

## Coastal Lands Policy

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**Chapter:** 10.0 Crown Lands Administration

**Section:** 10.8 Coastal Lands Policy

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### DEPUTY MINISTER APPROVAL

**Approved by:** \_\_\_\_\_  
Karen M Gatien, Deputy Minister

**Approval date:**

**Effective date:** April 1, 2023

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#### **A. Policy Statement**

This policy describes the types of activities that the Department of Natural Resources and Renewables (NRR) can authorize. It outlines requirements and prohibitions on coastal Crown lands under the administration and control of the Department of Natural Resources and Renewables (the Department) including:

- coastal lands
- submerged lands seaward of the ordinary high-water mark
- submerged coastal lands in front (upland) of private lands; and
- submerged coastal lands in front (upland) of Crown lands.

This policy replaces all existing policies or interim directives regarding the use of coastal lands. Applications received on or after April 1, 2023, either for new activity, new work or repairs to an existing structure, or a request to modify an existing authorization, will need to meet the requirements of this policy.

#### **B. Definitions**

- a. **Adjacent upland property:** a parcel of land that lies above the ordinary high-water mark of a body of water and adjoins land below the ordinary highwater mark. Includes both privately owned lands and Crown lands.

- b. **Boat ramp:** a permanent or semi-permanent structure or device which rests fully or partially on submerged land and is used for the primary purpose of launching or bringing ashore any type of vessel and includes a slipway and other similar structures.
- c. **Floating dock:** an extension of a wharf, which may be permanently or temporarily affixed to the wharf, or which may be attached to a mooring.
- d. **IRM report:** an Integrated Resource Management (IRM) report is a planning and decision-making tool used by the Department in assessing requests to use Crown lands to ensure a mix of land-use activities, minimize land-use conflict and balance social, economic, and environmental benefits from activities on Crown lands, and to include any recommendations necessary to effect the protection and enhancement of biodiversity and ecosystems on Crown lands as an overall priority.
- e. **Materials Deposit:** any discharging, spraying, releasing, spilling, leaking, seeping, pouring, emitting, emptying, throwing dumping, or placing.
- f. **Mooring:** a permanent or semi-permanent structure or device which rests on submerged land for the purpose of securing a vessel, wharf, floating dock, or raft.
- g. **Mooring grid:** an area of submerged land for which more than three moorings have been laid out and allocated in accordance with a plan accepted by the Department.
- h. **Shoreline Stabilization:** stabilization required for the protection or restoration of the shore because of destabilization from coastal erosion, flooding, or storm surge. The Department of Environment and Climate Change (ECC) has identified that stabilization can either be hard structures; a permanent shore-stabilizing structure built to reduce erosion from wave action; or natural structures that use vegetation and other natural elements to create natural structures that may shift and change over time.
- i. **Submerged Crown lands:** land which is below the ordinary high-water mark of a body of water and includes the beds and shores of bodies of fresh water.
- j. **Structures:** includes, but not limited to, building, camp, trailer, houseboat, raft, wharf, fence wall and moorings.
- k. **Wharf:** a permanent or semi-permanent structure which rests wholly or partially on submerged land and consists of a platform supported by poles, piles, cribwork or other material and is primarily used for securing watercraft.

### C. Policy Objectives

The objective of this policy is to set out the Department's requirements and processes for acceptance, review, and issuance of permissions for activities over freshwater bodies or the submerged land under freshwater bodies, within intertidal areas of the coast, submerged Crown lands beyond the ordinary highwater mark and coastal Crown lands.

#### D. Application

This policy applies to all applications to undertake activities on or over coastal Crown lands and submerged Crown lands. Crown lands for the purposes of this policy includes waterfront Crown lands, submerged coastal Crown lands, Crown lands between the ordinary low- and high- water mark and Crown lands beneath waterbodies that are under the administration and control of the Department and Crown lands pursuant to the *Crown Lands Act* and lands that are included but not designated under the *Beaches Act*.

This policy applies to activities taking place on infilled Crown lands; sales of infilled Crown lands would be covered under the *Sale of Crown Land Policy*.

Any lands that are designated under the *Beaches Act* are not included in this policy but follow the requirements under the *Beaches Act*. Consult with the Director of Parks. This includes the beds and shores of freshwater bodies and intertidal lands adjacent to water lots. It does not include submerged lands within the boundaries of Federal Harbours or water lots not within the ownership of the Department.

