

## EXCERPTS FROM HALIFAX REGIONAL MUNICIPALITY CHARTER

### **Municipal planning strategy**

227 The Council may adopt a municipal planning strategy for all, or part, of the Municipality and there may be separate strategies for different parts of the Municipality.

### **Purpose of municipal planning strategy**

228 The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

(a) policies that address problems and opportunities concerning the development of land and the effects of the development;

(b) policies to provide a framework for the environmental, social and economic development within the Municipality;

(c) policies that are reasonably consistent with the intent of statements of provincial interest; and

(d) specify programs and actions necessary for implementing the municipal planning strategy

### **Statements of policy in planning strategy**

229 (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

(a) the goals and objectives of the Municipality for its future;

(b) the physical, economic and social environment of the Municipality;

(c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;

(d) stormwater management and erosion control;

(e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;

(f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;

(g) studies to be carried out prior to undertaking specified developments or developments in specified areas;

- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or bylaws arising from such policies;
- (o) policies governing
  - (i) land-use by-law matters,
  - (ii) amendment of the land-use by-law,
  - (iii) the acceptance and use of cash-in-lieu of required parking,
  - (iv) the use of development agreements,
  - (v) the establishment of comprehensive development districts,
  - (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
  - (vii) the establishment of transportation reserves,
  - (viii) the use of infrastructure charges;
- (p) the regulation or prohibition of development and the use of land in order to carry out an agreement pursuant to the Aeronautics Act (Canada);
- (q) any other matter relating to the physical, social or economic environment of the Municipality.

(2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

### **Secondary planning strategy**

231 (1) A municipal planning strategy may provide for the preparation and adoption of a secondary planning strategy that applies, as part of the municipal planning strategy, to a specific area or areas of the Municipality.

(2) The purpose of a secondary planning strategy is to address issues with respect to a particular part of the planning area, that may not, in the opinion of the Council, be adequately addressed in the municipal planning strategy alone.

### **No action inconsistent with planning strategy**

232 (1) The Municipality may not act in a manner that is inconsistent with a municipal planning strategy.

(2) The adoption of a municipal planning strategy does not commit the Council to undertake any of the projects suggested in it.

### **Adoption of land-use by-law or amendment**

234 (1) Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that enables the policies to be carried out.

(2) The Council may amend a land-use by-law in accordance with policies contained in the municipal planning strategy on a motion of the Council or on application.

(3) The Council may not adopt or amend a land-use by-law except to carry out the intent of a municipal planning strategy.

### **Content of land-use by-law**

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

(a) regulate the dimensions for frontage and lot area for any class of use and size of structure;

(b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;

(c) regulate the maximum area of the ground that a structure may cover;

- (d) regulate the location of a structure on a lot;
  - (e) regulate the height of structures;
  - (f) regulate the percentage of land that may be built upon;
  - (g) regulate the size, or other requirements, relating to yards;
  - (h) regulate the density of dwelling units;
  - (i) require and regulate the establishment and location of off-street parking and loading facilities;
  - (j) regulate the location of developments adjacent to pits and quarries;
  - (k) regulate the period of time for which temporary developments may be permitted;
  - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
  - (m) regulate the floor area ratio of a building;
  - (n) prescribe the fees for an application to amend a land use by-law or for entering into a development agreement, site plan or variance.
- (5) **Where a municipal planning strategy so provides, a land-use by-law may**
- (a) subject to the Public Highways Act, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
  - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
  - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
  - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
  - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
  - (f) regulate the location of disposal sites for any waste material;
  - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;

- (h) regulate or prohibit the removal of topsoil;
- (i) regulate the external appearance of structures;
- (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
- (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area;
- (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
- (n) prohibit development or certain classes of development where, in the opinion of the Council, the
  - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
  - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
  - (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) prohibit development on land that
  - (i) is subject to flooding or subsidence,
  - (ii) has steep slopes,
  - (iii) is low-lying, marshy, or unstable,
  - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
  - (v) is known to be contaminated within the meaning of the Environment Act, or
  - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (q) regulate or prohibit development in areas near airports in excess of 30 NEF/NEP (thirty noise exposure forecast/noise exposure projections) as set out on maps produced by an airport authority, as revised from time to time, and reviewed by Transport Canada;

(r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

### **Future public use**

237 (1) The Council may zone privately owned land for future public use other than transportation reserves if the by-law provides for an alternative zone on the land, consistent with the municipal planning strategy.

