

# **EXAMPLE LAND USE BY-LAW TEXT MODULES**

# INTRODUCTION

This example land use by-law text is intended to be a resource to help municipalities in Nova Scotia establish coastal land use planning that is tailored to their context.

Each of the following pages includes a "module" of example land use by-law text for a specific coastal land use planning topic. These example modules are meant to be flexible; while they provide a functional regulatory framework, you should also feel free to modify and adapt them as necessary. In many cases the example text modules include "fill-in-the-blank" portions that must be completed to tailor the content to your community and chosen approach. This typically includes places to list the specific numerical values (e.g. vertical elevation) your council adopts. These portions are identified with the following **[formatting]**.

In some cases there are multiple main approaches that can be taken for a specific topic. These are identified by lettering. For example, areas at risk for coastal flooding can be identified with mapping from the Municipal Flood Line Mapping Program or through a custom-developed vertical elevation. Example text for each possible approach is numbered L5.1A and L5.1B, respectively. While the lettering scheme is intended to identify separate approaches, each option should not necessarily be seen as mutually-exclusive. For example, you may use L5.1A for areas that have been mapped under the Municipal Flood Line Mapping Program and L5.1B in areas where flood mapping has not yet been done.

More information to provide context on each of the example text modules and to help you decide which approaches are appropriate to your municipal context can be found in the companion document, *A Guide to Incorporating Coastal Protection into Land Use By-laws in Nova Scotia*.

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# ADMINISTRATION

## L1 ADDITIONAL APPLICATION REQUIREMENTS

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| L1.1 | ## | In addition to the requirements for all development permit applications, outlined in <b>[reference]</b> , applications for development within the Coastal Planning Area shall include on the site plan the approximate distance between proposed buildings and the top of bank, or the ordinary high water mark if the top of bank is not evident.   |
| L1.2 | ## | <p>The Development Officer may require site plans within the Coastal Planning Area to be prepared by a qualified professional at the applicant's expense and to indicate:</p> <ul style="list-style-type: none"><li>(a) the precise distance between proposed buildings and the top of bank, or the ordinary high water mark if the top of bank is not evident; and/or</li><li>(b) the elevation, relative to <b>[datum]</b>, of proposed building footings; and/or</li><li>(c) the elevation, relative to <b>[datum]</b>, of the finished floor level of any habitable areas of the building.</li></ul> |

## L2 CONFIRMATION OF COMPLIANCE

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| ## | <p>For developments within the Coastal Planning Area, at the finished foundation stage of construction the applicant shall provide the Development Officer with a location certificate prepared by a surveyor licensed to practice in Nova Scotia and confirming the building meets:</p> <ul style="list-style-type: none"><li>(a) the minimum opening elevation outlined in Section <b>[reference]</b> for floodproofed buildings;</li><li>(b) the minimum coastal elevation, as outlined in Section <b>[reference]</b>; and</li><li>(c) the minimum coastal buffer as outlined in Section <b>[reference]</b>.</li></ul> |
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# LAND USE BY-LAW REGULATIONS FOR COASTAL AREAS

## L3 VERTICAL DATUM

## Unless otherwise specified, all vertical elevations in this Section are in relation to **[datum]**.

## L4 COASTAL PLANNING AREA

L4.1A

## For the purposes of this By-law, the Coastal Planning Area shall be the lands identified on Schedule '**[X]**', the Coastal Planning Area Overlay Map.

L4.1B

## For the purposes of this By-law, the Coastal Planning Area is defined as all lands within the **[coastal land use zone name]** Zone.

L4.1C

## For the purposes of this By-law, the Coastal Planning Area is defined as all lands within **[definition, such as vertical elevation or distance from the coast]**.

L4.2

## Contrary to **[LUB section]**, the Coastal Planning Area shall not apply to lands within the following zones:  
(a) **[list any zones you want excluded from land use by-law regulations for coastal development]**

## L5 MINIMUM COASTAL ELEVATION

L5.1A

## For the purposes of this By-law, the minimum coastal elevation shall be as identified in the Municipal Flood Line Mapping Program coastal flood hazards maps, as depicted on Schedule '**[x]**'.