#### E. Policy Directives

All requests for authorizations under this policy must be made in writing by submitting a completed application form (Use of Crown Lands application) to the Department.

**General e-mails, letters and phone calls will not be considered an application and will not initiate any type of review or approval process.**

##### a. Authorization:

All uses of the Crown lands, activities or placement of infrastructure or structures on the Crown lands pursuant to this policy require written authorization from the Department in the form of a permit, license, lease, easement, or grant.

Proceeding with any work prior to receiving all applicable approvals may result in the termination of the Department's approval. Any subsequent requirement to remove any structure or any other requirements resulting from the termination of Department approval will be determined in consultation with the Department's Conservation Officers, as applicable.

##### b. Coastal Crown lands use applications:

All requests for authorizations under this policy must be made in writing by submitting a completed application form to the Department. The application form can be found at <https://novascotia.ca/natr/land/clo/>. Applications to use

Crown lands can be submitted as an attachment via e-mail, using the email address provided in the application form or can be sent by regular mail or hand delivered to a NRR office.

- i. Permits for activities defined in Subsection F(a)(i) below can be issued from the local NRR offices of the Regional Services Branch on receipt of the completed application form.
- ii. Applications for all other requests/activities or a combination of the activities described in Section F require the application form to be submitted to the Land Services Branch of the Department.

### **c. Prohibitions and Exemptions**

#### **c.1 Infill**

- i. **New infill on Crown lands covered by this Policy is prohibited** except in the following circumstances:
  - A. Where a minimal amount of infill, needed for repair and does not increase the total footprint of the area of Crown lands occupied, is required to repair/support an existing wharf crib or boat ramp/slipway.
  - B. Where infill is required to be used for the repair or construction of a public road or associated infrastructure.
  - C. For repairs to existing armorstone/ shoreline protection measures, provided the amount of infill to be used is the minimum amount needed for repair and does not increase the total footprint of the area of Crown Lands occupied by the existing armorstone/ shoreline protection measures.
  - D. Placement of infill for an emergency purpose that has been permitted by the Department.
- ii. Any material deposited on the submerged Crown lands that alters the existing ordinary high-water mark is considered infill that is ungranted land under the administration and control of the Department.
- iii. Existing infill that is lawfully placed (has been placed by the adjacent upland owners with the Department's permission) may be sold to the adjacent upland owner(s).
- iv. The sale of infill must follow the policy requirements for the sale of Crown lands pursuant to the *Policy for the Sale of Crown Lands*.

## **c.2 Dredging**

- i. The dredging of submerged Crown lands is prohibited except for:
  - A. Dredging work being done on behalf of the Federal Government in relation to the protection of navigation or fishing; other work authorized by the Federal Government.
  - B. Requests from private property owners for dredging of channels or areas that have previously been dredged with the approval of the Department, if all the following conditions are met:
    - 1. approval has not been revoked,
    - 2. activities followed the terms of the approval given,
    - 3. the proposed area to be dredged is the minimal amount of space needed to allow for navigation or preservation of water movement, and
    - 4. there are no adverse effects to wildlife or endangered species identified by IRM, or other natural or biodiversity values under the mandate of the Department, that cannot be avoided or mitigated.
- ii. Requests from other government entities for dredging that is required to protect government owned roads or infrastructure.
- iii. Dredging that is required for an emergency purpose that has been authorized by the Minister of NRR, another provincial authority or Federal Government.

## **c.3 Permanent Structures built on new or existing wharves connected to private land**

- i. The Department will not authorize the installation or building of a new permanent residential structure for the purposes of living, full time or part time, or for rental as accommodation, short or long-term.

## **d. Approvals of Other Departments or Governments**

- i. It is the applicant's responsibility to secure any and all necessary approvals. For these approvals to be considered valid the applicant must secure the approvals in their own name (personal or business). Approvals received in any other name will be considered invalid.
- ii. Natural Resources and Renewables employees will not intervene on behalf of the applicant with any outside department or agency (e.g., DFO, ECC, etc.) to secure those approvals.

