Public Hearing are asked to note the following:

- [a] State your name and address;
- [b] Direct all statements to the Chairperson;
- [c] Try to limit presentations to 10 minutes;
- [d] Speakers may address Council twice, but before addressing Municipal Council for a second time, speakers will be requested to wait until all others have had the opportunity to speak, before they can then address Council for a second time.

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## **The Municipality of the District of Lunenburg**

### **Request for Decision**

**Report To:** Mayor and Municipal Council  
**Submitted By:** Ella R. Gindi, Planner II  
**Date:** March 11, 2025  
**Re:** Cluster Development Regulations – Second Reading

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#### **Recommendation**

If Council wishes to conduct Second Reading for the cluster development regulations, staff recommends the following motions:

#### **Motion**

- 1. “that Municipal Council amend the Municipal Planning Strategy and conduct Second Reading to adopt the amendments to include new sections containing the regulations related to cluster development found in Appendix A and B, as presented at the March 11, 2025, Public Hearing”.**
- 2. “that Municipal Council conduct Second Reading to adopt the amendments to the Municipal-Wide Land Use Bylaw to include new sections containing the regulations related to cluster development found in Appendix A and B as presented at the March 11, 2025, Public Hearing.”**

#### **Background**

Cluster developments are residential developments where multiple detached or multi-unit dwellings are built on the same property. The goal of the proposed cluster development regulations is to ensure new developments align with appropriate standards based on size, layout, and location. The proposed amendments to these regulations can be found in Appendices A and B.

Staff began drafting the regulations following public engagement in July 2023. Throughout the process, revisions were made in consultation with residents, the Planning Advisory Committee, and legal experts. Key considerations included the development agreement approval process, criteria for defining cluster developments, and specific development standards.

The proposed regulations passed First Reading on July 30, 2024. As per Section 246(4) of the Municipal Government Act, First Reading temporarily put the regulations into effect for 150 days. However, this period expired before final approval, rendering the regulations inactive as of December 27, 2024.

To address this, the proposed amendments were reintroduced on January 28, 2025, when Council passed First Reading to amend the Municipal Planning Strategy and Land Use Bylaw to formally include cluster development regulations. Council then directed staff to hold a public information session and a public hearing.

The public information session took place on March 3, 2025, where staff gave a brief presentation on the proposed amendments and provided an opportunity for public questions and feedback. Most feedback provided at the Public Information Session and written submissions were in favour of the amendment with some concerns raised regarding density and the grandfathering clause (full list of the written correspondence is attached).

A Public hearing occurred on March 11, 2025. During the hearing members of the public had the opportunity to provide feedback regarding the proposed amendment. As the public hearing marks the final stage of the planning process, the process is now complete. Council may now consider adopting the proposed amendments based on staff analysis and public input.

### **Next Steps**

If Council deems it advisable to adopt the amendments to the Municipal Planning Strategy and Land Use By-law, which include the new regulations related to cluster development as outlined in Appendices A and B, Council will proceed with Second Reading. Following approval, the amended documents will be forwarded to the Department of Municipal Affairs for review.

Once the Department confirms that the documents do not conflict with any provincial interests, a Notice of Approval will be published in the local newspaper to inform the public of the adoption. The date the Public Notice appears in the newspaper will serve as the effective date for the adoption of the documents.

## **Appendix A – Land Use By-law Amendment Content**

Within Section 2. Definitions, a definition for cluster development is added after ‘Building Footprint’.

**Cluster Development** means six (6) or more Dwelling Units contained in two or more Dwellings on a single Lot that is partly or entirely un-serviced by municipal water and sewer, including new phases or units in a phased-development condominium with six (6) or more Dwelling Units overall. A Recreational Vehicle Parking Site is not considered a Cluster Development.

A new section after 4.12 Sensitive Coastal Ecosystems is added called **4.13 Cluster Developments**. This section directs Cluster Development applications to be approved by development agreement and directs applicants to the Municipal Planning Strategy.

### **4.13 Cluster Developments**

Cluster Developments are permitted in all areas of the Municipality, except in cases where more stringent policies apply in Secondary Plan Areas. No development permit will be issued for any Cluster Development except in accordance with a development agreement approved under the policies in the Municipal Planning Strategy, including, but not limited to those in Sections 5 and 6.

## **Appendix B – Municipal Planning Strategy Content**

New sections are added after Section 5. Municipal-Wide Land Use Policies called **5.1 Cluster Developments, 5.2 Cluster Developments by Development Agreement, and 5.3 Non-Conforming Allowances for Phased and Bare Land Condominiums**. These sections outline policies directly related to Cluster Development.

### **5.1 Cluster Developments**

Cluster developments are a type of residential development where several detached and/or multiple-unit dwellings are located on the same property. In response to concerns over the absence of development standards for this kind of development, Council has introduced a process by which cluster development proposals to develop or expand projects, including through new or additional phases, are able to be approved through a development agreement process. The following general policies apply to this kind of development:

- 5.1.1** Council will review cluster development regulations every five years and update them in accordance with best practices for development regulations.
- 5.1.2** Council will permit cluster developments in all areas of the Municipality unless stricter policies are contained in a Secondary Planning Strategy or associated Land Use By-law.

Conservation design development is a style of cluster development designed to conserve open space in rural areas and protect environmental features. The basic principle of the design is to locate homes on the portion of the site best suited for development while retaining the remainder of the site as open space. While conservation design is not being directly evaluated as part of the development agreement process, Council wishes to promote conservation design as one possible way of meeting environmental and servicing standards.

- 5.1.3** It will be a policy of Council to promote and encourage conservation design style cluster development.

## **5.2 Cluster Developments by Development Agreement**

The evaluative criteria of the development agreement process provides Council the flexibility to uphold development standards that are appropriate to the size, configuration, and location of the proposed development.

- 5.2.1** Council will consider cluster development applications through the development agreement process.

## **5.3 Non-Conforming Allowances for Phased and Bare Land Condominiums**

A non-conforming use, sometimes called a grandfathered use, is a status given to a land use that pre-dates a regulation to allow its continuation under certain restrictions. Considering that work may have already begun on unregistered phased-development and bare land condominium units, relying on their unregulated status before the enactment of these planning documents, a future date has been designated for grandfathering. This non-conforming status allows a reasonable period for completing the necessary work to register units that were underway when the notice of intent to adopt these planning documents was published.

- 5.3.1** As outlined in the Municipal-Wide Land Use By-law section on Non-Conforming Uses, it will be a policy of Council that, for cluster developments

being developed as bare land condominiums or phased land condominiums, all units that have been accepted for registration by the Registrar of Condominiums as evidenced by their being registered at the appropriate Land Registration office established under the Land Registration Act by December 31, 2025, will be recognized by Council as non-conforming.

Section 6. Implementation is added under Section 5.11 Coastal Wetland Protection Policies. The section details the Development Agreement process.

## **6. Implementation**

### **6.1 Development Agreements**

A development agreement is a binding legal agreement between the Municipality and a property owner that can address specific details regarding the design and use of a proposed development.

**6.1.1** Council will consider entering into a new development agreement where such an agreement is enabled by policies elsewhere in this Plan. Where Council approves a development agreement, the development agreement will:

- (a)** Specify the development, expansion, alteration, or change permitted;
- (b)** Specify the conditions under which the development may occur; and
- (c)** Set terms by which Council may amend or by which Council or the Chief Administrative Officer may terminate and discharge the agreement.

**6.1.2** Council will not approve or amend a development agreement unless Council is satisfied the proposed agreement is consistent with the enabling policy and the general criteria set out in Policy 6.3.

### **6.2 Content of a Development Agreement**

**6.2.1** Council may specify conditions in the Development Agreement to meet the enabling and general criteria outlined in Policy 6.3. These conditions may include but are not limited to controls regarding:

- (a)** Adequacy of street networks, site access, and emergency evacuation;

- (b) Adequacy of services such as water and sewer;
- (c) Access of emergency vehicles;
- (d) Stormwater management;
- (e) Grading and erosion control;
- (f) The phasing of a development;
- (g) Time limits for the initiation and/or completion of development;
- (h) Availability of a safe water supply;
- (i) The suitability of the site in relation to environmental impact; and
- (j) All other matters enabled in Section 227 of the Municipal Government Act.

### **6.3 General Evaluation Criteria of a Development Agreement**

**6.3.1** Council will not approve a development agreement unless Council is satisfied the proposal:

- (a) Is consistent with the intent of this Municipal Planning Strategy;
- (b) Does not conflict with any Municipal or Provincial programs, bylaws, or regulations in effect in the Municipality;
- (c) Is not premature or inappropriate due to:
  - (i) Impacts on existing drinking water supplies, both private and public;
  - (ii) The adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;
  - (iii) The creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;
  - (iv) The adequacy of fire protection services and equipment;
  - (v) Impacts on known habitat for species at risk;

- (vi) The potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas; and
- (vii) The suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility rights-of-way.

## **6.4 Specific Evaluation Criteria of a Development Agreement**

**6.4.1** Council may require, in addition to any other required information, any or all the following information, prepared by an appropriate qualified professional at the applicant's cost, and at a level sufficiently detailed to determine whether the criteria for adopting a development agreement have been met.

- (a) A detailed plot plan showing features such as, but not limited to:
  - (i) The layout of the site and associated wastewater systems in accordance with Nova Scotia Environment's on-site sewage technical guidelines;
  - (ii) Location and dimensions of existing and proposed road, bicycle, and pedestrian networks;
  - (iii) The location of dedicated green space, including open space and amenities;
- (b) A hydrogeological assessment in accordance with the guidelines set out in Nova Scotia Environment's groundwater assessment standards;
- (c) An environmental impact study identifying the potential impact and recommended mitigation measure for wetlands, natural habitats, or species at risk;
- (d) Access for emergency vehicles; and
- (e) Any other matters enabled in Section 227 of the Municipal Government Act.

<b>Report Preparation</b>	
<b>Department</b>	Planning & Development Services
<b>Report Prepared by</b>	Ella R. Gindi, Planner II
<b>Report Approved by</b>	
<b>Date Reviewed by C.A.O.</b>	

# Municipality of the District of Lunenburg

Amending By-law Details	
<b>Name</b>	Amendments to the Municipal Planning Strategy, 2024
<b>Number</b>	035C
<b>Legislative Authority</b>	Municipal Government Act, Section 205
<b>Effective Date</b>	-

**Be it enacted** by the Council of the Municipality of the District of Lunenburg, under the authority of Section 205 of the **Municipal Government Act**, as follows:

**Title**

- 1 This By-law is titled ‘Amendments to the Municipal Planning Strategy, 2024’ and may be cited as the Cluster Development Amendment (2024).

**Amendments to the Municipal Planning Strategy (By-law 035C)**

- 2 Section 5.1, 5.2, and 5.3 is added between Section 5. Municipal-Wide Land Use Policies and Section 6. Implementation. These sections include the following content: “

**5.1 Cluster Developments**

Cluster developments are a type of residential development where several detached and/or multiple-unit dwellings are located on the same property. In response to concerns over the absence of development standards for this kind of development, Council has introduced a process by which cluster development proposals to develop or expand projects, including through new or additional phases, are able to be approved through a development agreement process. The following general policies apply to this kind of development: “

- 5.1.1 Council will review cluster development regulations every five years and update them in accordance with best practices for development regulations.
- 5.1.2 Council will permit cluster developments in all areas of the Municipality unless stricter policies are contained in a Secondary Planning Strategy or associated Land Use By-law.

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- 5.3.1** As outlined in the Municipal-Wide Land Use By-law section on Non- Conforming Uses, it will be a policy of Council that, for cluster developments being developed as bare land condominiums or phased land condominiums, all units that have been accepted for registration by the Registrar of Condominiums as evidenced by their being registered at the appropriate Land Registration office established under the Land Registration Act by December 31, 2025, will be recognized by Council as non-conforming.

- 3** Section 6. Implementation is added between Section 5.3.1 and Attachments which includes the following content:

## 6. Implementation

### 6.1 Development Agreements

A development agreement is a binding legal agreement between the Municipality and a property owner that can address specific details regarding the design and use of a proposed development.

- 6.1.1** Council will consider entering into a new development agreement where such an agreement is enabled by policies elsewhere in this Plan. Where

Council approves a development agreement, the development agreement will:

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- (c)** Is not premature or inappropriate due to:
  - (i)** Impacts on existing drinking water supplies, both private and public;
  - (ii)** The adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;
  - (iii)** The creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;
  - (iv)** The adequacy of fire protection services and equipment;
  - (v)** Impacts on known habitat for species at risk;
  - (vi)** The potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas; and
  - (vii)** The suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility rights-of-way.

## **6.4 Specific Evaluation Criteria of a Development Agreement**

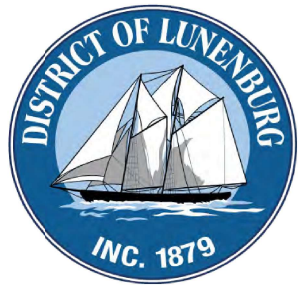
**6.4.1** Council may require, in addition to any other required information, any or all the following information, prepared by an appropriate qualified professional at the applicant's cost, and at a level sufficiently detailed to determine whether the criteria for adopting a development agreement have been met.

- (a)** A detailed plot plan showing features such as, but not limited to:
  - (i)** The layout of the site and associated wastewater systems in accordance with Nova Scotia Environment's on-site sewage technical guidelines;
  - (ii)** Location and dimensions of existing and proposed road, bicycle, and pedestrian networks;

- (iii) The location of dedicated green space, including open space and amenities;
- (b) A hydrogeological assessment in accordance with the guidelines set out in Nova Scotia Environment’s groundwater assessment standards;
- (c) An environmental impact study identifying the potential impact and recommended mitigation measure for wetlands, natural habitats, or species at risk;
- (d) Access for emergency vehicles; and
- (e) Any other matters enabled in Section 227 of the Municipal Government Act.”

**4** Sections titled ‘Reserved for Future Use’ removed throughout.

<b>By-law Adoption</b>	
<b>Date of first reading of amending by-law</b>	
<b>Date of second reading of amending by-law</b>	
<b>Date of advertisement of passage of amending by-law</b> Effective date of the by-law unless otherwise specified in the text of this by-law.	
<b>Date of mailing a certified copy of amending by-law to Minister</b>	
<b>I certify that this “Repeal and Replace of the Municipal Planning Strategy (2024)” was adopted by Municipal Council and published as indicated above.</b>	
<b>Signature of Municipal Clerk</b>	<b>Date</b>



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

**(MODL By-law 049)**

Approved by Council on: 2024-06-18

Amended on: YYYY-MM-DD

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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 by 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 unregulated cluster developments occurring in both coastal and 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 Cluster Development and Coastal Protection sections also apply to Secondary Plan Areas. Therefore, in cases where similar policies or regulations overlap, the most stringent ones will apply.

### 5.1 Cluster Developments

Cluster developments are a type of residential development where several detached and/or multiple-unit dwellings are located on the same property. In response to concerns over the absence of development standards for this kind of development, Council has introduced a process by which cluster development proposals to develop or expand projects, including through new or additional phases, are able to be approved through a development agreement process. The following general policies apply to this kind of development:

- 5.1.1 Council will review cluster development regulations every five years and update them in accordance with best practices for development regulations.
- 5.1.2 Council will permit cluster developments in all areas of the Municipality unless stricter policies are contained in a Secondary Planning Strategy or associated Land Use By-law.

Conservation design development is a style of cluster development designed to conserve open space in rural areas and protect environmental features. The basic principle of the design is to locate homes on the portion of the site best suited for development while retaining the remainder of the site as open space. While conservation design is not being directly evaluated as part of the development agreement process, Council wishes to promote conservation design as one possible way of meeting environmental and servicing standards.

- 5.1.3 It will be a policy of Council to promote and encourage conservation design style cluster development.