L5.1B

## For the purposes of this By-law, the minimum coastal elevation shall be a vertical elevation of **[value]** relative to **[datum]**.

L5.2A

## Within the Coastal Planning Area, and despite the uses permitted by the applicable land use zone, development shall be prohibited below the minimum coastal elevation.

L5.2B

## Within the Coastal Planning Area, and despite the uses permitted by the applicable land use zone, the following developments shall be prohibited below the minimum coastal elevation:  
(a) **[list prohibited developments, such as those uses listed under the Floodway Fringe provisions of the Province's Statement of Provincial Interest Regarding Flood Risk Areas or the finished floor elevation of "habitable" areas]**

L5.2C

## Within the Coastal Planning Area, development shall be flood proofed to, at a minimum, the standards of **[LUB section]** and to an elevation exceeding the minimum coastal elevation.

## L6 FLOODPROOFING

- ## Where this Land Use By-law requires floodproofing, floodproofed developments shall meet the following requirements:
- (a) the opening elevation of all buildings shall be a minimum of 0.1 metres above the minimum coastal elevation;
  - (b) the placement of fill originating from off-site locations shall be limited to that required for flood proofing or flood risk management; and
  - (c) the location of any septic tanks or fuel tanks shall be located above the minimum coastal elevation and outside the minimum coastal buffer.

## L7 MINIMUM COASTAL BUFFER

- ## Within the Coastal Planning Area, and despite the uses permitted by the applicable land use zone, development shall be prohibited within the minimum coastal buffer, which for the purposes of this By-law shall be **[value]** metres from:
- (a) the top of bank; or
  - (b) where no top of bank is identifiable within **[coastal buffer distance value]** of the ordinary high water mark, from the ordinary high water mark.

## L8 COASTAL BUFFER REDUCTION

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| L8.1 | <p>## Despite <b>[LUB section for coastal buffer]</b>, but subject to the permitted uses and standards of the applicable zone, the Development Officer may issue a permit for development with a reduced coastal buffer subject to a detailed, site-specific study prepared by a qualified professional at the applicant's cost and that clearly demonstrates:</p> <ul style="list-style-type: none"><li>(a) the proposed development has a coastal buffer of no less than <b>[value]</b>; and</li><li>(b) the reduced coastal buffer will not increase the risk that coastal erosion will present to the proposed development over a <b>[value]</b> year time period when compared to the minimum coastal buffer of Section <b>[reference]</b>.</li></ul> |
| L8.2 | <p>## Structures or landscaping used for the hardening of shorelines, such as armour rock or sea walls, created after <b>[reference date, such as the effective date of the by-law]</b>, shall not be included or considered in the determination of erosion risk calculations for the purposes reducing the minimum coastal buffer as outlined in <b>[reference]</b> clause (b).</p>  |

## Despite **[LUB section for vertical elevation and/or coastal buffer]**, but subject to the uses and standards of the applicable zone, the following uses shall be permitted within the **[minimum vertical elevation and/or coastal buffer]**:

(a) **[list exempted uses, such as uses that are low-cost or uses that depend on access to the shore. Some exemptions to consider include:]**

- **boardwalks**
- **boathouses**
- **conservation uses**
- **fishing sheds and other fishery-related uses**
- **interpretive panels and related structures**
- **marinas**
- **marine industrial uses**
- **parking lots**
- **parks**
- **recreational vehicles (RVs)**
- **safety fences**
- **scientific research structures**
- **structures accessory to a residential use, excluding accessory dwellings, up to a defined size**
- **trails**
- **water access structures**

## Further to **[section above]**, the following uses within the **[minimum vertical elevation and/or coastal buffer]** shall not be permitted to be plumbed:

(a) **[list any uses where you have a concern there is a risk that someone could quietly convert to a prohibited use, such as boathouses, which could potentially be internally converted to a dwelling]**