- iii. All requests (permit, licence, lease, easement or grant of infill) will include a provision that the Applicant secure any applicable approvals for the requested authorization/activity before beginning any work.
- iv. The Department's internal review and approval process will continue to completion; however, Departmental approval will not be issued until the Applicant has confirmed that they have received any applicable approvals from other government authorities.

#### **e. Process Requirements for Approvals**

Applications to use Crown lands received under this policy may require, in addition to the information identified in Section F, the following information:

##### **e.1 Notification:**

- i. At minimum, all applicants requesting to place new permanent structures/infrastructure on, to exclusively use or to cause new ground disturbance on Crown lands below the ordinary high water mark must notify the two adjacent upland owners closest to the proposed activity/structure, unless the location of the new activity is further than 60 metres (196 feet) from the ordinary high-water mark, or is located in a cove or inlet, in which case the radius for notification of upland owners may be widened. Notification of additional nearby landowners may be required as set out in Section e.1(ii) below. Where the adjacent upland property is Crown lands, written consent is not required. The approved licence, lease, easement, or purchase of infill will constitute consent.
- ii. At minimum, all applicants requesting a **permit**, for placement of new permanent structures/infrastructure on Crown lands below the ordinary high water mark, must notify the two directly adjoining waterfront properties that are nearest to the proposed activity/structure, with whom the applicant shares a common boundary line, including if the property is Crown lands, unless:
  - A. the applicant has a survey or building location certificate showing the boundaries of their property providing sufficient information to confirm the landfall location of the proposed activity/structure is placed approximately midway between the two adjoining property lines and is not within 3.05 metres (10 feet) of either adjoining property line; or

- C. the request is for short-term use of the submerged Crown lands that does not require placement of permanent structures, including but not limited to floating wharves; or
  - D. the permit is to authorize a mooring that is more than 60 metres (196 feet) beyond the ordinary high-water mark.
- iii. By submitting an application, the applicant is affirming that notification has been provided to adjacent upland owners. Response or comments from adjacent upland owners received as a result of notification is a part of the application process (as set out in Appendix B) and will be considered by the Department in making a final determination on the application. **Department staff will advise applicants that if the notification was found not to be legitimate, the application will be rejected, and/or the authorization revoked, unless proof is provided by the applicant within 30 days that the necessary notification has taken place.** This does not preclude an applicant from re-applying if notification takes place beyond the 30-day time limit.
  - a. If a Department employee is contacted by an adjacent upland landowner or nearby property owner expressing opposition to the proposed activity, staff will indicate to the landowner that this is an issue they need to resolve with the applicant directly, unless a public consultation is directed per Section e.4. Department staff may indicate to the adjacent upland owner that the applicant is only required to notify them of the proposed activity. Department employees are not authorized to engage in adjacent upland owner disputes.
- iv. No upland owner notification is required for activities that are taking place 60 metres (196 feet) or more beyond the ordinary high-water mark unless the activity is taking place in a cove or inlet. In these cases, the applicant may be required to notify additional landowners.

#### **e.2 Survey:**

All requests for leases, easements and sales of infill require the applicant to complete a survey of the Crown lands at their expense. Prior to completing a survey, the applicant must contact the Director of Surveys for the Department to obtain an order of survey.

#### **e.3 Appraisal:**

All commercial leases and sales of infill requests require the applicant to obtain an appraisal of the Crown lands at their expense.

#### **e.4 Consultation:**

- i. Public Consultation: The Department has the discretion to require public consultation be conducted for any applications made under this policy
- ii. Mi'kmaq Consultation: The Department will continue to follow established protocols for consulting the Mi'kmaq on Crown lands authorizations, per the Department's Mi'kmaq Consultation Policy (April 2019) and associated Branch procedures (i.e., Regional Services Mi'kmaq Consultation Procedure (September 2020) and the Land Services Branch Aboriginal Consultation Protocol (2014)).

#### **e.5 Integrated Resource Management (IRM) review:**

The Department will scan all requests for any authorizations under this policy to determine if the completion of a full IRM review is required.

#### **e.6 Roles and Responsibilities**

All roles and responsibilities identified below depend on the individual activity applied for.