### 5.2 Cluster Developments by Development Agreement

The evaluative criteria of the development agreement process provides Council the flexibility to uphold development standards that are appropriate to the size, configuration, and location of the proposed development.

- 5.2.1 Council will consider cluster development applications through the development agreement process.

### 5.3 Non-Conforming Allowances for Phased and Bare Land Condominiums

A non-conforming use, sometimes called a grandfathered use, is a status given to a land use that pre-dates a regulation to allow its continuation under certain restrictions. Considering that work may have already begun on unregistered phased-development and bare land condominium units, relying on their unregulated status before the enactment of these planning documents, a future date has been designated for grandfathering. This non-conforming status allows a reasonable period for completing the necessary work to register units that were underway when the notice of intent to adopt these planning documents was published.

- 5.3.1 As outlined in the Municipal-Wide Land Use By-law section on Non-Conforming Uses, it will be a policy of Council that, for cluster developments being developed as bare land condominiums or phased land condominiums, all units that have been accepted for registration by the Registrar of Condominiums as evidenced by their being registered at the appropriate Land Registration office established under the Land Registration Act by December 31, 2025, will be recognized by Council as non-conforming.

## 5.4 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:

- 5.4.1 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.
- 5.4.2 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.
- 5.4.3 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.

## 5.5 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.

## 5.6 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:

- 5.6.1 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.
- 5.6.2 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.

- 5.6.3 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.
- 5.6.4 Within the Municipal-Wide Land Use Bylaw, Council will grant exemptions for non-habitable accessory structures and marine related uses.
- 5.6.5 Despite Section 5.6.2, Council will, through the Land Use Bylaw, authorize non-conforming structures to undergo renovations, rebuilding, or relocation.
- 5.6.6 Despite Section 5.6.2, Council may, through the Land Use Bylaw, authorize limited additions to non-conforming structures that do not meet the elevation requirements.
- 5.6.7 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.

## 5.7 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.

## 5.8 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:

- 5.8.1 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.
- 5.8.2 Despite Section 5.8.1 the Municipal-Wide Land Use By-law will include exemptions for non-habitable accessory and marine related uses.
- 5.8.3 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.
- 5.8.4 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 5.8.1 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 5.8.3

- 5.8.5 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.

## 5.9 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:

- 5.9.1 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.
- 5.9.2 Despite Section 5.9.1 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.
- 5.9.3 Despite Section 5.9.1 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.

## 5.10 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:

- 5.10.1 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.

## 5.11 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:

- 5.11.1 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.
- 5.11.2 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.
- 5.11.3 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.
- 5.11.4 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.

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

## 6. Implementation

### 6.1 Development Agreements

A development agreement is a binding legal agreement between the Municipality and a property owner that can address specific details regarding the design and use of a proposed development.

- 6.1.1** Council will consider entering into a new development agreement where such an agreement is enabled by policies elsewhere in this Plan. Where Council approves a development agreement, the development agreement will:
- (a) Specify the development, expansion, alteration, or change permitted;
  - (b) Specify the conditions under which the development may occur; and
  - (c) Set terms by which Council may amend or by which Council or the Chief Administrative Officer may terminate and discharge the agreement.
- 6.1.2** Council will not approve or amend a development agreement unless Council is satisfied the proposed agreement is consistent with the enabling policy and the general criteria set out in Policy 6.3.

### 6.2 Content of a Development Agreement

- 6.2.1** Council may specify conditions in the Development Agreement to meet the enabling and general criteria outlined in Policy 6.3. These conditions may include but are not limited to controls regarding:
- (a) Adequacy of street networks, site access, and emergency evacuation;
  - (b) Adequacy of services such as water and sewer;
  - (c) Access of emergency vehicles;
  - (d) Stormwater management;
  - (e) Grading and erosion control;

- (f) The phasing of a development;
- (g) Time limits for the initiation and/or completion of development;
- (h) Availability of a safe water supply;
- (i) The suitability of the site in relation to environmental impact; and
- (j) All other matters enabled in Section 227 of the Municipal Government Act.

### 6.3 General Evaluation Criteria of a Development Agreement

- 6.3.1** Council will not approve a development agreement unless Council is satisfied the proposal:
- (a) Is consistent with the intent of this Municipal Planning Strategy;
  - (b) Does not conflict with any Municipal or Provincial programs, bylaws, or regulations in effect in the Municipality;
  - (c) Is not premature or inappropriate due to:
    - (i) Impacts on existing drinking water supplies, both private and public;
    - (ii) The adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;
    - (iii) The creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;
    - (iv) The adequacy of fire protection services and equipment;
    - (v) Impacts on known habitat for species at risk;
    - (vi) The potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas; and
    - (vii) The suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility rights-of-way.

#### 6.4 Specific Evaluation Criteria of a Development Agreement

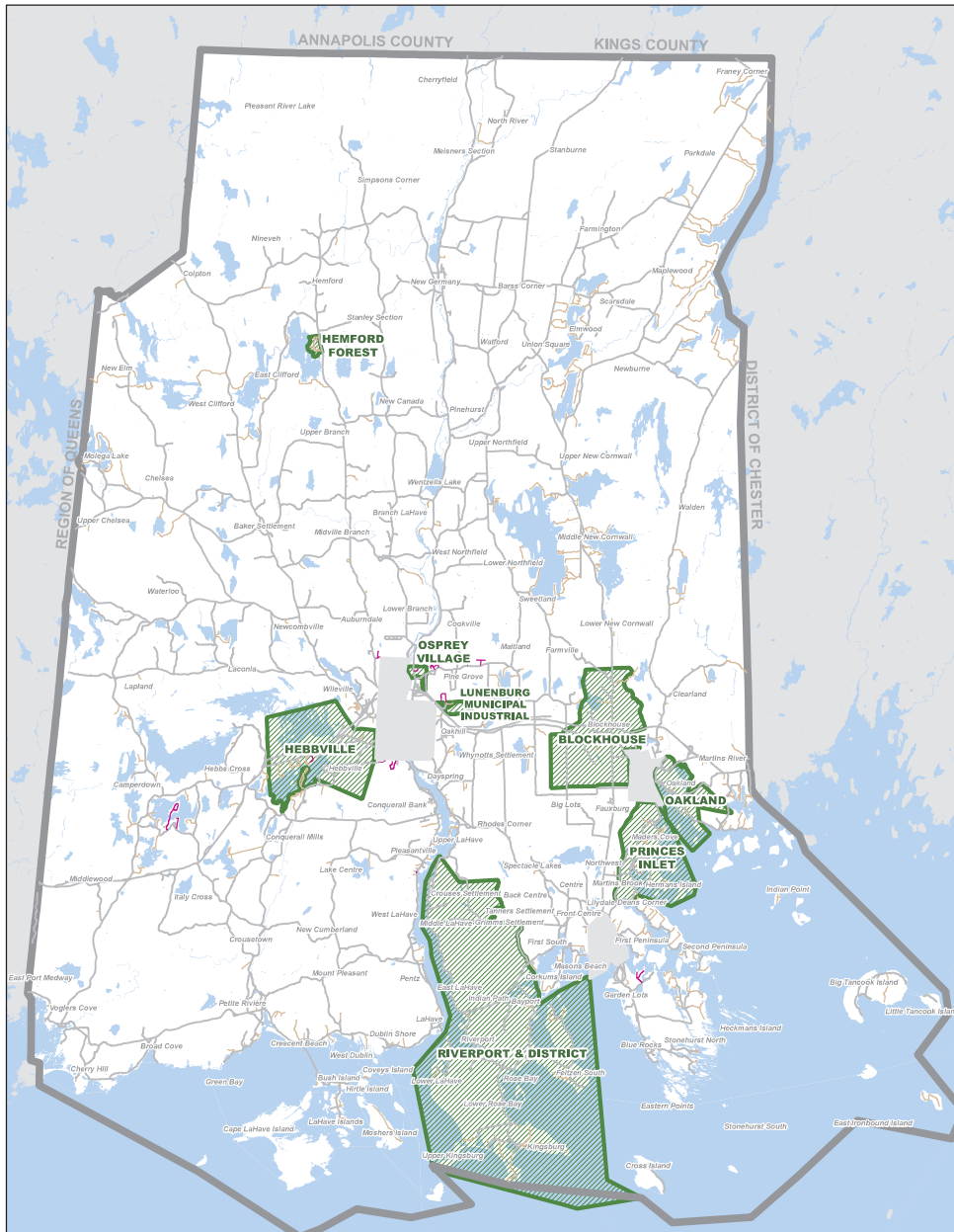
- 6.4.1** Council may require, in addition to any other required information, any or all the following information, prepared by an appropriate qualified professional at the applicant's cost, and at a level sufficiently detailed to determine whether the criteria for adopting a development agreement have been met.
- (a)** A detailed plot plan showing features such as, but not limited to:
    - (i)** The layout of the site and associated wastewater systems in accordance with Nova Scotia Environment's on-site sewage technical guidelines;
    - (ii)** Location and dimensions of existing and proposed road, bicycle, and pedestrian networks;
    - (iii)** The location of dedicated green space, including open space and amenities;
  - (b)** A hydrogeological assessment in accordance with the guidelines set out in Nova Scotia Environment's groundwater assessment standards;
  - (c)** An environmental impact study identifying the potential impact and recommended mitigation measure for wetlands, natural habitats, or species at risk;
  - (d)** Access for emergency vehicles; and
  - (e)** Any other matters enabled in Section 227 of the Municipal Government Act.

#### 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 Planning Strategy  
MAP 1: Secondary Plan Areas**

- Towns Not Within the Municipality
- Areas With Zoning

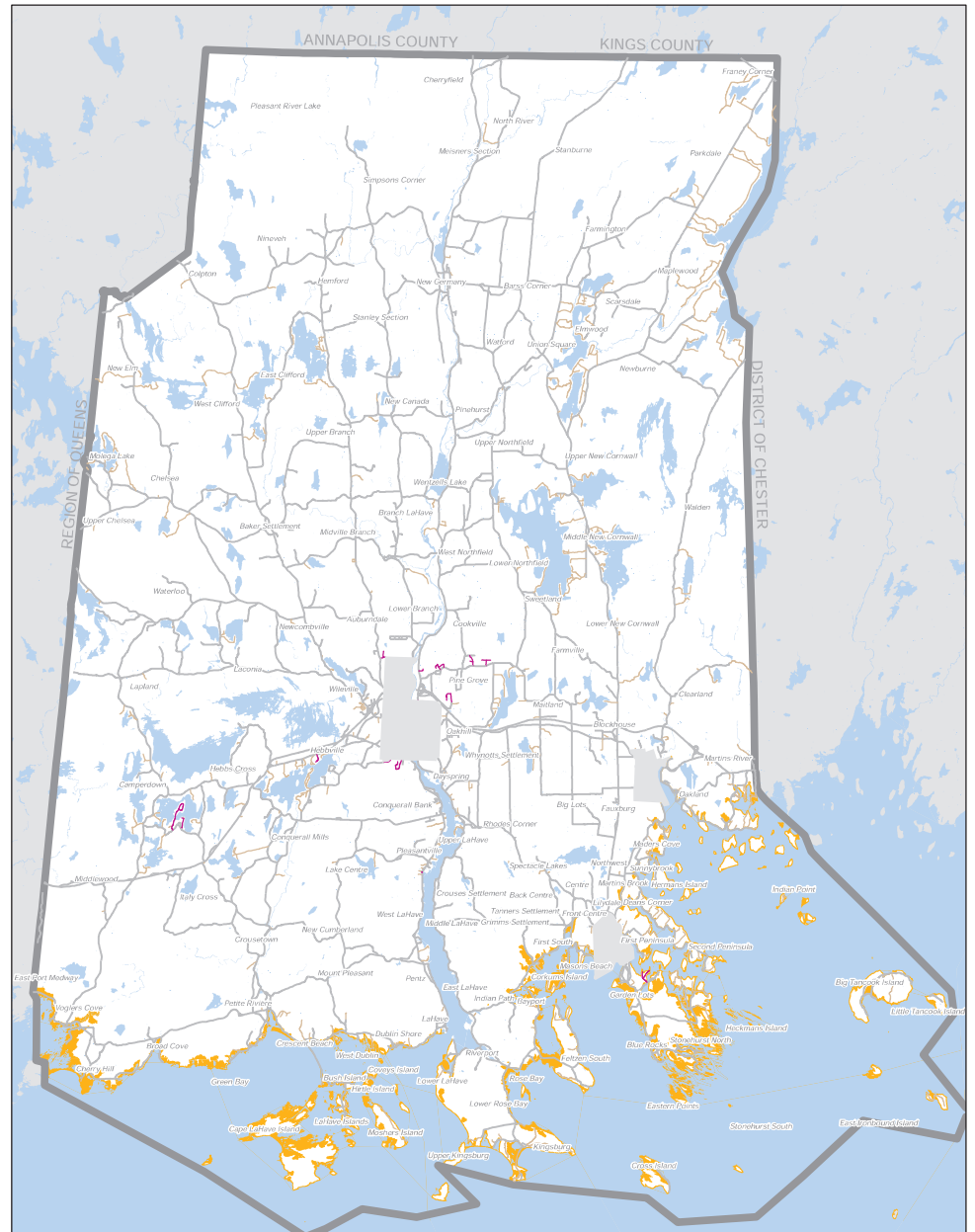
- Provincial Road
- Municipal Road
- Private Road
- Municipal Boundary
- Waterbody



0 1.5 3 6 9 12 Kilometers

1:192,000

Sources: Municipality of the District of Lunenburg  
Service Nova Scotia & Municipal Relations  
January 2024



**MUNICIPALITY OF THE DISTRICT OF LUNENBURG**

**Municipal Planning Strategy  
MAP 2: Designated Coastal Protection Area**

- Towns Not Within the Municipality
- Designated Coastal Protection Area

- Provincial Road
- Municipal Road
- Private Road
- Municipal Boundary
- Waterbody



0 1.5 3 6 9 12 Kilometers

1:192,000

Sources: Municipality of the District of Lunenburg  
Service Nova Scotia & Municipal Relations  
January 2024



**MUNICIPALITY OF THE DISTRICT OF LUNENBURG**

**Municipal Planning Strategy  
MAP 3: Municipal-Wide Land Use**

- Towns Not Within the Municipality
- Areas Regulated By Regional Land Use By-Law

- Provincial Road
- Municipal Road
- Private Road
- Municipal Boundary
- Waterbody



Sources: Municipality of the District of Lunenburg  
Service Nova Scotia & Municipal Relations  
April 2024

# Municipality of the District of Lunenburg

Amending By-law Details	
<b>Name</b>	Amendments to the Municipal Wide Land Use By-law, 2024
<b>Number</b>	049A
<b>Legislative Authority</b>	Municipal Government Act, Section 205
<b>Effective Date</b>	-

Be it enacted by the Council of the Municipality of the District of Lunenburg, under the authority of Section 205 of the **Municipal Government Act**, as follows:

**Title**

- 1 This By-law is titled ‘Amendments to the Municipal Wide Land Use By-law, 2024’ and may be cited as the Cluster Development Land Use By-law Amendment (2024).

**Amendments to the Municipal Planning Strategy (By-law 049A)**

- 2 The Definitions section is amended by adding the definition text: “**Cluster Development** means six (6) or more Dwelling Units contained in two or more Dwellings on a single Lot that is partly or entirely un-serviced by municipal water and sewer, including new phases or units in a phased-development condominium with six (6) or more Dwelling Units overall. A Recreational Vehicle Parking Site is not considered a Cluster Development.” After the ‘Building Footprint’ and before ‘Coastal Erosion Risk Area’ definitions.