(2) Where privately owned land is zoned for future public use, the Municipality shall, within one year of the effective date of the zoning, acquire the land or the alternative zone comes into effect.

### **Parking cash-in-lieu**

238 (1) Where provided for in a municipal planning strategy, the Council may accept money instead of all or part of any required off-street parking lot or facility.

(2) The Council shall use any money received to construct or maintain municipally owned parking or transit facilities to serve the immediate area of the development with respect to which the payment was made, if the facilities are located in an area identified in the municipal planning strategy.

(3) The method used to determine the contribution for parking or transit facilities must be set out in the land-use by-law and must take into account the cost of construction of an individual parking space, including costs of land, grading and paving or any other standard determined by the Council.

### **Transportation reserve**

239 (1) Where a municipal planning strategy identifies property required for the purposes of widening, altering or diverting an existing street or pathway or for the purposes of a new street or pathway, the Council may, in a land use by-law identify the transportation reserve and

(a) set out its intention to acquire property for the purposes of widening, altering or diverting an existing street or pathway, or for the purposes of a new street or pathway;

(b) set out the proposed right-of-way intended to be acquired;

(c) set out building setbacks for the widened, altered, diverted or new street or pathway;

(d) prohibit development in the proposed right-of-way or between the proposed right-of-way and the building setbacks.

(2) Any right-of-way and any building setbacks must be shown on a map or plan that is attached to and forms part of the land-use by-law.

(3) Where the Council adopts by-law provisions in accordance with this Section, it shall provide for an alternative zone on the property to be acquired.

(4) The alternative zone comes into effect if the Municipality does not acquire the property in the right-of-way within five years of the effective date of the provisions.

(5) Where the Council adopts provisions in accordance with this Section, an affected property owner may make a written request to the Council to acquire the property or acquire an interest in the property, at the discretion of the Council.

(6) Where the Council does not acquire the property or acquire the interest in the property within one year of the written request of an affected property owner, the alternative zone on the property comes into effect.

### **Variance**

250 (1) A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law requirements:

- (a) percentage of land that may be built upon;
- (b) size or other requirements relating to yards;
- (c) lot frontage or lot area, or both, if
  - (i) the lot existed on the effective date of the bylaw,

or

- (ii) a variance was granted for the lot at the time of subdivision approval.

(2) Where a municipal planning strategy and land-use by-law so provide, a development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law requirements:

- (a) number of parking spaces and loading spaces required;
- (b) ground area and height of a structure;
- (c) floor area occupied by a home-based business;
- (d) external appearances of structures in the HRM by Design Downtown Plan Area;
- (e) height and area of a sign.

(3) A variance may not be granted if

- (a) the variance violates the intent of the development agreement or land-use by-law;
- (b) the difficulty experienced is general to properties in the area; or

(c) the difficulty experienced results from an intentional disregard for the requirements of the development agreement or land use by-law

### **Variance procedures**

251 (1) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted to every assessed owner whose property is within thirty metres of the applicant's property, or such greater distance as determined by the Council by policy or, where the municipal planning strategy so provides, in the land-use by-law.

(1A) Where the Council has increased the distance for notice under subsection (1), the development officer shall, within fourteen days after granting a variance,

- (a) give notice in writing of the variance granted to every assessed owner whose property is within the distance specified in the policy of the applicant's property; or
- (b) advertise the granting of the variance in a newspaper circulating in the Municipality.

(2) The notice must

- (a) describe the variance granted;
- (b) identify the property where the variance is granted; and
- (c) set out the right to appeal the decision of the development officer.

(3) Where a variance is granted, a property owner served a notice may appeal the decision to the Council within fourteen days after receiving the notice.

(4) Where a variance is refused, the applicant may appeal the refusal to the Council within seven days after receiving notice of the refusal, by giving written notice to the Clerk who shall notify the development officer.

(5) Where an applicant appeals the refusal to grant a variance, the Clerk or development officer shall give seven days written notice of the hearing to every assessed owner whose property is within thirty metres of the applicant's property, or such greater distance as determined by the Council by policy.

(5A) Where the Council has increased the distance for notice under subsection (5), the Clerk or development officer shall

- (a) give seven days written notice of the hearing to every assessed owner whose property is within the distance specified in the policy of the applicant's property; or
- (b) advertise seven days notice of the hearing in a newspaper circulating in the Municipality.