- a. Regional Services Branch is responsible for:
  - i. Responding to inquiries related to this policy.
  - ii. Reviewing and making recommendations concerning new requests/applications that can be approved by Regional Services per Section F(a).
  - iii. Ensuring applications received at the regional offices contain complete information including, but not limited to, proposed dimensions for proposed structures and their proposed use/purpose.
  - iv. Advising applicants of requirements (where applicable) for notification of upland owners in accordance with Section e.1.
  - v. Ensuring information relating to each application/request is reflected in CrownLINC and is kept current/accurate.
  - vi. Conducting the IRM review as required and ensuring that the IRM report includes recommendations concerning the proposed use of Crown lands including, but not limited to, whether the proposed activity would likely result in impacts to biodiversity or ecosystems and any requirements to include in the issued authorization to mitigate or avoid such impacts.
  - vii. Liaising with other government departments with respect to this policy.
  - viii. Preparing and issuing permits within the parameters of this policy.
  - ix. Monitoring for possible unauthorized uses of Crown lands and recommending appropriate action.



- x. Ensuring staff have a current copy of this policy and have read and been trained in its application.
  - xi. Recommending revisions to this policy.
- b. Land Administration Division is responsible for:
- i. Responding to inquiries relating to this policy.
  - ii. Ensuring applications, received at the regional offices, contain complete information including, but not limited to, proposed dimensions for proposed structures and their proposed use/purpose. Advising applicants of requirements (where applicable) for notification of upland owners in accordance with Section e.1.
  - iii. Ensuring information relating to each application/request is reflected in CrownLINC and is kept current/accurate.
  - iv. Initiating the IRM review as required and review of the report when completed.
  - v. Liaising with other government departments with respect to this policy.
  - vi. Preparing licenses, leases, easements, deeds, and grants in association with this policy. The issued authorization could include terms and conditions where appropriate, either as a result of the IRM review or other legislated requirements.
  - vii. Ensuring staff have a current copy of this policy and have read and been trained in its application.
  - viii. Recommending revisions to this policy.
- c. All employees are responsible for maintaining accurate records of all requests received pursuant to this policy and to ensure all relevant information is organized and accessible in CrownLINC and where applicable, files are closed and sent to the applicable records management location (Central registry or Crown Land Information Management Centre).

#### **F. Policy Guidelines**

- a. The applicable form of authorization that is required for the type of request/proposed use is set out as follows:
  - i. A **permit**, provided the level of ground disturbance is low and the construction requirements set out in Section F(b) are met, can authorize:
    - A. The construction of a wharf with a design that extends from the shore in a single, straight line, occupying a footprint of Crown lands that is 111.48 square meters (1200 square feet) or less.

- B. Repairs of existing structures, including but not limited to groynes, breakwaters, armorstone or erosion control structures, that do not increase the height or the footprint of the area of Crown lands occupied by the structure.
- C. Extension/ addition to an existing wharf that does not result in the total size of the area of space being occupied by the wharf exceeding 111.48 square meters (1200 square feet).
- D. Up to two (2) moorings located directly in front of the property owned by the applicant(s) and within 60 metres (196 feet) of the ordinary high-water mark (no permit required for one (1) mooring if it is in front of the applicant's property). Mooring(s) located directly in front of the property, within 60 metres (196 feet) of the ordinary high-water mark, owned by the applicant will only be approved for the property owner's personal recreational use. The 60 metres (196 feet) is to be straight out following the trajectory of the existing property line (see Appendix C for direction on non-linear coastal areas). No permits will be issued for a mooring within 60 meters (196 feet) of the ordinary high-water mark to anyone other than the adjacent upland property owner. However, adjacent property owners who hold a permit for up to two (2) moorings can authorize another party to use their moorings for temporary personal recreational purposes (i.e., friends and family visit with a vessel).
- E. One (1) mooring located further offshore than 60 metres (196 feet) from the ordinary high-water mark. This does not include moorings intended for large scale or industrial projects.
- F. Construction of a boat ramp or slipway for personal/ residential use that does not use materials that will permanently attach to the Crown lands (e.g., concrete) and that does not occupy more than 27.9 square metres (300 square feet) of the Crown lands.
- G. Temporary relocation of utility wires/ cables associated with public bridge maintenance or repair; provided no new wires/ cables are being added following the bridgework and the temporary relocation does not last longer than 6 months.
- H. Gathering or collection, by hand, of naturally occurring material from submerged Crown lands for personal/ non-commercial use that does not result in ground disturbance.
- I. Placement of cables on the Crown lands used in association with a marine renewable energy project authorized under the *Marine Renewable Energy Act*.