- 3 New section ‘4.13. Cluster Developments’ is added after 4.12 Sensitive Coastal Ecosystems and before section 5. List of Attachments with the following text: “

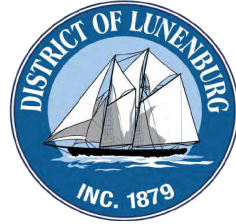
**4.13 Cluster Developments**

Cluster Developments are permitted in all areas of the Municipality, except in cases where more stringent policies apply in Secondary Plan Areas. No development permit will be issued for any Cluster Development except in accordance with a development agreement approved under the policies in the Municipal Planning Strategy, including, but not limited to those in Sections 5 and 6.”

- 4 Sections titled ‘Reserved for Future Use’ removed throughout.

By-law Adoption	
<b>Date of first reading of amending by-law</b>	
<b>Date of second reading of amending by-law</b>	

<b>Date of advertisement of passage of amending by-law</b> Effective date of the by-law unless otherwise specified in the text of this by-law.	
<b>Date of mailing a certified copy of amending by-law to Minister</b>	
<b>I certify that this “Amendments to the Municipal Wide Land Use By-law, 2024” was adopted by Municipal Council and published as indicated above.</b>	
<b>Signature of Municipal Clerk</b>	<b>Date</b>



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**Municipality of the District of Lunenburg**

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

**(MODL By-law 049)**

Approved by Council on: 2024-06-18

Amended on: 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.

**Cluster Development** means six (6) or more Dwelling Units contained in two or more Dwellings on a single Lot that is partly or entirely un-serviced by municipal water and sewer , including new phases or units in a phased-development condominium with six (6) or more Dwelling Units overall. A Recreational Vehicle Parking Site is not considered a Cluster Development.

**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 Non-Conforming Bare Land Condominiums

For Cluster Developments being developed as bare land condominiums or phased land condominiums, all units that have been accepted for registration by the Registrar of Condominiums as evidenced by their being registered at the appropriate Land Registration office established pursuant to the Land Registration Act by December 31, 2025, will be recognized by Council as non-conforming. Notwithstanding that a Condominium Declaration for a phased-development condominium has been accepted for registration and contemplates additional units in subsequent phases, it is only those units which have been accepted for registration by December 31, 2025 that will be accepted as non-conforming.

### 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 Coastal Protection

**4.9.1** 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 4.10, 4.11 and 4.12, in addition to any other requirements outlined in the Municipal Land Use By-law.

### 4.10 Coastal Flooding

- 4.10.1** 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.
- 4.10.2** Institutional uses are explicitly prohibited in the Coastal Flood Risk Area regardless of elevation.
- 4.10.3** Despite Subsections 4.10.1 and 4.10.2, 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.

#### **4.11 Coastal Erosion**

- 4.11.1** 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.
- 4.11.2** 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 4.11.2 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 4.11.2 the removal of dangerous or severely diseased vegetation is permitted.
  - (e) Despite Section 4.11.2, Commercial, Industrial, Recreational, and Scientific uses that require direct access to the water are exempt from maintaining a vegetative buffer.

- 4.11.3** 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 4.11.5 determines the addition is not at risk of coastal erosion.
  - (c) All other applicable provisions of this Land Use By-law.
- 4.11.4** 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.
- 4.11.5** Despite Sections 4.11.1 and 4.11.2, 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.

#### **4.12 Sensitive Coastal Ecosystems**

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

**4.12.2** 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.

**4.12.3** Despite Sections 4.12.1 and 4.12.2, 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.

**4.12.4** 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;

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

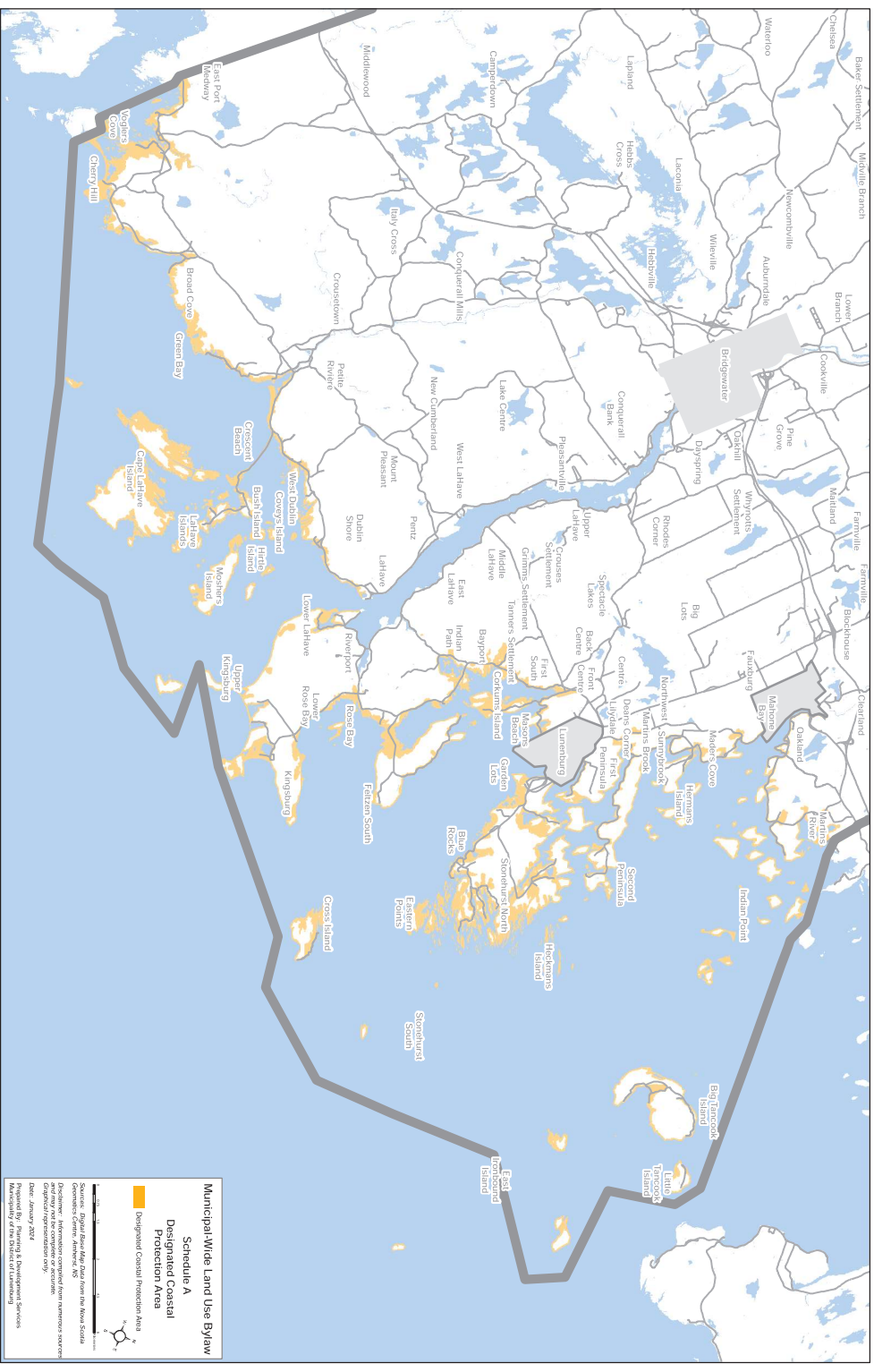
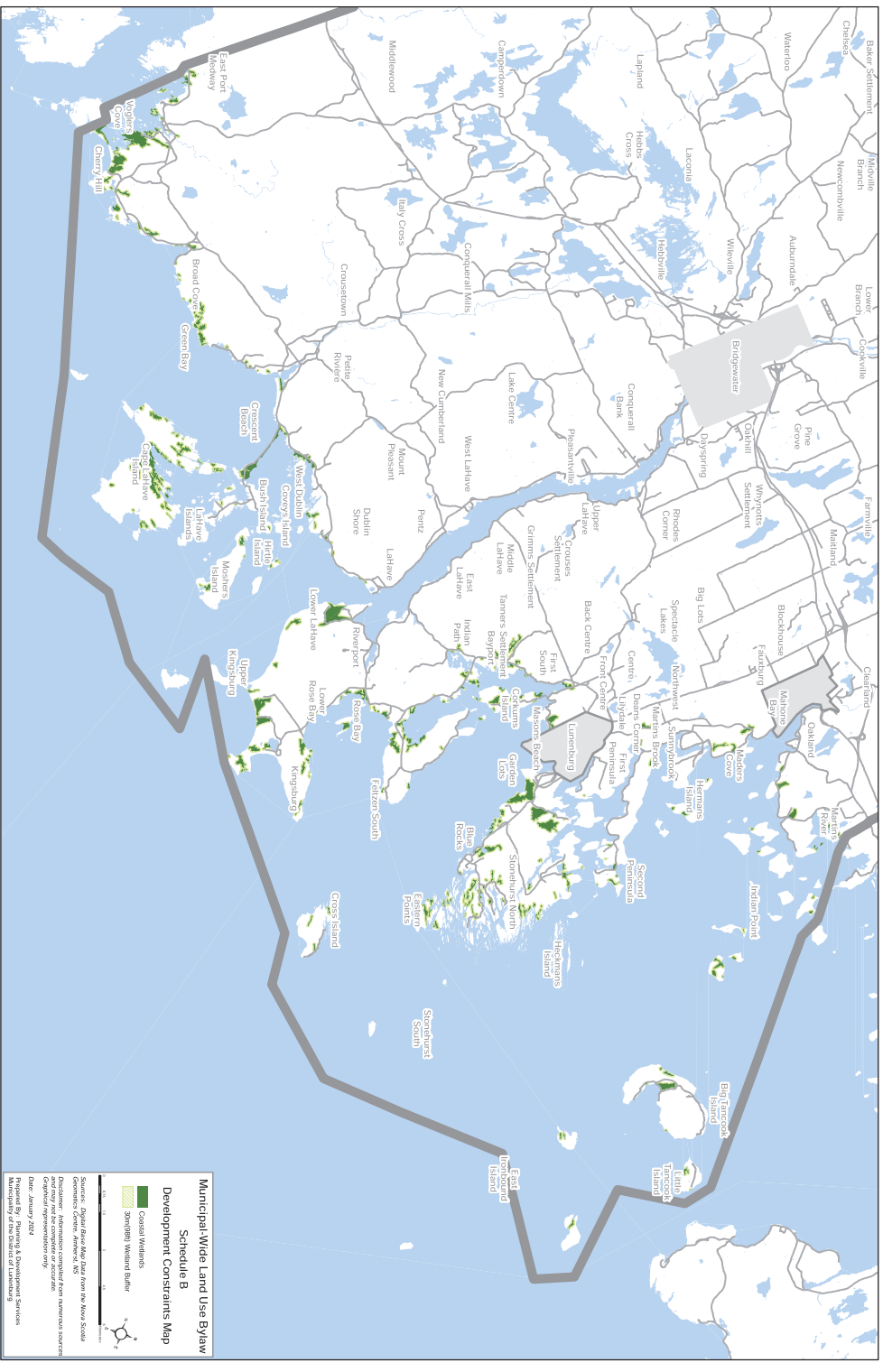
- (a) Existing structures may undergo reconstruction, renovation, repair relocation or replacement.
- (b) New additions to a Building Footprint must be developed furthest from coastal wetlands.
- (c) All other applicable provisions of this Land Use Bylaw.

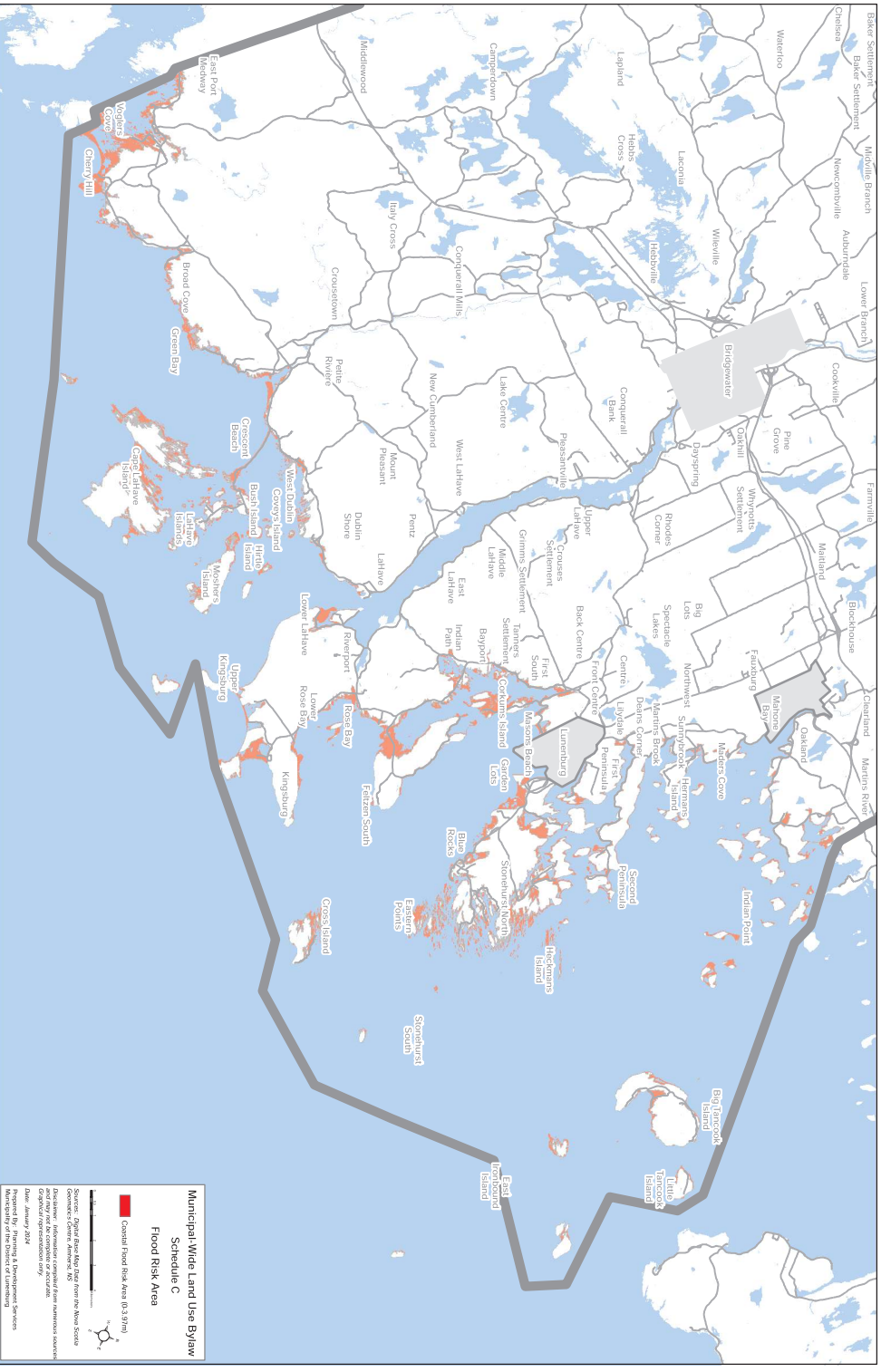
#### **4.13 Cluster Developments**

Cluster Developments are permitted in all areas of the Municipality, except in cases where more stringent policies apply in Secondary Plan Areas. No development permit will be issued for any Cluster Development except in accordance with a development agreement approved under the policies in the Municipal Planning Strategy, including, but not limited to those in Sections 5 and 6.

