



**Municipality of the District of Lunenburg**

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

**(MODL By-law 049A)**

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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 Cluster Developments**

For cluster developments established as bare land or phased land condominiums, all units registered with the Registrar of Condominiums by December 31, 2026—as evidenced by registration at the appropriate Land Registration Office under the *Land Registration Act*—will be recognized by Council as non-conforming. For non phased cluster developments, Council will extend the same recognition to those that obtain a complete building permit application by December 31, 2026. In the case of phased condominium developments, only the units registered by December 31, 2026, will be considered non-conforming, regardless of whether the approved Condominium Declaration anticipates additional phases.

## **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**

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