- J. Temporary activity on the Crown lands that does not require the placement of permanent structures or the removal of material/ use of heavy machinery on the Crown lands.

For additional information regarding issuing a permit, refer to *Appendix C: Procedure to Issue a Permit for Coastal Activities*.

- ii. A **license** can authorize:
  - A. Placement of an intake and outflow pipe(s), along with required infrastructure for the purpose of commercial fishery, not exceeding 30.48 metres (100 feet) in length.
  - B. Placement of new utility/ transmission lines or addition of new lines/ infrastructure to existing utility/ transmission lines crossing the Crown lands.
  - C. Bridges used to access a single dwelling that are not a public road.
  - D. Repair work being done to public highways/roads by contractors on behalf of the Department of Public Works.
  - E. Collection of naturally occurring materials on the Crown lands for commercial purposes.
  - F. Dredging.
  - G. For placement of three (3) or more moorings regardless of upland ownership for a purpose not associated with a marina or for another commercial or industrial purpose (e.g., commercial boat tours with multiple vessels, wind farms, etc.), subject to notification of upland owners' requirements in Section e.1.
- iii. A **lease** can authorize
  - A. Marinas and mooring grids (expansion of an existing marina or placement of three (3) or more moorings for commercial purposes):
    - a. Operators of marinas and mooring grids may make application to the Department for a lease of submerged Crown lands.
    - b. Operators of the marina will be responsible for the day-to-day administration of the marina.
    - c. Prior to obtaining a lease the applicant must provide a survey of the proposed marina/mooring grid, showing how it will accommodate boats of different sizes at different depths and maintain navigational channels. The plan should specify any applicable restrictions on the type and size of boat within different depths/sections of the grid.

- d. Sufficient emergency moorings, as determined by the Department, must be available at no cost as a service to the boating public and commercial users.
      - e. Applicants must provide the Department the proposed plan for charging fees.
      - f. The mooring grid plan must exclude moorings previously authorized by the Department.
    - B. New wharves that will occupy a footprint of the Crown lands that exceed 111.48 square metres (1200 square feet) or will be used for a commercial or public purpose.
    - C. Placement of an intake and outflow pipe(s), along with required infrastructure for the purpose of commercial fishery, that exceeds 30.48 metres (100 feet) in length.
    - D. Additions or repairs to existing wharves that exceed 111.48 square metres (1200 square feet) following the addition or repair.
    - E. Boat ramps or slipways that will occupy more than a footprint of 27.87 square metres (300 square feet) or will be constructed of materials that will permanently be attached to the Crown lands.
    - F. The construction of multiple structures or multiple activities as set out in Sections F(a)(i-iii).
  - iv. An **easement** can authorize:
    - A. Pipelines or cables on or over Crown lands.
    - B. Municipal infrastructure that does not require exclusive use such as sewer or waterlines.
    - C. Construction of bridges or causeways for public use or for use by more than one property owner.
  - v. If the proposed activity does not clearly fall into one of the categories as described in subsections F(a)(i-iv) above, the activity must be authorized by a license. Except for placement of a new groyne(s), breakwater(s), armorstone/ shoreline protection, if there is substantial work required for installation the sale of Crown lands may be required.
- b. Construction Requirements:
- i. **Boathouses/ Houses/ Buildings are not permitted to be constructed on top of any wharves** that are all or partially on the submerged Crown lands.
  - ii. **Houseboats or floating vessels or homes** are not permitted on submerged Crown lands.
  - iii. **Wharves:**