## **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





## MODL Public Correspondence: Cluster Development - March 4, 2025

#	Name	Topic Headline	Date
1	Colin Mann (Petition)	Concerns re Cluster Developments/Bareland Condominiums	2023-07-14
2	Jim Eisenhauer	FW: Cluster Developments - Eisenhauer	2023-04-18
3	Colin Mann	FW: Cluster Developments	2023-10-19
4	Jennifer Corson	FW: Input for Cluster Development Review from Solterre Design	2023-10-20
5	Morgan MacDonald	Feedback Re: Municipal Planning Strategy and Land Use By -Law Proposals	2024-02-23
6	Colin Mann	Re: Council First Reading for Cluster Development Regulations	2024-02-25
7	Kathryn Heckman	proposed cluster development regulations	2024-02-25
8	Duncan Crowdis	Regulation of Bareland Condominiums in Lunenburg County, (MODL)	2024-02-26
9	Deborah Deller	Cluster Development Regulations	2024-02-26
10	Dale Kelly	-	2024-02-26
11	David Monaghan	Proposed Bare Condominium Development	2024-02-26
12	Dan Sargeant	Amended Municipal Planning Strategy and a new Municipal -wide Land Use By -Law, for first reading by Council.	2024-02-26
13	Dara Young	Cluster Development Regulations	2024-02-26
14	Edward Jordan	Correction to letter sent re Regulation of Bareland Condominiums in Lunenburg County	2024-02-26
15	Edward Jordan	Regulations of Bareland Condominiums in Lunenburg County	2024-02-26
16	Fern Jordan	What is really going on?	2024-02-26
17	Garry Deller	First Reading re: Cluster Development and Coastal Protection	2024-02-26
18	Glen Dexter	Bare Land Condos	2024-02-26
19	Jim Eisenhauer	First Reading of Cluster Development Regulations	2024-02-26
20	John Hoyle	Regulation of Bareland Condominiums in Lunenburg County, ( MODL),	2024-02-26
21	Kenneth G. Clarke	Time sensitive] For your consideration for the upcoming 27Feb2024 Council meeting	2024-02-26
22	Michael Banks	Cluster Developments MODL	2024-02-26
23	Sylvie Long	Concerns re first reading of new proposed regulation	2024-02-26
24	Steven Morris	Cluster Development regulations	2024-02-26
25	Tom Eisenhauer	Proposed Cluster Development Regulations	2024-02-26
26	Colin Mann	Fwd: Concerns re Meeting S.P Cluster	2024-03-18

Name	Topic headline	date
Barry	Notice of Intention to adopt Cluster Development Regulations	January 28, 2025
Colin Mann	Cluster Development Regulations	March 4, 2025
Dale Kelly	Cluster Development Second Reading	March 4, 2025
Kathryn Heckman	Cluster Development bylaw regulations: written submission for public information session	March 4, 2025
Juan Sargeant	Cluster Development Regulations	March 5, 2025
Tom Eisenhauer	Cluster Development legislation	March 5, 2025



This petition has collected  
86 signatures  
using the online tools at [www.ipetitions.com](http://www.ipetitions.com)

Printed on 2023-07-14

## MODL - Concerns re Cluster Developments/Bareland Condominiums

### About this petition

In the fall of 2022, a group of concerned residents of the Municipality of the District of Lunenburg (MODL) became aware of developers proposing development using the bare land condominium development structure to achieve density of development that would not be possible under current Subdivision Regulations or other customary development strategies. In the case of a proposed development on Second Peninsula, this appeared to be solely for the purpose of achieving a density that is 2.5 to 3 times more dense than other residential areas on Second Peninsula. This density of development is likely to irreversibly damage the environment, character and safety of the neighbourhood. These concerns were laid out in a letter to Registrar of Condominiums at the Province of Nova Scotia, copied to the Mayor, CAO, Planning Staff and local MODL Councillor for Second Peninsula, and discussed at a subsequent meeting with Mayor, CAO, Planning Staff and local MODL Councillor. A petition, with associated signatures and comments, around these concerns was also presented at this meeting with hundreds of signatures from concerned MODL residents. The petition (now closed) describing the specific concerns can still be viewed at:

<https://www.ipetitions.com/petition/express-concern-2P-Development>

Municipal Council and Staff heard the concerns and have indicated their intent to develop new rules that will impact how certain types of cluster developments (including bare land condominium developments) occur across the municipality. More information about their intent can be found at: <https://engage.modl.ca/cluster-development-regulations>. MODL is holding a Cluster Development Open House on 10 July 2023 at the Best Western in Cookville from 6:30-8:30pm. All concerned residents of MODL are encouraged to attend and make your concerns known.

### This petition is:

- to affirm to Municipal Council and Staff the depth of concern around this issue;
- to implore them to provide exceptional leadership in acting swiftly and boldly to protect the integrity of the natural environment, cultural identity and safety of the wonderful Municipality in which we live, work and raise families by implementing appropriate Cluster Development rules; and
- to insist that they structure the Cluster Development rules in such a way as to apply to developments that are already proposed and registered but not yet built out. If they do not do this, they risk a rush by developers to register bare land condominiums before the rules apply, and risk irreversible damage to our Municipality.

If you support these concerns, please add your name and comments to this petition, which will be presented to Staff and Council at the July 10th Open House.

Signatures

1. Name: Colin Mann on 2023-06-26 23:15:08  
Comments:

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2. Name: Adrienne G on 2023-06-27 02:26:04  
Comments:

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3. Name: Dale Kelly on 2023-06-27 09:37:21  
Comments:

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4. Name: David Peill on 2023-06-27 10:25:19  
Comments:

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5. Name: Kathy Dahn on 2023-06-27 10:37:48  
Comments:

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6. Name: Kathryn Heckman on 2023-06-27 10:38:47  
Comments: MODL you are fortunate to be leaders of a sustainable community and this is an opportunity to protect and guide MODL'S future in the right direction. If you do not act now, this opportunity will be lost forever.

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7. Name: Heather Eisenhauer on 2023-06-27 10:44:40  
Comments:

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8. Name: Anthony Hughes on 2023-06-27 10:51:03  
Comments: Very concerned about the number of units on this development, in regards to water table, septic beds, affecting the environment.

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9. Name: Tom Eisenhauer on 2023-06-27 10:52:53  
Comments:

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10. Name: Duncan Crowdis on 2023-06-27 11:15:53  
Comments:

---

11. Name: J Daniel Sargeant on 2023-06-27 11:38:11  
Comments:

---

12. Name: Alan Collins on 2023-06-27 12:17:40  
Comments: MODL must act swiftly to prevent a "gold rush" mentality amongst developers keen to slip through the net.

---

13. Name: Jennifer Corson on 2023-06-27 12:30:57

Comments: Our impact on natural resources (both well and septic fields in this case) need to look at current and future strain on our eco-system. Right-sized developments are critical!

- 
14. Name: Stephen Foster on 2023-06-27 12:38:12  
Comments: Cluster developments are an environmental and logistical disaster; this must be stopped.

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  15. Name: John Adams on 2023-06-27 13:37:45  
Comments:

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  16. Name: Edward Jordan on 2023-06-27 13:44:19  
Comments: The building of this development would lower the value of our property by 50% or more.

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  17. Name: Christine Scott on 2023-06-27 13:50:55  
Comments: MODL must act on this immediately in order to prevent further development which will have significant negative impacts on the environment.

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  18. Name: Jim Lockhart on 2023-06-27 14:08:09  
Comments:

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  19. Name: Rosalie and Darrell knickle on 2023-06-27 14:49:25  
Comments:

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  20. Name: Bill Towndrow on 2023-06-27 15:06:53  
Comments:

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  21. Name: Sharon Mulvagh on 2023-06-27 15:33:24  
Comments: We must protect the unique natural environment, cultural identity and safety of Second Peninsula. High density housing is a major threat to this and must be prohibited. Any additional development must be done only in the context of respecting this unique environment. The small winding road cannot accommodate additional residential traffic without major risk to lives in our active community. The water and septic resources are limited and cannot be further strained without harm to the land, waters and people of Second Peninsula. Our community is diverse, comprising families who have been here working the land, and oceans for centuries as well as individuals who have sought, and invested in a life here in accordance with the rural principles respecting the existing environment. These principles must be upheld, especially in this era of fast-moving, severe environmental threats. Please protect our community by putting the needed legislation in place.

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  22. Name: Jocelyn K on 2023-06-27 15:34:09  
Comments:
-

23. Name: Dara Young on 2023-06-27 17:00:42  
Comments:
- 
24. Name: Malcolm Mann on 2023-06-27 22:51:39  
Comments:
- 
25. Name: Jennifer Josenhans on 2023-06-27 23:36:39  
Comments:
- 
26. Name: Tony and Janice Sampson on 2023-06-27 23:36:56  
Comments: As long term residents of the community we have seen plenty of changes. While change is inevitable we do not need to sacrifice the character of the community for unregulated growth. We have never seen growth that resulted in improved services for our community so it is hard to justify an urban style development of this type. Please provide some clarity and leadership quickly.
- 
27. Name: William Smillie on 2023-06-28 11:36:07  
Comments: Please help promote the current and future quality of life in our municipality.
- 
28. Name: Harvey Heinrichs on 2023-06-28 21:05:33  
Comments: MODL - please develop rules quickly and then enforce them please
- 
29. Name: Don Johnston on 2023-06-28 21:14:33  
Comments:
- 
30. Name: Alex Mann on 2023-06-28 23:01:23  
Comments:
- 
31. Name: Julie Johnston on 2023-06-28 23:47:44  
Comments:
- 
32. Name: Alison Josenhans on 2023-07-01 17:53:56  
Comments:
- 
33. Name: Heiner Josenhans on 2023-07-01 17:54:51  
Comments:
- 
34. Name: Joan Sargeant on 2023-07-03 11:42:35  
Comments:
- 
35. Name: Martha MacDonald on 2023-07-03 12:07:00  
Comments:
- 

36. Name: Mary Steckle on 2023-07-03 13:33:53  
Comments:
- 
37. Name: Gary Foshay on 2023-07-03 13:34:42  
Comments:
- 
38. Name: Tracy Scott on 2023-07-03 13:38:17  
Comments: I am very concerned about the environmental impact that a development of this density would have.
- 
39. Name: Glen Dexter on 2023-07-03 22:53:32  
Comments: I support the petition
- 
40. Name: Jeff Dempster on 2023-07-03 23:08:07  
Comments: This proposed development is only appropriate in a serviced site with access to centralized processing facilities for waste water and potable water that is safe and in an appropriate volume to support a whole community. Please have rules in place go protect everyone, owners, neighbours and our future generation.
- 
41. Name: Gregory Bailly on 2023-07-03 23:23:10  
Comments:
- 
42. Name: Hope DeMone on 2023-07-03 23:43:36  
Comments:
- 
43. Name: Shelley Mann on 2023-07-04 00:58:34  
Comments: We are very fortunate to live where we do here on the South Shore. While we recognize that development is inevitable, it must abide by rules that keep the integrity of the area, be environmentally sustainable, be safe. The bare land condo development on Second Peninsula goes against any responsible development.
- 
44. Name: Rob Barbara on 2023-07-04 01:50:38  
Comments: Please move quickly before it's too late
- 
45. Name: Ronald Whynacht on 2023-07-04 10:09:43  
Comments:
- 
46. Name: Phyllis Nickel on 2023-07-04 12:32:19  
Comments: I believe that cluster housing is important and inevitable but we still need to ensure environmental and zoning standards are met. So MODL needs to develop and enforce these standards.
- 
47. Name: Jim Eisenhauer on 2023-07-04 13:22:36

Comments: I fully support the position outlined in this petition.

- 
48. Name: Holly Baltzer on 2023-07-04 13:40:09  
Comments:
- 
49. Name: David Monaghan on 2023-07-04 14:10:28  
Comments: The recent forest fires highlighted the issue of ease of exit during an emergency. Most of Second Peninsula only has one road access and exit. An Increased density of population of the type that would be created by the Oceans Landing proposal would greatly exacerbate an already dangerous situation. This consideration should play a part along with those already identified when judging development proposals that serve the developer's greed rather than the needs of the community.
- 
50. Name: James Mosher on 2023-07-04 14:21:41  
Comments:
- 
51. Name: Katherine Eisenhauer on 2023-07-04 14:47:38  
Comments: I am an owner of property on Second Peninsula and very concerned about changes that would allow higher density development in this area.
- 
52. Name: Nancy Stabenow on 2023-07-04 15:57:06  
Comments:
- 
53. Name: Bruce MacDonald on 2023-07-04 16:06:09  
Comments: I fully support this petition.
- 
54. Name: Keith reimer on 2023-07-04 19:54:13  
Comments:
- 
55. Name: Gail Warriner on 2023-07-04 20:58:27  
Comments: I fully support this petition.
- 
56. Name: Charles Mitchell on 2023-07-04 21:05:29  
Comments:
- 
57. Name: Graham Pratt on 2023-07-04 21:17:42  
Comments: I fully support the position being taken in this petition  
MODL, please move swiftly to develop appropriate rules for rural developments, that does not sacrifice the character of this area  
This is on the scale of an urban development .  
Consider the impact on current residents on the overall water supply ( wells), and waste water facilities septic systems.
- 
58. Name: Debbie Harvey on 2023-07-04 22:41:25

Comments:

- 
59. Name: James Young on 2023-07-04 22:42:18  
Comments:
- 
60. Name: Nancy eisenhauer on 2023-07-05 00:16:03  
Comments: I'm a concerned resident on second peninsula. I feel strongly that this bare land condominium project is too dense for the community and needs to be modified.
- 
61. Name: Louis O Boileau on 2023-07-05 00:33:05  
Comments: Density such as this is not what a rural cottage zone with acreages needs or wants. Maybe a flag lot should possibly have a certain minimum lot size. This development will be more like a trailer court
- 
62. Name: Michael Banks on 2023-07-05 01:39:20  
Comments: I enthusiastically join the group supporting this important petition.
- 
63. Name: Shelley Mitchell on 2023-07-05 11:21:02  
Comments:
- 
64. Name: Ralph Jost on 2023-07-05 22:41:37  
Comments:
- 
65. Name: Chris Norman on 2023-07-06 10:56:22  
Comments: I fully support this petition. MODL needs to act swiftly to modify the existing guidelines for rural development in order to preserve the character of our community.
- 
66. Name: Jennifer Hall on 2023-07-06 11:28:20  
Comments:
- 
67. Name: Alex de Saint Sardos on 2023-07-06 16:00:38  
Comments:
- 
68. Name: Heather Woodworth on 2023-07-06 19:07:22  
Comments:
- 
69. Name: Mark Lindau on 2023-07-07 14:39:09  
Comments: The developer advertises the peace and countrified living on 2nd Peninsula mostly due to the work of all of us as neighbors. Paradoxically it is this type dense development which would harm the exact attributes that the developers are claiming to possess. By the way, as neighbors none of us have locked gates on our properties.
- 
70. Name: Linda Oliver-Parks on 2023-07-08 00:30:36

Comments: I fully support this petition.

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71. Name: Hector Dawe on 2023-07-08 22:18:19  
Comments:

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72. Name: Pam Barker on 2023-07-09 01:41:59  
Comments: I strongly support this comprehensive, well-researched proposal and urge MODL to quickly develop and implement regulations to protect the environment and the integrity of our beautiful rural communities. High density developments such as this must be denied.

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73. Name: Carolyn Kaulback on 2023-07-09 12:19:11  
Comments:

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74. Name: Nancy Mayer on 2023-07-09 18:20:42  
Comments:

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75. Name: Alain Veilleux on 2023-07-09 18:27:49  
Comments:

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76. Name: Paul Fennell on 2023-07-09 23:11:17  
Comments:

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77. Name: Kristine Bailly on 2023-07-10 09:08:51  
Comments:

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78. Name: Candace Mason on 2023-07-10 19:54:00  
Comments:

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79. Name: Deborah Deller on 2023-07-10 20:05:12  
Comments:

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80. Name: Sharon Gow-Knickle on 2023-07-10 20:18:49  
Comments:

---

81. Name: Graham Eisenhower on 2023-07-11 13:16:46  
Comments: I support the petition and all of content it contains.

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82. Name: Nicole Nickerson on 2023-07-12 02:45:04  
Comments:

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83. Name: Barbara Goldbloom-Hughes on 2023-07-12 12:11:14

Comments: I hope these issues are resolved in a timely manner so that all development adheres to regulations that protect any and all environmental concerns.