## L10 NON-CONFORMING BUILDINGS WITHIN THE COASTAL PLANNING AREA

L10.1	<p>## Despite <b>[LUB section for vertical elevation and/or coastal buffer]</b>, buildings within the Coastal Planning Area that legally existed on <b>[reference date, such as the effective date of the LUB]</b> shall be permitted to expand, provided:</p> <p>(a) all other applicable requirements of this Land Use By-law are met; and</p> <p><b>[list of conditions on the expansion. Some conditions to consider include:</b></p> <ul style="list-style-type: none"><li>• <b>the expansion itself is not located below the minimum elevation or within the minimum coastal buffer;</b></li><li>• <b>the expansion does not reduce the current vertical elevation or size of the coastal buffer that currently exists for the building;</b></li><li>• <b>the expansion is floodproofed to the requirements of Module L6;</b></li><li>• <b>the expansion is limited to a specific footprint/gross floor area]</b></li></ul>
L10.2	<p>## Despite <b>[LUB section for vertical elevation and/or coastal buffer]</b>, buildings within the Coastal Planning Area that legally existed on <b>[reference date, such as the effective date of the LUB]</b> shall be permitted to relocate on the same lot and within the minimum vertical elevation and/or minimum coastal buffer provided the vertical elevation of the building and the size of the coastal buffer are not reduced.</p>
L10.3	<p>## Despite <b>[LUB section for vertical elevation and/or coastal buffer]</b>, non-residential buildings within the Coastal Planning Area that legally existed on <b>[reference date, such as the effective date of the LUB]</b> shall be permitted to be rebuilt, replaced, or repaired, if destroyed or damaged by fire or otherwise, if it is floodproofed to the standards of this Land Use By-law and is otherwise substantially the same as it was before the destruction or damage.</p>

## L11 RELAXATION OF BY-LAW PROVISIONS FOR EXISTING LOTS

- ## Where a lot exists on **[reference date, such as the effective date of the LUB]** and no main building can be located on the lot due to the minimum vertical elevation and minimum coastal buffer outlined in **[reference sections]**, the Development Officer may grant a variance to zone standards for minimum **[yards/setbacks]** to the extent necessary to allow a building to be built, provided:
- (a) **[if applicable]** the minimum coastal buffer has already been reduced via the provisions of **[reference to Module L8];**
- (b) the building has a maximum **[footprint/gross floor area]** of **[value]** square metres; and
- (c) all other applicable requirements of this Land Use By-law are met.

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# DEFINITIONS

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**Existing Lot** means a lot that legally existed on the specified date or, where no date is specified, on the effective date of this Land Use By-law. For the purposes of this definition the date a lot existed shall be:

- (a) the date the final plan of subdivision for the lot is endorsed by the Development Officer; or
- (b) for a lot that is exempt from subdivision approval, on the date the lot is registered; or
- (c) for a lot that pre-dates the requirement for subdivision approval, on the date indicated on the deed.

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**Floodproofing** means a measure or combination of structural and non-structural measures incorporated into the design of a structure which reduces or eliminates the risk of flood damage, usually to a defined elevation.

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**Habitable Area** 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 attached garages.

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**Ordinary High Water Mark** means:

- (a) for non-tidal waters, the limit or edge of the bed of a body of water where the land has been covered by water so long as to wrest it from vegetation or as to mark a distinct character upon the vegetation where it extends into the water or upon the soil itself; and
- (b) for tidal waters, the mark on the seashore reached by the average of the mean high tides of the sea between the spring and neap tides in each quarter of a lunar revolution during the year excluding only extraordinary catastrophes or overflows.

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**Opening Elevation** means the vertical elevation of the bottom edge of all perforations in a building's exterior envelope, and includes windows, doors, vents, and any other similar perforation but does not include sealed penetrations for pipes connected to enclosed infrastructure, such as sewer pipes connected to a septic tank or sanitary sewer network.

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**Qualified Professional** means an individual who:

- (a) 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
- (b) is practicing within the scope of their profession; and
- (c) if required by applicable legislation, is a member in good standing in the professional body representing and/or regulating the profession in Nova Scotia.

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**Recreational Vehicle (RV)** means a vehicle intended as temporary accommodation for travel, vacation, or recreational use. Such vehicles may include, but are not limited to, a motor home, fold-down camping trailer, truck camper, holiday trailer, or fifth wheel travel trailer, but does not include any vehicle that meets the definition of a derelict vehicle under the *Municipal Government Act*.

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**Top of Bank** means that point where there is a break or change in slope or grade which distinguishes a ravine, valley, cliff, bluff, rock face, or dune landform from its surrounding landscape.

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