- A. No new wharves with skirted/ solid structures will be permitted. Wharves may be supported by either cribs, piles, or poles. Any existing solid/skirted wharves constructed without permission from the Department may be considered infill/ ungranted Crown land (see Section c.1(iii)).
- B. Infilling is not permitted except for clean, non-toxic material (rock material free of fines) from a waterbody source, used only to fill cribwork.
- C. A space of at least 1.22 metres (4 feet) must be maintained between any supporting poles. Crib structures are not to be sheathed below the ordinary high-water mark.
- D. An open span of at least 3.05 metres (10 feet) must be maintained between each crib.
- E. The first crib must be located either entirely on the landward side of the ordinary high-water mark or at least 3.05 metres (10 feet) from and on the seaward side of the ordinary high-water mark.
- F. The first crib is not permitted to straddle the ordinary high-water mark.
- G. Should the wharf impede access to or movement along the shore, upon review of circumstances, alternate access above the ordinary high-water mark may be required of the wharf owner by the Department.
- H. **Boat ramps:** existing rocks within the proposed area may be moved aside, by hand or machine, provided they are not removed from the waterbody. Should the boat ramp impede access along the shore, the applicant must provide alternate access above the ordinary high-water mark.
- I. Wharves, boat ramps, moorings or any other structures must be constructed of materials which do not leak toxins and are free of oil, grease, and other contaminants. Wood treated with creosote or pentachlorophenol (PCP) is prohibited.
- J. The design, material, and location of any proposed structures on the Crown lands are subject to the discretion of the Department. The Department may require applicants to alter the design, or the proposed location of structures or material being placed on the Crown Lands, prior to issuing any authorization. The Department may request applicants to demonstrate that natural shoreline stabilization (green banking) is not an option before repairs or

additions to other methods of shoreline stabilization will be approved.

- iv. More specific construction requirements are set out in *Appendix A: Construction Requirements for Shoreline Structures*.
- v. A breach of any of the above may result in any structures being declared as unauthorized structures pursuant to Section 21(4) or Section 39(1) of the *Crown Lands Act* and subject to removal at the expense of the applicant, and in accordance with the Department's *Unauthorized Structures Policy*.

c. **Length of Terms**

- i. Permits issued pursuant to this policy must specify an end date for the effective date of the permit which does not exceed three (3) years from the date of the application. All work authorized by the permit must be completed by the end date.
- ii. Licenses issued pursuant to this policy will be issued for a term of 10 years with option to renew for another 10-year term.
- iii. Leases issued pursuant to this policy will have a term of 20 years with an option to renew for an additional 20 years.
- iv. Where approvals for a mooring(s) are issued there will be no end date identified and will be automatically renewed on an annual basis. However, the approval will state that it is only applicable for the length of time the original applicant owns the adjacent upland property and will expire automatically upon the transfer of ownership of the adjacent upland property.

i. **Fees**

- i. The fee charged for any permit, license, lease, easement, or sale of infill is in accordance with the schedule: *Fees for Activities on Crown Land* (effective April 1, 2015).
- ii. No fees are to be charged for any permit for work being done by a contractor on behalf of another provincial government department.

j. **Assignment and transferability**

- i. Permits are non transferrable.
- ii. Licenses may only be assigned with the written consent of the Lands Services Branch of the Department.
- iii. Leases may be assigned to successive leaseholders subject to the approval of the Department.
- iv. Approvals for moorings are not transferable and will expire automatically upon transfer of upland ownership.

## **G. Accountability**

- a. The Deputy Minister is responsible for the consistent implementation of this policy by all staff.
- b. Senior management is responsible for ensuring this policy meets the objectives of the Department; approving and implementing this policy; and, ensuring that authority is effectively delegated to appropriate staff.

## **H. Monitoring**

- a. Directors within the Regional Services Branch will monitor Regional Service's employees to ensure this policy is being followed and applied consistently across the regional offices.
- b. Directors within the Lands Services Branch will monitor Land Services' employees to ensure this policy is being followed and applied consistently.

## **I. References**

*Sale of Crown Lands Policy*, Department of Natural Resources, 1995  
*Coastal Lands Policy*, Department of Natural Resources, 2003  
*Coastal Lands Policy*, Department of Natural Resources, 2012  
*Unauthorized Structures Policy*, Department of Natural Resources, 2020  
*Fees for activities on Crown Lands (schedule effective April 1, 2015)*

## **J. Enquiries, Review and History**

For enquiries contact: Director, Land Administration, Lands Services Branch  
(902) 424-4006

Next review date: 2024/ 01/01 (or sooner if *Coastal Protection Act* Regulations dictate a change to policy)

To be reviewed by: Director, Land Administration, Lands Services  
Directors, Eastern, Central and Western Regions, Regional Services

Previous revisions: 2012, 2003

First implemented:

Appendix A: Construction Requirements for Shoreline Structures

Appendix B: Upland Owner Notification Form

Appendix C: Procedure to Issue a Permit for Coastal Activities