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84. Name: Sylvie Ruiz Salvador on 2023-07-12 12:59:30  
Comments:

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85. Name: Katharina Jost on 2023-07-12 15:35:29  
Comments:

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86. Name: Steven Morris on 2023-07-13 10:05:11  
Comments:

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**FW: Cluster Developments - Eisenhauer**

**Jeff Merrill** <Jeff.Merrill@modl.ca>

Tue 7/18/2023 2:17 PM

To: Reid Shepherd <Reid.Shepherd@MODL.CA>; Ella Gindi <Ella.Gindi@MODL.CA>; Elizabeth Carr <Elizabeth.Carr@MODL.CA>; Jacob Macpherson <Jacob.MacPherson@MODL.CA>

See below

**Jeff Merrill, MCIP, LPP (he/him)**

Director  
Planning & Development Services  
**Municipality of the District of Lunenburg**  
10 Allée Champlain Drive | Cookville NS | B4V 9E4  
Office: (902) 541-1340 | Cell: (902) 521-0925



**Clean Energy Financing**

*My office hours are Tuesday Friday, 8:00am - 5:15pm*

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**From:** Chasidy Veinotte <chasidy.veinotte@modl.ca>  
**Sent:** Friday, July 14, 2023 10:03 PM  
**To:** Jeff Merrill <Jeff.Merrill@modl.ca>  
**Subject:** FW: Cluster Developments

Hi Jeff,

Please include and share the input from Mr. Eisenhauer mentioned below in the Cluster Development regulations process.

Thanks,

**Chasidy Veinotte**  
**Councillor District 10**

Municipality of the District of Lunenburg  
10 Allée Champlain Drive  
Cookville, Nova Scotia B4V 9E4  
cell (902) 521-2117



---

**From:** Jim Eisenhauer <[REDACTED]>  
**Sent:** Tuesday, July 11, 2023 11:56 AM

To: Chasidy Veinotte <chasidy.veinotte@modl.ca>  
Subject: Cluster Developments

You don't often get email from [REDACTED]. [Learn why this is important](#)

**CAUTION: This email originated from an external sender.**

Good morning Chasidy,

Thank you for chatting last evening. I appreciate your understanding and support of the situation we face on Second Peninsula. Thank you for your work on our behalf. Together I hope we find a path forward that leads to responsible cluster developments.

I took a lot of positives from the evening but frankly I was a little concerned that staff seem to be focused on the positives of cluster developments and not as sensitive to the negatives of ones like the Second Peninsula one. I hope I am wrong and it was just their caution showing through. I agree there are situations where they can be good but based on our experience they require much closer and early stage review before they are allowed to proceed.

I had a thought as I drove home last evening. I wondered if it might be possible for all Cluster Developments to require a Development Agreement. If that were the case all would require early disclosure and a public process. Such a requirement should allow good ones to proceed and the bad ones to be stopped or altered.

I was struck by staff's comments that there are so many variables to such developments that I think it might be challenging to draft regulations that cover all situations. To me a Development Agreement should provide appropriate safeguards and flexibility to ensure the goal of responsible development.

Just a thought that came to me after the meeting that I wanted to share.

Thanks and regards,  
Jim

J D (Jim) Eisenhauer  
agl Group Holdings Limited  
[REDACTED]  
Lunenburg, NS,  
[REDACTED]

Dear Chasidy,

It was good to see you at the Planning Advisory Committee meeting last week and to speak with you about the proposed regulation of Cluster Developments in our Municipality. As we said at the meeting, we believe Council is to be commended for listening to the concerns raised on this issue and acting promptly to prevent the inappropriate development that results from the lack of regulation of the Bareland Condominium structure. We are greatly concerned however that the regulation proposed by staff, and approved in principle by the Planning Advisory Committee, is inadequate to prevent developers from attempting to avoid the appropriate regulation of the Subdivision Bylaw.

There are two main aspects to our concern:

- As proposed, there are a number of discretionary areas for which one Development Officer would make judgement, with no opportunity for public input or oversight of any kind. While there is an appeal process after the decision has been made, this is obviously not an ideal avenue for good planning. These areas such as density, environmental impact, traffic concerns, water supply, escape routes in case of emergency, etc. are just too important to leave to one person. It also risks uneven or inconsistent application of regulation as different Development Officers review different site plans with little specific criteria in place.
- Council has indicated their desire to put the Bareland Condominium structure on a level playing field with the Subdivision Bylaw. Indeed, the staff report indicated a desire to implement regulation which 'will cause the cluster development model to no longer be a more permissive approach compared to a residential subdivision' As proposed, there is no minimum lot size specified in the regulations that have been brought forward. This is at odds with the Subdivision Bylaw in place.

As was pointed out by staff at the meeting, there are times when grouping buildings together within a Bareland Condominium structure can be beneficial, while still respecting the need for reasonable density, appropriate to the surroundings and the unique environmental challenges of a given site. However, the regulations as currently proposed leave open the possibility for misuse by developers who might break up a proposed Bareland Condominium into smaller parts to avoid triggering the higher level of scrutiny proposed with 10 or more units.

**We would suggest that the current proposed regulation be modified such that if the proposed cluster development has an average lot size less than 9000 m<sup>2</sup>, a Development Agreement would be required, rather than simply the Site Plan Approval process as proposed.** This would allow public input and a broader level of scrutiny of a proposed high density development, ensuring that all potential issues were considered and addressed. This simple change would strengthen the proposed regulatory framework to help prevent inappropriate development while bringing it more in line with the Subdivision Bylaw already in place. It would not, however, unnecessarily slow or hinder the process of review for developments of reasonable density which clearly present less threat to the environment, culture and safety of residents and to the area surrounding a proposed development.

As also brought forward at the PAC meeting, the implication of the definition of a cluster development as 'five (5) or more dwelling units within two or more dwellings on one lot' is not clear. Our concern

remains that developers could choose to structure their development such that they have more lots, each separately remaining under the threshold for the definition as a cluster development, and thereby achieve a higher density than would be otherwise allowed. Is this a valid concern?

Finally, as been emphasized previously, it is imperative in the interests of equity, that regulations are developed and implemented such that they apply to cluster developments that may already be planned but not yet built or have building permits in place. We have provided legal opinion that supports this and we understand that you are in the process of confirming this with your own legal opinion.

We appreciate the work of Council in getting these regulations in place in a timely manner, however it is also crucial that they are structured to achieve their desired effect of ensuring responsible development which protects the integrity and beauty of our Municipality. We look forward to hearing of further progress toward this goal.

Please feel free to circulate this to staff and fellow Councillors as you see fit.

Jim Eisenhauer

Colin Mann

**FW: Input for Cluster Development Review from Solterre Design**

**Jeff Merrill** <Jeff.Merrill@modl.ca>

Tue 10/24/2023 12:21 PM

To: Reid Shepherd <Reid.Shepherd@MODL.CA>; Jacob Macpherson <Jacob.MacPherson@MODL.CA>  
Cc: Norma Schiefer <Norma.Schiefer@MODL.CA>

**Jeff Merrill, MCP, LPP (he/him)**

Director  
Planning & Development Services

**Municipality of the District of Lunenburg**

10 Allée Champlain Drive | Cookville NS | B4V 9E4  
Office: (902) 541-1340 | Cell: (902) 521-0925



**Clean Energy  
Financing**

*My office hours are Tuesday-Friday, 8:00am – 5:15pm*

**From:** Chasidy Veinotte <chasidy.veinotte@modl.ca>

**Sent:** Tuesday, October 24, 2023 11:51 AM

**To:** Tom MacEwan <Tom.MacEwan@modl.ca>; Jeff Merrill <Jeff.Merrill@modl.ca>

**Cc:** MODL - Councillors <council@modl.ca>

**Subject:** FW: input for Cluster Development Review from Solterre Design

More correspondence from a resident on Cluster Development.

**Chasidy Veinotte**

**Councillor District 10**

Municipality of the District of Lunenburg  
10 Allée Champlain Drive  
Cookville, Nova Scotia B4V 9E4  
cell (902) 521-2117



**From:** Jennifer Corson [REDACTED]

**Sent:** Friday, October 20, 2023 12:09 PM

**To:** Chasidy Veinotte <chasidy.veinotte@modl.ca>

**Subject:** Input for Cluster Development Review [REDACTED]

**CAUTION: This email originated from an external sender.**

Good morning Chasidy,

I'm reaching out to you today as a resident of Second Peninsula, and also as an architect/business owner at Solterre Design, with offices in Lunenburg and Halifax. I attended the recent PAC meeting regarding Cluster Developments and Coastal Protection and have some follow-up input to share regarding the recommendations made by MODL Planning Staff.

I'm very appreciative of the work that the MODL planners and committee have done on this topic to date and look forward to seeing some of the suggestions made at the meeting, researched further and hopefully incorporated into a more cohesive new regulation.

**Reference Developments**

With the newness of the bare land condominium format of ownership and cluster developments in the region, I would suggest a much broader consulted list of similar projects be researched than the Nova Scotia municipalities listed as reference material. The type of ownership models, whether developer owned and rented, or through condominium corporation, and individual ownership does create some potential loopholes or unanticipated outcomes to impact of the development.

**Density and defining an acceptable unit count:**

This is the most challenging topic. I do believe that neighbouring densities (whether counted as dwellings per acre, or properties (PIDs) per acre) is a good reference point. In rural areas, there can be separate requirements as to houses per acre on waterfronts, or properties per acre in rural areas. To support some aspect of growth in underpopulated areas, one can add a factor, say 20% growth, to support new housing. For example, if a radius of 1 km is looked at from the edges of the proposed development, and a house count of 2.4 houses per acre was calculated (and reviewed by MODL planners), then an acceptable density number would be 2.4 plus 'growth factor' used by MODL. If a growth factor of 20% is proposed, then the allowable number of house units (regardless of configuration), would be  $2.4 + .48 = 3.0$  houses (rounded up) per acre. This helps to deal with any proposed development, of any type of ownership, and the varying housing counts that they may have.

I do feel that applying the number of 'containing 5 or more units composed of two or more dwellings' is confusing and problematic, especially when considering the various types of ownership that may occur. If the land area is small, then one development with 9 units with individual home sites and 9 wells and septic fields wouldn't require this review? I think this type of development could be problematic affecting water course, septic design and potential commercial road entrance issues. I think that a bare land condominium

**Water supply and septic field design:**

Should the type of proposed development, and number of allowable units, be considered differently if a community septic system is proposed? As I read the current proposed guidelines there is no differentiation if a cluster development used a communal septic system, or whether individual units each have their own septic. The impact on the environment, and surrounding water table, and potable wells would be impacted differently depending on choice of system. Are our planners reviewing these applications adequately knowledgeable about water tables and septic systems? Should a Department of Environment review, or Septic Field Designers (QP1 or QP2) be required to review design as part of the application?

**Phasing:**

Most developments, whether bare land condominium or developer-owned, would consider phasing. Often, second and third phases are not finalized as per unit count, depending on the success of the first phase. Land area noted as 'green reserve' in Phase 1 of a bare land condominium ownership could be voted on by corporation to become additional units. Would this become a new application? Would this be allowed? Will Planners require a fixed 'green reserve' regardless of future phases?

**Secondary Road Access:**

I concur with the comments made regarding having a secondary access out of communities. I do feel that there would be a trigger number of total housing units (including all proposed phases) that should require a secondary access. Would this access be required to meet the Private Road Standard? For emergencies like wild fires, might be a gravel road, with a gate barrier to be only used in emergencies? Who maintains these additional roads (MODL or new community (developer or condo corp)?

**Defining Elements / Agricultural Reserve Areas**

Mr Glen Rhodenizer spoke to the importance of the defining elements of Second Peninsula being a rural, farming area. Historically Second Peninsula, post- first contact with the Milkaki, was partitioned into land grants for forestry (for fish flakes) and for farming. At what point do Planners resist development approval over maintaining our agricultural lands? Should a policy be drafted to state that existing agricultural lands be not included in areas to receive development approval? There are forested, non-farmed, rural areas that might be more challenging and expensive to develop, but that would protect agricultural lands for our food security and support local farmers. Property taxes for these agricultural properties, that could be developed, should also be protected to support our local farmers and food production.

**Roads and Traffic**

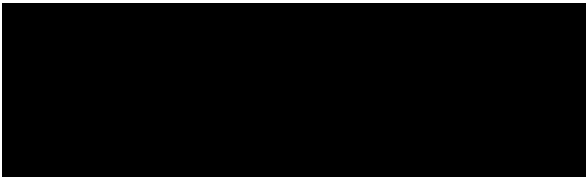
I believe that with the implementation of the above density approach that the concern for rapid increase in road traffic will be lessened. Is the commercial road entrance requirement of 5 properties or more still in place

I look forward to hearing more about the changes being considered to the draft policy. I have concern that the PAC committee passed the report, with the number of concerns raised during the meeting. Will the upcoming council meeting have adequate time to review, comprehend the issues, and vote on the material? Might this be tabled for further work?

If you have any questions, please do not hesitate to contact me.

Kind regards,  
Jennifer

\_\_\_\_\_  
Jennifer Corson, M. Arch, NSAA



**Feedback Re: Municipal Planning Strategy and Land Use By-Law Proposals**

**Morgan Macdonald** [Redacted]

Fri 2/23/2024 1:44 PM

To:MODL Planning <planning@modl.ca>;Reid Shepherd <reid.shepherd@modl.ca>

Cc:Greg Huse [Redacted]

CAUTION: This email originated from an external sender.

**Good Morning Planning Department and Reid Shepherd,**

We appreciate your office taking the time to meet with us regarding our concerns with the proposed zoning changes. We feel the updated by-laws that will be presented to council have found an appropriate balance of increasing regulatory control in un-zoned areas while retaining the advantageous flexibility of our rural zoning to support affordable housing development. Please find below the sections that we feel reflect the reasonable considerations that have been included to support housing development with significant positive impact for small scale (2-9 unit) affordable housing in particular.

**Municipal Planning Strategy**

Section 5.2.4.

*"Council recognizes that the ordering of steps in a planning approval process can potentially close the window of opportunity for developers seeking financing for the purpose of constructing housing by imposing costs early on. To account for these special cases, Council will provide opportunities for flexibility in the ordering of steps while ensuring the same standards are met before occupancy."*

**Municipal Wide Land Use By-Law**

*"Cluster Development means six (6) or more Dwelling Units contained in two or more dwellings on a single lot" - 2. Definitions*

*"As part of the Site Plan Approval process, the appointed Development Officer of the Municipality is provided the discretion, upon request from an applicant of the Cluster Development, to establish an agreement with the developer to delay the requirement to construct a private road through a letter of undertaking. Through this agreement, the developer will be issued Site Plan Approval under the condition that the Development Permit be withheld until all of the requirements are met." - Section 4.10.2*

**Statement to Council Related to Housing and Development**

Support for affordable housing through various development incentives was met with understandable caution when presented in a previous land use meeting, however it is quickly becoming common practice in many regions of Canada. This type of support was included as part of the Housing Accelerator announcement from CBRM on February 22. We believe MODL is in a unique position to leverage significant influence supporting affordable housing. Successful models found in other regions deserve thorough vetting with consideration given to how similar programs could be further developed to meet the unique opportunities and needs in MODL.

These supports could be in the form of forgivable loans to developers or homeowners creating affordable units (e.g. provincial backyard suite program top-up, CMHC affordable rental program applicant support), becoming a shared equity mortgage partner, or through traditional direct

construction loans supported by a fund similar to that of the very successful straight pipe program. By helping smaller builders/developers and non-profit groups qualify for financing these supports could stimulate significant economic activity, unlock access to federal and provincial supports/investment, and address the rapidly growing need for affordable housing in our community.

Thank you again for including us in these stakeholder consultations,

Morgan MacDonald  
Managing Director  
Sumac Development Ltd.  
[REDACTED]

## Re: Council First Reading for Cluster Development Regulations

Colin Mann [REDACTED]

Sun 2/25/2024 11:36 PM

[REDACTED]

Some people who received this message don't often get email from [REDACTED] [learn why this is important](#)

CAUTION: This email originated from an external sender.

Dear Mayor, Councillors and Manager of Planning,

I feel really disheartened. As a group of citizens, residents of this wonderful Municipality which we love, we brought forward our concerns around the lack of regulation of Cluster Developments. We participated and engaged in the process respectfully and with genuine interest to try and improve this place we live in. This is not just about Second Peninsula, which certainly is a particularly magical place to me and my family, but is about all of this beautiful, largely unspoiled place we live. We are not anti-development, we recognize the need to densify in appropriate places and goodness knows everyone has the right to a place of safety to call home. This is NOT about preventing appropriate development or affordable housing. Cluster Developments that are well-designed, appropriately-sized and well-planned will have no problem with regulation. However, the abuse of the development process currently allowed under the Bareland Condominium process is not about those things. It is about profit-driven development without any regard to the safety, environmental and social issues that arise.

I honestly was impressed that Council and Staff took the concerns seriously, expressed a desire to close the loopholes and move forward in a way that encourages thoughtful, safe, environmentally respectful and creative development so that we can realize appropriate growth without losing forever the things that make this Municipality so special. Council was so concerned that in August 2024 they requested the Province to "implement a moratorium on granting approval of new cluster developments for (a) 6 months or (b) until the Municipality puts new regulations in place." This moratorium was not granted but the request indicates the seriousness of the issues. That same letter also reads, in part: "Municipal Council feels strongly that this pause on cluster development is necessary to prevent the development of housing which is potentially unsafe and unsuitable to develop while we take the time to ensure that cluster developments receive the same level of scrutiny as subdivided developments." At the public consultations, commitments were made to implement Municipal regulation by the end of 2023. Feedback was received about wording and definitions and a commitment to draft timely regulations was given. Now instead of being impressed and feeling we were all working toward a common goal, I feel betrayed. The words and commitments seem to have been meaningless. The consultation process seems to have been a facade. Somewhere between the last public consultation and now, things have gone off the rails.

In the email I received on 27 February, the documents with the proposed regulations shocked me. This the first time that both proposed Coastal Protection regulations and proposed Cluster

Development regulations have been lumped together, with no prior discussion or notice at the public consultation. The structure and timeline of the proposed Cluster Development regulations completely undermines the objective that these measures would prevent the misuse of the Bareland Condominium structure ... the very concern that started this whole process. The regulation not only would not come into effect until November 2025, but actively exempts any registrations that occur before that date. This would give developers 18 months from now to register Cluster Developments that would be completely exempt from any Municipal oversight on environmental or safety concerns. Indeed, with the clause around ceeming prior applications prior to that date as non-conforming and thereby exempt, it actually invites and encourages moving quickly to avoid regulation. By the time the regulation comes into effect, there will be no reversing or undoing the damage that could accrue. By conducting first reading of these flawed regulations I believe Council would be completely abdicating their responsibility to the people of this Municipality.

I would respectfully ask Council:

- **Do NOT conduct first reading of these flawed regulations**
- **Separate out proposed Cluster Development regulations and Coastal Protection regulations** – the disparate concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- **Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments (to use Council's words) just because they have received Provincial Condominium registration.**

Sincerely,

Colin & Shelley Mann  
Second Peninsula

## proposed cluster development regulations

Kathryn Heckman [REDACTED]

Sun 2/25/2024 10:40 PM

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

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Dear Mayor and Councillors,

It is with a heavy heart that I have read the proposed regulatory bylaws on duster development that will be presented to Council this Tuesday.

After all the public consultation - the Council meetings, the petitions, the phone calls, the emails - what I read is a document that does not support the views of the residents, but rather undermines them, procedurally and substantively.

I hope you remember that at least 95 % of the residents of Second Peninsula signed a petition opposing the Oceans Landing proposed bare land condominium. Then, as a group we put a lot of time and energy into preparing submissions to properly regulate bare land condominiums - not to prevent development but to encourage the best development so this rare and precious gem, specifically Second Peninsula and generally Lunenburg County, is not lost and spoiled forever.

We felt you cared about our concerns and supported us. In fact, it is my recollection that you wrote to the Province to stop all approvals pending the finalization of your regulations. There was a sense of urgency.

So, you can imagine my shock when I read in the regulations (s.4.6) that the effective date is registration after November 1, 2025 and that all bare land condominiums prior to that date will be exempt as non-conforming uses. It left me with the feeling that the process of engaging the community was a sham.

This grandfathering was never brought forward in any part of the public consultations and did not appear in earlier drafts. What happened to change the total thrust of the regulations from stopping these immediately to deliberately allowing them for the next 18 months??

Not only that, but this section actually encourages developers to rush to develop before November 2025 throughout the County to avoid the regulations. Going out of your way to explicitly grandfather these developments completely goes against what was discussed in the public consultations. It is the exact opposite result of what we wanted and in fact it may be worse than having no regulations based on the explicit message that positively supports a rush to develop.

If you pass this regulatory bylaw, the damage will be done. You can not undo what happens from now until November 2025 - it will be a regulatory vacuum, a free for all, a nightmare. This is the substantive betrayal - you have failed to uphold your role as protectors of the land, the water, the culture and the residents. And a double whammy is the procedural betrayal. We took part in this process with good faith. And then we were blinc-sided.

We may never know what influenced you to ignore the public process and to add this section that never appeared in earlier drafts. Perhaps a FOPOP application is the only way to learn the truth.

Also, there was never any indication throughout the long process of public consultation that the cluster development regulations and the coastal protection regulations would be combined into one bylaw. Throughout the process, they were separate. So again, it feels, procedurally, that you were less than forthright to combine them at the last moment, especially considering the drastic effect that the November 1, 2025 effective date has. They are two substantively different matters and should be kept separate. Perhaps if they had been kept separate, we could have had the cluster development regulations come into force immediately, or even retroactively, and avoiding the drastic result that we are now forced to deal with.

I suspect that the real crisis around the supply of affordable housing may be a factor in your sudden change of heart. But clearly, the Oceans Landing development will not provide relief for those seeking affordable housing. And more importantly, this is not the way to deal effectively with that issue.

My ancestors arrived in Lunenburg in 1752. I am very proud of the beauty of the County and the vision of the residents. I do not want the prudence of centuries to disappear based on some short-sighted goals. My trust in your current leadership has been damaged, but I hope it can be repaired.

Sincerely,  
Kathryn

(902)478-0992  
[REDACTED]

**From:** [Duncan Crowdis](#)  
**To:** [mayor@modl.ca](#); [leitha.haysom@modl.ca](#); [martin.bel@modl.ca](#); [Wendy.Orickle@modl.ca](#); [Pam.Hubley@modl.ca](#); [cahy.moore@modl.ca](#); [Sandra.Stallon@modl.ca](#); [Michelle.Greek@modl.ca](#); [Kacy.Delong@modl.ca](#); [reid.whynot@modl.ca](#); [Chasidy.Veinotte](#); [reid.shepherd@modl.ca](#)  
**Subject:** Regulation of Bareland Condominiums in Lunenburg County, (MODL)  
**Date:** February 26, 2024 6:27:00 PM

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important.](#)

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Dear MODL Mayor and Councilors:

We are writing to express our serious concern and deep disappointment over the proposed regulations dealing with the **Regulation of Bareland Condominiums in Lunenburg County, (MODL)**, to be presented to Council tomorrow at 9 am, Tuesday, February 27, 2024. As residents and adjacent neighbour of the bareland condominium project on the Second Peninsula, we are obviously personally and deeply affected by this but, moreover, we are fearful of what this will do over years to come to this beautiful area of the country.

My personal background is in the business world, and we will never be against development. After all we built here. What we are against is inappropriate development. Development that sacrifices so much of why we love this area, only to service the greedy needs of a few individuals who will take advantage of the almost 2 year window these regulation open up, to jam as many buildings into our oasis as possible, leverage a tidy profit and then ride away into the sunset. This inappropriate type of development would be executed with only their own pocketbook in mind, ignoring the risk of immediate and longer term damage to the environmental, safety and social surroundings of those of us who do live in the community.

This is not what we want; this is not what you want, but this is what will happen if you move these proposed regulations forward.

In the initial stages of your work, we were skeptical of the seriousness and the speed with which the Municipality and Council would move on this file. But after the public meetings, the commitment to target new regulations by the end of 2023 and the directive given to staff at the 5 December Council meeting, while wasn't ideal in our view, was a demonstration of a team that was trying to do what was right. I was shocked in reading the proposal you will be discussing tomorrow. I have no idea of the motivation of staff to come up with this proposal that is so contrary to what has been discussed to date and what they had committed to do on 5 December. We have been encouraged in your work to this point; don't disappoint us now! You can demonstrate you remain committed to the goals you have established and stay true



unsuitable developments just because they have received Provincial Condominium registration.

Jocelyn and Dale Kelly  
Second Peninsula, NS

February 27th meeting

Dale Kelly

Mon 2/26/2024 7:22 AM

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Greetings one and all,

We understand at the upcoming Council Meeting, staff will present a series of documents including an Amended Municipal Planning Strategy and a new Municipal-wide Land Use By-Law, for first reading by Council. This the first time that both proposed Coastal Protection regulations and proposed Cluster Development regulations have been lumped together, with no prior discussion or notice at the 2023 public consultations.

As all of you are aware, 2<sup>nd</sup> Peninsula residents raised concerns on the Cluster Development matter that we believed were relevant and valid. We have never taken the position to be anti-development, however, once we witnessed the start of Oceans Landing on our Peninsula, the alarm bells started to ring, especially after watching infrastructure issues unfold during the 2023 NS wildfires.

We believe all our efforts during the public consultation were given limited consideration and yet, oddly, we are the voting public and taxpayers that ensure our community remains healthy.

Let us stress once again:

- Our voice is **NOT** about preventing appropriate development or affordable housing. This **IS** about preventing inappropriate development which is designed to maximize profit at the expense of environmental, safety and social concerns. Cluster Developments that are well-designed, appropriately sized and well-planned will have no problem with regulation.
- The regulation as proposed for Cluster Developments does nothing to limit unregulated and inappropriate development for at least another 18 months (and longer if registered before that). In fact, it actively invites developers to move quickly to avoid regulation.
- Council appeared to have recognized the urgency and seriousness of the concerns, yet with these proposed regulations, are acting contrary to their stated goals in preventing abuse of the development process.

What are we asking Council to do?

- Do **NOT** conduct first reading of these flawed regulations
- **Separate out proposed Cluster Development regulations and Coastal Protection regulations** – the concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- **Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and**

**From:** [David Monaghan](#)  
**To:** [mayor@mod.ca](#); [leitha.haysom@mod.ca](#); [martin.bell@mod.ca](#); [Wendy.Oickle@mod.ca](#); [Pam.Hubley@mod.ca](#); [cathy.moore@mod.ca](#); [Sandra.Statton@mod.ca](#); [Michelle.Greek@mod.ca](#); [Kacy.Del.orn@mod.ca](#); [reid.whynot@mod.ca](#); [Chasidy.Veinoite@mod.ca](#); [reid.shepherd@mod.ca](#)  
**Subject:** Proposed Bare Condominium Development  
**Date:** February 26, 2024 4:49:53 PM

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Dear Councillors,

I am writing to express my concerns at your intention, as outlined in the agenda for the upcoming council meeting of February 26, to consider new regulations for Bare Land Condo developments in a package that includes Coastal Protection regulations and to delay implementation of new regulations until November 2025.

It was quite clear from open meetings held on Bare Land Condo regulations in the recent past that both members of the public and council staff recognised an urgent need for new regulations that would prevent some developers taking advantage of loopholes existing in the current regulations. The proposed development on Second Peninsula is a case in point. A delay in introducing revised regulations for another 18 months will create huge opportunities and incentives for developers to get approval under existing regulations. This is precisely what council should be taking urgent steps to avoid.

Lunenburg County will benefit from development and increased population but it must be done in a way that provides for clear regulations regarding water, sewer, environmental protection both in the proposed development area and in existing developments close at hand. For example, approval for new wells and septic systems should be based on the certainty that wells and septic systems on neighbouring properties will not be negatively impacted.

I urge council to withdraw first reading of the flawed regulations; separate out bare land condo regulations from Coastal protection regulations; and return to sense of urgency expressed in council's proposal that the Province declare a moratorium on bare land condo developments and in the open meetings on this topic. Something has gone seriously wrong with a process in which staff proposals and public input seemed to be closely aligned. It is not too late to put the process back on track,

Yours sincerely,

David Monaghan  
Second Peninsula

Amended Municipal Planning Strategy and a new Municipal-wide Land Use By-Law, for first reading by Council.

Dan Sargeant [REDACTED]

Mon 2/26/2024 1:45 PM



You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from an external sender.

Dear Mayor, Municipal Council Members, and staff - MODL

We are writing to advise of our serious concern with the plan to introduce a new Municipal Planning Strategy and Land Use Bylaw at your upcoming meeting, 27 February 2024.

We are concerned that:

- o This is **NOT** about preventing appropriate development or affordable housing. This **IS** about preventing inappropriate development which is designed to maximize profit at the expense of environmental, safety and social concerns. Cluster Developments that are well-designed, appropriately-sized and well-planned will have no problem with regulation.
- o The regulation as proposed for Cluster Developments does nothing to limit unregulated and inappropriate development for at least another 18 months (and longer if registered before that). In fact, it actively invites developers to move quickly to avoid regulation.
- o Council has recognized the urgency and seriousness of the concerns, yet with these regulations is acting contrary to their stated goals in preventing abuse of the development process.

We are asking Council to please:

- **NOT** conduct first reading of these flawed regulations
- **Separate out proposed Cluster Development regulations and Coastal Protection regulations** – the concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- **Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.**

Yours Sincerely,

Joan and Dan Sargeant



Sent from [Mail](#) for Windows

**From:** Dara Young  
**To:** mayor@modl.ca; martin.bell@modl.ca; cathy.moore@modl.ca; Kacy.Delong@modl.ca; Chasidy.Veinotte@modl.ca; reid.whvnot@modl.ca  
**Cc:** lejha.haysom@modl.ca; Wendy.Oickle@modl.ca; Pam.Hibley@modl.ca; Sandra.Statton@modl.ca; Michelle.Greek@modl.ca; reid.shepherd@modl.ca  
**Subject:** Dc better for our community  
**Date:** February 26, 2024 6:38:17 PM  
**Importance:** High

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Dear council members,

I know my friends have written more eloquent letters.

But I am angry. My Heckman ancestors would not be proud of your terrible decision making nor are my kids proud of those currently in office.

You were supposed to be the voice of the people. The people are speaking, are you hearing us.

We are the community, we walk down these streets, we shop in the stores, we take our children to school, we coach the teams. We are the community.

Do not hide behind the veil of affordable housing, have you seen the cost of the lots?! We are not talking about affordable housing.

We are trying to prevent inappropriate development.

Make the cluster development regulation come into effect immediately, not 18 months in the future. 2025? If you know better you do better, it's what I tell my son and it's what you need to do. Your community supported you, we trusted you. Do better!

Separate cluster development regulations and coastal protection regulations.

- Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.

Sincerely,

Jean Heckman 91 years old

Dara Young 38 years old

Noah Postles 2 years old

Correction to letter sent re Regulation of Bareland Condominiums in Lunenburg County

Edward Jordan [REDACTED]

Mon 2/26/2024 1:14 PM

[REDACTED]

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CAUTION: This email originated from an external sender.

Please correct our previous letter sent this morning concerning the third paragraph from the bottom to delete the word "financial" so that it now reads "extreme influence has been applied". Thank you.

Sincerely,

Edward and Sandra Jordan

Regulations of Bareland Condominiums in Lunenburg County

Edward Jordan [REDACTED]

Mon 2/26/2024 12:27 PM

[REDACTED]

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from an external sender.

Residents on Second Peninsula have grave concerns about the development of a small piece of property being developed there, under Bareland Condominium Structure, without the proper attention to environmental, safety and social concerns being fully studied, and it was our understanding at the public consultations meeting that commitments were made to have Municipal regulation in place by the end of 2023.

Reading from your letter to the Province in August, 2023 you state:

*Municipal Council feels strongly that this pause on cluster development is necessary to prevent the development of housing which is potentially unsafe and unsuitable to develop while we take the time to ensure that cluster developments receive the same level of scrutiny as subdivided developments."*

How closely have environmental concerns been studied? Most people in the area have dug wells and and septic fields and it would seem that such a small property would not be able to handle over-usage of these concerns, never mind the safety of multiple home dwelling vehicles entering the narrow public roadway at this property.

Now, all of a sudden, we see that regulation would not come into effect until November 2025, but actively exempts any registrations that occur before that date, allowing the developers 18 months from now to register Cluster Developments that would be completely exempt from any Municipal oversight on environmental or safety concerns.

One would hope that this deferment in date was done in good faith but it almost seems that some extreme financial influence has been applied, as this allows developers extra time to move quickly to avoid regulation.

Please, we urge you to separate out proposed Cluster Development from Coastal Protections regulations and do not lump them together.

We urge you to return to the aims stated in the public consultation process and reformat effective Cluster Development regulations that act quickly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.

Sincerely,

Edward and Sandra Jordan

## What is really going on?

Mon 2/26/2024 8:42 AM

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from an external sender.

Good morning to everyone.

Please read the letter below, written by Dale Kelly, whom I am sure you know well.

He asked our very concerned community to write a letter to you, in our own words. But I cannot be more articulate than Dale. I hope that you are flexible as well as clear-eyed about how your intentions appear. Are you looking after the land and people, or are you not?? Very sincerely, Fern Jordan, [REDACTED]

- o This is **NOT** about preventing appropriate development or affordable housing. This **IS** about preventing inappropriate development which is designed to maximize profit at the expense of environmental, safety and social concerns. Cluster Developments that are well-designed, appropriately-sized and well-planned will have no problem with regulation.
- o The regulation as proposed for Cluster Developments does nothing to limit unregulated and inappropriate development for at least another 18 months (and longer if registered before that). In fact, it actively invites developers to move quickly to avoid regulation.
- o Council has recognized the urgency and seriousness of the concerns, yet with these regulations is acting contrary to their stated goals in preventing abuse of the development process.

### What are we asking Council to do?

- **Do NOT** conduct first reading of these flawed regulations
- **Separate out proposed Cluster Development regulations and Coastal Protection regulations** – the concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- **Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.**

The background follows:

As you know, there has been concern expressed about developers using the Bareland Condominium structure specifically to avoid regulation that would normally be exerted under the Subdivision By-Law. In the fall of 2022, 2<sup>nd</sup> Peninsula residents raised this concern to Council and Staff who then undertook a process of public consultation during 2023 in order to develop regulation to mitigate the environmental, social and cultural risks associated with inappropriate, unregulated development using the Bareland Condominium structure.

Council was so concerned that in August 2023 they requested the Province to 'implement a moratorium on granting approval of new cluster developments for (a) 6 months or (b) until the Municipality puts new regulations in place.' This moratorium was not granted but the request indicates the seriousness of the issues. That same letter also reads, in part: "Municipal Council feels strongly that this pause on cluster development is necessary to prevent the development of housing which is potentially unsafe and

*unsuitable to develop while we take the time to ensure that cluster developments receive the same level of scrutiny as subdivided developments."*

At the public consultations, commitments were made to implement Municipal regulation by the end of 2023. Feedback was received about wording and definitions and a commitment to draft timely regulations was given.

Yet ... on 22 February, 2024 notice was given that at the upcoming **27 February** Council Meeting, staff were presenting a series of documents including an Amended Municipal Planning Strategy and a new Municipal-wide Land Use By-Law, for first reading by Council. This the first time that both proposed Coastal Protection regulations and proposed Cluster Development regulations have been lumped together, with no prior discussion or notice at the public consultation.

The structure and timeline of the proposed Cluster Development regulations completely undermines the objective that these measures would prevent the misuse of the Bareland Condominium structure ... the very concern that started this whole process. **The regulation not only would not come into effect until November 2025, but actively exempts any registrations that occur before that date.** This would give developers 18 months from now to register Cluster Developments that would be completely exempt from any Municipal oversight on environmental or safety concerns.

**From:** Garry Deller  
**To:** mayor@mdl.ca; leitha.haysom@mdl.ca; martin.bell@mdl.ca; Wendy.Oickle@mdl.ca; Pam.Hubley@mdl.ca; cathy.moore@mdl.ca; Sandra.Statton@mdl.ca; Michelle.Greek@mdl.ca; Kacy.Delong@mdl.ca; Reid.Whyndol@mdl.ca; Chasidy.Veinotte@mdl.ca; reid.shepherd@mdl.ca  
**Subject:** First Reading re: Cluster Development and Coastal Protection  
**Date:** February 26, 2024 6:12:26 PM

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CAUTION: This email originated from an external sender.

Madame Mayor, et al,  
I am writing to express my concern and disappointment in the proposals for first reading at your upcoming Council meeting to address Cluster Developments and Coastal Protection.

My wife and I, along with the Mayor, a few council members, and many concerned residents were present at the public council meeting in the Fall of 2023. We heard presentations from the public on cluster developments. There were a number of diverse, well thought out and knowledgeable opinions expressed.

Council members present gave an undertaking that they would take those suggestions into consideration when drafting the proposed regulations.

Sadly something has changed.

I would urge you to re-consider giving this proposal first reading in its present form. I ask that you return to the objectives as expressed in the public consultation. Council's own letter of August 2023 seeking a moratorium on cluster developments outlines some of the same concerns of many residents.

Lastly the issue of coastal protection is substantially different and should be dealt with separately from cluster developments. The two should be separated.

Respectfully submitted,  
Garry Deller

Sent from my iPad

## Bare Land Condos

Glen Dexter [REDACTED]

Mon 2/26/2024 10:19 AM

[REDACTED]

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

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Good morning. I am writing to express my concerns about the proposed new by law concerning bare land condominiums. There needs to be regulation of these projects that circumvent normal requirements for proper sewage treatment, water supply, traffic, safety in emergencies, and the need for approved developments to fit within and complement the nature of existing developments.

Council has undertaken consultation with constituents and has adopted a process for adopting rules that will regulate bare land condominiums. This has resulted in new proposed rules that would affect these developments.

The proposed rules are seriously flawed in two ways: - First they do not come into effect for 18 months from now. This opens the doors to a flood of new applications that would be unregulated. It is proper and legal for new bylaws to take effect on first reading - the proposed rules should be amended so they take effect immediately so there will be no more inappropriate and unregulated bare land condo projects in MODL. This flaw in the proposed regulations strongly suggests that Council does not understand and is unwilling to address the clear concerns of its constituents.

The current public concerns about bare land condo projects was triggered in part by a proposed bare land condominium project on Second Peninsula. Owners of over 95% of the land on Second Peninsula signed a petition against allowing this project to proceed. The current proposed regulations do nothing to address the strong community concerns about this particular project. Again, by not applying the rules to this project so it will be built to properly address concerns about sewage treatment, traffic, water, safety in emergencies and the need to fit with and complement the nature of the existing community, Council is showing it is out of touch with the legitimate concerns of its constituents on Second Peninsula, and I would suggest beyond that area.

I am therefore requesting that Council do two things:

1. Amend the proposed bylaw so it takes effect immediately - February 26, 2024.
2. Ensure that existing projects not fully and completely approved need to comply with the new By law. To be clear, the current bare land condo project on Second Peninsula should have to comply with the requirements of the by law.

I trust the Council will hear the concerns of constituents and make these amendments at tonight's meeting.

Respectfully submitted, Glen Dexter

## First Reading of Cluster Development Regulations

Jim Eisenhauer [REDACTED]

Mon 2/26/2024 11:25 AM

[REDACTED]

Some people who received this message don't often get email from [REDACTED] [learn why this is important](#)

CAUTION: This email originated from an external sender.

Dear Chasidy,

Thank you for letting me know of the plan to have Cluster Development Regulations introduced for first reading at a Council meeting on February 27, 2024. Frankly, I am shocked that this is happening with such little notice and with so little time for public response to the detailed, lengthy and complicated regulations. I am not accustomed to working through details of such planning documents, so I find it all quite overwhelming and confusing. A read through documents however does raise some major concerns for me. The short notice unfortunately does not allow me to attend the Council meeting to share my concerns, so I wish to forward some of my thoughts to you (cc'd to the rest of Council) in this email.

A couple of key things do strike me from what I have read:

1. The proposed implementation date of November 1, 2025 is alarming. All along Council and staff have been sending signals of time being of the essence with a real sense of urgency. I understood the desire was to have Cluster Development regulations in place by the end of 2023 – now implementation is moved to November 2025. What changed? What happened?

It feels like this will open up almost a 2 year window for unregulated uncontrolled Cluster Development opportunities that would then be grandfathered under November 2025 proposed regulations. In fact in August 2023 Council was so concerned that they requested the Province to *“implement a moratorium on granting approval of new cluster developments for (a) 6 months or (b) until the Municipality puts new regulations in place.”* This moratorium was not granted but the request indicates the seriousness with which Council took the issues. That same letter also reads, in part: *“Municipal Council feels strongly that this pause on cluster development is necessary to prevent the development of housing which is potentially unsafe and unsuitable to develop while we take the time to ensure that cluster developments receive the same level of scrutiny as subdivided developments.”* What happened to that sense of urgency?

2. I am still alarmed that the regulations are silent of lot density. I am encouraged that there is now a requirement for a Development Agreement for projects of 10 or more units, but I do not think that is sufficient controls. I believe profit motivated developers will find ways around that, such as sub-dividing larger lots into smaller parcels each to be developed with less than 10 units but all clustered adjacent to each other in the same area. I think density restrictions must be included and should be somewhat consistent with current density is the surrounding areas. I want to be clear – I am not opposed to development – I am opposed to bad development, and I do not see proposed regulations stopping that.

Chasidy, I urge you and your fellow Councillors to:

1. Delay passage of first reading until regulations are with urgency improved and tightened up
2. Separate Cluster Development Regulations from Coastal Protection Regulations which I am assuming is complicating the issue and perhaps in part causing the delay of implementation until November 2025
3. Avoid grandfathering any Cluster Developments not currently under construction by returning modified regulations for first reading ASAP.

Thank you for your continued support with this matter.

Jim Eisenhauer  
Resident of Second Peninsula

J D (Jim) Eisenhauer  
agl Group Holdings Limited

[REDACTED]

Regulation of Bareland Condominiums in Lunenburg County, (MODL),

John Hoyle [REDACTED]

Mon 2/26/2024 7:55 AM



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CAUTION: This email originated from an external sender.

Dear ladies and gentlemen

I am writing to express my concern that the Amended Municipal Planning Strategy and a new Municipal-wide Land Use By-Law provide that the proposed Coastal Protection Regulations and Cluster Development Regulations be considered as one.

The structure and timeline of the proposed Cluster Development Regulations would undermine the objective of these measures which seek to prevent the misuse of the Bareland Condominium structure. The Regulation not only would not come into effect until November 2025 but would exempt any registrations occurring before that date. My concern is that inappropriate development prejudicing environmental, safety and social concerns would go ahead because regulations seeking to prevent them are not being actioned timeously. The Regulation actively invites developers to move quickly to avoid regulation which surely cannot be the Municipality's intention?

I ask you to take the following actions:

1. Do not conduct first reading of these Regulations
2. Separate out proposed Cluster Development regulations and Coastal Protection regulations
3. Return to the objectives stated in the public consultation process.

I hope you can see the benefits of taking my suggested actions and that you see fit to act accordingly. The Municipality of Lunenburg will be a better place if you act now.

Yours sincerely

John Hoyle

[Time sensitive] For your consideration for the upcoming 27Feb2024 Council meeting

Kenneth G. Clarke [REDACTED]

Mon 2/26/2024 1:01 PM



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Dear Mayor/Council and Staff,

From my understanding, there is a plan to read a new proposal at tomorrow's (27Feb Council meeting) and I am writing to urge you to not proceed with this reading as I believe it is flawed and goes against previous aligned concerns of the area and council.

We rely on council and our government to protect our beautiful land and neighbourhoods and to help manage for sustainable and smart development at the same time. The current proposal is not doing that and allows for a gap in coverage that may be abused by developers over the coming months and years.

Please do **NOT** proceed with a first reading of this flawed proposal. In addition, I'd like to ask council to:

- **Separate out proposed Cluster Development regulations and Coastal Protection regulations** – the concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- **Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.**

Thank you for your consideration. I am available for any questions that you may have.

Sincerely,

Kenneth G. Clarke, PhD

2nd Peninsula

Lunenburg, Nova Scotia

Cluster Developments MODL

The Banks Family [REDACTED]

Mon 2/26/2024 3:10 PM

[Some people who received this message don't often get email from [REDACTED] learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

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Greetings,

As a resident of Second Peninsula, I wish to register my concern about the proposed regulations for Cluster Developments as recently circulated. If adopted, these pave the way for the inappropriate development of housing, opening up the possibility of crowded living quarters with inadequate attention to water supply, sewage, traffic control, road maintenance and environmental concerns.

Please consider separating this matter from the Coastal Protection recommendations and as soon as possible redraft effective and forward thinking Cluster Development regulations that are socially and environmentally desirable for the area.

Thank you.

Michael Banks  
[REDACTED]

Concerns re first reading of new proposed regulation

sylvie long [REDACTED]

Mon 2/26/2024 3:43 PM

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Subject: Misuse of the Bareland Condominium Structure

Dear Mayor and Council members,

We are Derek and Sylvie Long of [REDACTED] Second Peninsula. We just moved here last summer from a small island outside Vancouver, BC. We are asking to not allow developers the next 18 months to register their cluster developments that would be completely exempt from any environmental oversight.

Where we lived on the BC island, we were a dozen strata lot owners with lots just under 1 acre in size. The strata lots were connected by one shared water system and a shared septic field, with only a few wells that fed the whole system which was monitored constantly.

Given the change in climate conditions in the previous years, we quickly understood that:

- a) there is a limited amount of clean water available;
- b) too many wells will drain the water table to a point where the natural 'recharge' never catches up to the need; and
- c) a well maintained and monitored common septic field is key to a healthy environment.

We are very concerned that the developer in our neighbourhood will use the Bareland Condominium structure to avoid environmental regulations that would normally affect such subdivisions, thereby causing irreversible damage to the fragile ecosystem on Second Peninsula.

We are appalled that, in 2024, any authority could allow a development to go through without setting base lines and the requirement for proper environmental oversight.

We ask you to please:

- **DO NOT conduct first reading of these flawed regulations.**
- **Separate out proposed Cluster Development regulations and Coastal Protection regulations**
- **Return to the objectives brought forward in the public consultation process and redraft effective Cluster Development regulations.**
- **DO NOT, under any circumstance, allow the 'grand fathering' of potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.**

Sincerely,

Derek and Sylvie Long

## Cluster Development regulations

steven morris [REDACTED]

Mon 2/26/2024 8:38 AM



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Good morning,

I have been informed that at the upcoming Council Meeting, staff will present a series of documents including an Amended Municipal Planning Strategy and a new Municipal-wide Land Use By-Law, for first reading by Council. This the first time that both proposed Coastal Protection regulations and proposed Cluster Development regulations have been lumped together, with no prior discussion or notice at the 2023 public consultations.

As all of you are aware, 2<sup>nd</sup> Peninsula residents raised concerns on the Cluster Development matter that we believed were relevant and valid. We have never taken the position to be anti-development, however, once we witnessed the start of Oceans Landing on our Peninsula, the alarm bells started to ring, especially after watching infrastructure issues unfold during the 2023 NS wildfires.

We believe all our efforts during the public consultation were given limited consideration and yet, oddly, we are the voting public and taxpayers that ensure our community remains healthy.

Let us stress once again:

- Our voice is NOT about preventing appropriate development or affordable housing. This IS about preventing inappropriate development which is designed to maximize profit at the expense of environmental, safety and social concerns. Cluster Developments that are well-designed, appropriately sized and well-planned will have no problem with regulation.
- The regulation as proposed for Cluster Developments does nothing to limit unregulated and inappropriate development for at least another 18 months (and longer if registered before that). In fact, it actively invites developers to move quickly to avoid regulation.
- Council appeared to have recognized the urgency and seriousness of the concerns, yet with these proposed regulations, are acting contrary to their stated goals in preventing abuse of the development process.

What are we asking Council to do?

- Do NOT conduct first reading of these flawed regulations
- Separate out proposed Cluster Development regulations and Coastal Protection regulations – the concerns, necessary timelines, objectives and implementation of these two very different types of regulations preclude them being effective when lumped together.
- Return to the objectives stated in the public consultation process and redraft effective Cluster Development regulations that act swiftly and avoid 'grand-fathering' potentially unsafe and unsuitable developments just because they have received Provincial Condominium registration.

Thanks for your consideration of this request,

Yours Sincerely,

Steven Morris, Kathleen Singleton  
2nd Peninsula

## Proposed Cluster Development Regulations

Tom Eisenhauer [REDACTED]

Mon 2/26/2024 12:27 PM

[REDACTED]

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

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Municipality of the District of Lunenburg

Dear Mayor and Councillors,

We are writing to express our profound disappointment regarding the proposed legislation on cluster developments, particularly its inconsistency with the stance Council took in its letter to the Province last August. Not only does the proposed legislation fail to address the concerns raised during the public consultation process about inappropriate cluster developments, it actually makes the problem worse. The public consultations shone a spotlight on loopholes in the bareland condominium regulations that enable unscrupulous developers to avoid safety and environmental review. By postponing the implementation of the proposed cluster development regulations until November 2025, and by grandfathering developments registered before that date, Councillors are actually encouraging the very misuse that the proposed regulations are designed to prevent.

In August 2024, Council earnestly requested the Province impose an immediate moratorium on new cluster developments, indicating the serious concerns surrounding this issue. The letter explicitly stated the necessity of this pause to prevent potentially unsafe and unsuitable housing developments. Additionally, commitments were made during public consultations to implement municipal regulations by the end of 2023, with feedback received and assurances given regarding timely regulation drafting.

The proposed legislation, however, has left me feeling betrayed. The documents lump proposed coastal protection regulations and cluster development regulations together without prior discussion or notice during the public consultation process. The November 2025 timeline not only fails to address the urgency expressed in the Council's letter to the Province but also contradicts the commitments made during public consultations. Allowing developers 18+ months to register developments exempt from regulation is a grave oversight that could result in irreversible damage to our community's environment and safety.

We want to remind Councillors that the concerns expressed during the public process were not about preventing appropriate development or the need to develop affordable housing. Indeed, the proposed regulations would ensure that appropriate and affordable development can take advantage of cluster development rules to better our community.

The proposed legislation, however, is so inconsistent with the urgency and concerns expressed during the public consultation process that it is hard not to question the logic and motives of staff and Councillors. By failing to address the legitimate concerns raised by so many residents, Council is contributing to the broader public cynicism about, and disengagement from, civic and political processes.

Therefore, we respectfully urge the Council to reconsider the proposed legislation and take the following actions:

1. Refrain from approving these flawed regulations.
2. Separate the proposed cluster development regulations from coastal protection regulations.

3. Remove the grandfathering exemptions and ensure that the legislation of cluster development comes into immediate effect.

I implore Council to prioritize the well-being and interests of our community by rectifying this poorly drafted legislation and ensuring the integrity of the public consultation process.

Sincerely,

Tom & Nancy Eisenhauer

Tom & Nancy Eisenhauer

2<sup>nd</sup> Peninsula  
Lunenburg, NS

[REDACTED]

Fwd: Concerns re Meeting S.P. Cluster

Jeff Merrill <Jeff.Merrill@modl.ca>

Mon 3/18/2024 7:06 AM

To: Reid Shepherd <Reid.Shepherd@modl.ca>; Jacob Macpherson <Jacob.Macpherson@modl.ca>

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**From:** Chasidy Veinotte <Chasidy.Veinotte@modl.ca>

**Sent:** Monday, March 18, 2024 5:35:04 AM

**To:** Carolyn Bolivar-Getson <CBG@modl.ca>; Tom MacEwan <Tom.MacEwan@modl.ca>; Jeff Merrill <Jeff.Merrill@modl.ca>

**Subject:** FW: Concerns re Meeting S.P. Cluster

Morning,

Following the meeting with the Second Peninsula residents a few weeks ago, I reached out to Colin and asked him what would be the main concerns (if any) that his group still had after the clarifications on some of the other issues that were addressed during the meeting. Please see his response below.

Thanks,

**Chasidy Veinotte**  
**Councillor District 10**

Municipality of the District of Lunenburg  
10 Allée Champlain Drive  
Cookville, Nova Scotia B4V 9E4  
cell (902) 521-2117



**CAUTION: This email originated from an external sender.**

Good morning Chasidy,

I would say our biggest concern is the long timeframe from first reading to implementation. A large group of 2P concerned residents brought concerns forward about unregulated Cluster Development which started this process. To then allow ample time for the very development that spurred that concern to complete is, in our opinion, very disappointing. Council agreed at the concerns about Oceans Landing were significant and valid, yet with this timeline the developer is afforded the opportunity, simply by completing his road and perc testing each property, to complete the development within the timeframe to be deemed non-conforming. Council should be aware what staff told us .... that he does not need to sell all the properties by that date, simply complete the infrastructure to allow registration and therefore be deemed non-conforming or grandfathered. Moving to a substantially shorter timeframe (why not immediately, or 1-3 months?) would not prevent development, but simply subject it to reasonable scrutiny, so that the safety, environmental, hydrogeological, etc risks can be appropriately considered.

Putting this regulation in place benefits the entirety of the Municipality, however to do so while still allowing the inappropriate development planned for 2P to proceed unregulated .... the same development plan that led to the concern in the first place ... would be ironic. Once grandfathered and completed, there is no way to reverse the safety, environmental and hydrogeological problems that could result.

Secondary concern is around joining the Coastal Protection LUB with the Cluster Development LUB together in the process. This concern is somewhat ameliorated by knowing that the LUB comes into effect from first reading (notwithstanding the timeline concern) and by the commitment by staff at our meeting that if the process bogs down before first reading as a result of the proposed Coastal Protection LUB, they would proceed with the Cluster one separately.

At this stage, the timeline would be, by far, the biggest concern.

Thanks again for your commitment to this issue Chasidy. Please let me know if you have any other questions ...

Colin



My office hours are Tuesday-Friday, 8:00am – 5:15pm

**From:** MODL Planning <planning@modl.ca>  
**Sent:** January 28, 2025 1:01 PM  
**To:** Jeff Merrill <Jeff.Merrill@modl.ca>  
**Subject:** FW: Notice of Intention to Adopt Cluster Development Regulations

**From:** [REDACTED]  
**Sent:** Tuesday, January 28, 2025 12:13 PM  
**To:** MODL Planning <planning@modl.ca>; bjolivella@eastlink.ca  
**Subject:** RE: Notice of Intention to Adopt Cluster Development Regulations

You don't often get email from [bjolivella@eastlink.ca](mailto:bjolivella@eastlink.ca). [Learn why this is important](#)

**CAUTION: This email originated from an external sender.**

Hi Jeff,

I feel strongly that cluster developments should occupy the same square area in square metres as that required for a subdivision with the same number of housing units. Otherwise, we will have a proliferation of developments like the mess of an eyesore that has been built on Mason's Beach Road.

Best Regards, Barry

Sent from my Galaxy

----- Original message -----

**From:** Engage MODL <[notifications@engagementhq.com](mailto:notifications@engagementhq.com)>  
**Date:** 28/01/2025 11:10 (GMT-04:00)  
**To:** [bjolivella@eastlink.ca](mailto:bjolivella@eastlink.ca)  
**Subject:** Notice of Intention to Adopt Cluster Development Regulations

**Ella Gindi**

**From:** Colin Mann [REDACTED]  
**Sent:** March 4, 2025 3:00 PM  
**To:** Chasidy Veinotte; Ella Gindi  
**Subject:** Cluster Development Regulations

**CAUTION: This email originated from an external sender.**

Hi Chasidy and Ella,

It was good to speak with you both at the Public Information session yesterday.

I just wanted to followup with a note to urge Mayor and Council to proceed with second reading of the Cluster Development Regulations as presented. This process was started over 2 years ago and it is time to get the regulation in place so that Cluster Developments can have a reasonable level of oversight. While the regulations, as proposed, will not help protect Second Peninsula from the proposed Bareland Condominium development which originally spurred the concerns previously expressed, at least it will give some measure of protection for the rest of the Municipality from developments that might be inappropriate for their proposed location and will allow some degree of scrutiny of the safety, environmental, and geographic concerns of a proposed development. Again, I would emphasize that these regulations do NOT discourage or impede appropriate development but merely ensures that proposed developments are appropriate to the location, once those safety, environmental and geographic considerations are taken into account.

Thank you for your work on this and I implore Mayor and Council to get these regulations in place.

Sincerely,

Colin Mann

**Ella Gindi**

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**From:** Kathryn Heckman [REDACTED]  
**Sent:** March 4, 2025 12:51 PM  
**To:** MODL Planning  
**Cc:** Chasidy Veinotte  
**Subject:** Cluster development bylaw regulation: written submission for public information session

**CAUTION: This email originated from an external sender.**

Dear Mayor and Councillors,

As a descendant of the Heckman's that arrived here in 1754, I feel great pride for how previous generations have cared for this place. As an immediate abutter to the municipally unregulated cluster development on Second Peninsula, I feel deep remorse about how this scenario is playing out. I hope that others in MODL do not suffer similar unnecessary harm.

My main message is to put CD regulations into effect "quickly" (As we have been working on this task for more than 2 years, "quickly" is a relative term here; I mean quickly from here forward.)

Further, here are a few points that I want to repeat, especially for the new councillors trying to learn all they can to make an informed decision and perhaps strengthen the CD regulations or find other ways to improve CD outside the proposed MODL CD regulations.

I hear some people are saying that these bylaw regulations prevent any development. As you know, this is not accurate. They merely submit the cluster development to reasonable government oversight - like any other dwelling in a subdivision approval process. These homes look, and are for most practical purposes, the same as a home in a subdivision yet the oversight is not the same in the two processes. That seems to be why the CD option is becoming so popular - to avoid any government oversight.

MODL planners have said that a goal of the proposed CD regulations is to make the 2 processes the same. Although the proposed CD bylaw regulation is a step in that direction, it falls short.

The elephant in the room is "density". Density is a word that is not being applied to CD, supposedly because the land is not subdivided so there is no minimum lot size for each dwelling. However, in fact this loophole has been used to increase density, by ignoring density. Density and minimum lot sizes have been a good tool to safeguard and address many land use planning concerns such as well-water shortages, septic system pollution, traffic problems and road safety. In my situation on Second Peninsula, I was told initially by the surveyors that there would be 10-12 homes built behind my place. A MODL planner also repeated that number to me as a reasonable outcome. But this is not so, respecting the Second Peninsula CD and by extension, with regards to the others that are sure to follow throughout MODL. In the Second Peninsula case, it is now expected that at least double that number of dwellings will be built.

I think it is likely that the increase in density will correlate with an increase in adverse effects environmentally, and for health and safety, and for quality of life. Yes, this increased density allows the developer a higher profit margin, but at what cost to the land, the water and the less tangible attributes that make MODL a desirable place to live. And, what about the cumulative effects if this increased density becomes the norm for CD throughout MODL? By the time the verdict is in on this experiment, the damage will have been done. It would be much better, if the concerns were addressed now, rather than trusting the private sector and provincial government departments to provide all the necessary oversight .

Surely, there must be other jurisdictions that we could copy who have found creative ways to work with this dilemma. After all, there is a total acreage and there are a fixed number of dwellings using that total acreage so the math seem do-able to me. I understand the development agreement approach operates on a case-by-case basis, but the resulting development should not be a way for unsound development to proceed, perhaps by powerful people putting undue pressure on municipal government officials or by municipal government officials transferring their responsibilities to provincial counterparts or the private sector.

It may be feasible, and even desirable, to increase density in areas serviced by municipal water and sewage but not in areas where these services are on-site, especially in certain geographic and geologic situations.

MODL planners repeatedly say that an advantage of CD is that parts of the total acreage can be left in its natural state. I do not see that actually happening,

and it is certainly not required. What I see is increased potential for adverse effects and not environmentally superior development via CD.

At the March 3, 2025 Public Information Session, someone asked, "Are there any negative aspects of CD that we haven't thought of?" Perhaps more stringent wording in the CD regulations can address some of what I consider to be negative aspects. In my opinion, one negative aspect is continuing to grandfather CD as legally non-conforming uses until the end of this year, especially as MODL already has 10 such CD projects underway.

Another connected negative aspect, which was raised at the Session last evening, is why are there 2 different trigger dates for CD and Subdivision, if the goal is to make the 2 processes consistent and be on a level playing field? Why does MODL allow these cluster developments to be non-conforming uses when no building permit has been applied for? They would not be non-conforming under a subdivision process, so again, the 2 processes are not consistent and on a level playing field. My understanding is that under subdivision a lot owner must apply for a building permit to be grandfathered, where in CD all the proposed 8 phases, for example, and all those homes are grandfathered long before a building permit application is even considered. This seems inconsistent. If the trigger dates were the same, the Second Peninsula CD would not be going forward and it is likely that the other 10 projects on the books would not be proceeding as is either. Perhaps, this can be addressed in the MODL regulations, or if not, then outside them.


I have said this much of this many times over the past 2+ years. Any regulations are better than none, and the sooner the better but I do hope you consider these ideas and move forward with CD regulations in a way that generations to come will be proud of.

Sincerely,  
Kathryn Heckman

  
Kathryn Heckman

**Ella Gindi**

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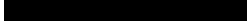
**From:** Joan Sargeant   
**Sent:** March 5, 2025 6:47 AM  
**To:** Chasidy Veinotte; MODL Planning  
**Subject:** Cluster development regulations



CAUTION: This email originated from an external sender.

Good morning,  
We support the second reading of the Cluster Development Regulations as presented and hopefully, their implementation. We believe they will aid appropriate and safe development of our beautiful communities and countryside.

Thank you, Joan and Dan Sargeant



Sent from my iPhone

**Ella Gindi**

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**From:** [REDACTED]  
**Sent:** March 4, 2025 5:04 PM  
**To:** Chasidy Veinotte  
**Cc:** MODL Planning; ella.grindi@modl.ca  
**Subject:** Cluster Development Legislation

**CAUTION:** This email originated from an external sender.

Dear Ms. Veinotte

As a property owner on Second Peninsula, I am writing to urge you, the mayor and your fellow councilors to proceed with the second reading of the proposed Cluster Development regulations as currently presented. Too much time has passed since this matter was first brought to the council's attention and further delay and debate is unacceptable.

Thank you,

Tom Eisenhauer

[REDACTED]