(6) The notice must

- (a) describe the variance applied for and the reasons for its refusal;



(b) identify the property where the variance is applied for;

and

(c) state the date, time and place when the Council will hear the appeal

### **Variance appeals and costs**

252 (1) Where the Council hears an appeal from the granting or refusal of a variance, the Council may make any decision that the development officer could have made.

(2) A development officer shall issue a development permit for any development for which a variance has been granted and that otherwise complies with the terms of the development agreement or a land-use by-law, whichever is applicable, if

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the variance has been affirmed by the Council.

(3) The Council may by resolution provide that any person applying for a variance shall pay the Municipality the cost of

(a) notifying affected land owners;

(b) posting a sign.

### **Development agreements**

240 (1) The Council may consider development by development agreement where a municipal planning strategy identifies

(a) the developments that are subject to a development agreement;

(b) the area or areas where the developments may be located; and

(c) the matters that the Council must consider prior to the approval of a development agreement.

(2) The land-use by-law must identify the developments to be considered by development agreement.

### **Comprehensive development districts**

241 (1) The Council may regulate the development of a district by development agreement by establishing a comprehensive development district for which the municipal planning strategy identifies

(a) the classes of uses permitted in a district;

(b) developments or uses in a district, if any, that are permitted without a development agreement;

(c) the area or areas where a district may be established;

And

(d) the matters that the Council must consider prior to the approval of a development agreement for the development of a district.

(2) When a municipal planning strategy provides for a comprehensive development district, the land-use by-law must include a comprehensive development district zone.

(3) No development may occur in a comprehensive development district unless it is consistent with the development agreement or it is a development permitted without a development agreement.

### **Content of development agreements**

242 (1) A development agreement may contain terms with respect to

(a) matters that a land-use by-law may contain;

(b) hours of operation;

(c) maintenance of the development;

(d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;

(e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;

(f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;

(g) the subdivision of land;

(h) security or performance bonding.

(2) A development agreement may include plans or maps.

(3) A development agreement may

(a) identify matters that are not substantive or, alternatively, identify matters that are substantive;

(b) identify whether the variance provisions are to apply to the development agreement;

(c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;

(d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;

(e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner.

### **Requirements for effective development agreement**

243 (1) A development agreement must not be entered into until

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

(2) The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.

(3) A development agreement does not come into effect until

(a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;

(b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality;

and

(c) the development agreement is filed by the Municipality in the registry.

(4) The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry.

### **Discharge of development agreement**

244 (1) A development agreement is in effect until discharged by the Council.

(2) The Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.

(3) After a development agreement is discharged, the land is subject to the land-use by-law.

### **Site-plan approval**

246 (1) Where a municipal planning strategy so provides, a land-use by-law shall identify

- (a) the use that is subject to site-plan approval;
  - (b) the area where site-plan approval applies;
  - (c) the matters that are subject to site-plan approval;
  - (d) those provisions of the land-use by-law that may be varied by a site-plan approval;
  - (e) the criteria the development officer must consider prior to granting site-plan approval;
  - (f) the notification area;
  - (g) the form and content of an application for site-plan approval; and
  - (h) with respect to the HRM by Design Downtown Plan Area, the requirements for public consultation that must take place prior to an application for site plan approval being submitted to the Municipality.
- (2) No development permit may be issued for a development in a site-plan approval area unless
- (a) the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law; or
  - (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use by-law.
- (3) A site-plan approval may deal with
- (a) the location of structures on the lot;
  - (b) the location of off-street loading and parking facilities;
  - (c) the location, number and width of driveway accesses to streets;
  - (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
  - (e) the retention of existing vegetation;
  - (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
  - (g) the type and location of outdoor lighting;
  - (h) the location of facilities for the storage of solid waste;
  - (i) the location of easements;
  - (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;

- (k) the type, location, number and size of signs or sign structures;
- (l) the external appearance of structures in the HRM by Design Downtown Plan Area;
- (m) provisions for the maintenance of any of the items referred to in this subsection.

#### Design review committee for HRM by Design Downtown Plan Area

246A (1) The Council may, by by-law, establish a design review committee for the HRM by Design Downtown Plan Area.

(2) Subject to subsection (3), the design review committee shall exercise the powers of the development officer with respect to any matter set out in subsection 246(3) to the extent, for the area and under the conditions set out in the by-law and, for greater certainty, a decision of the design review committee is in substitution for a decision of the development officer.

(3) A decision of the design review committee is not in substitution of a decision of the development officer for the issuance of any permits.

(4) The by-law referred to in subsection (1) must

- (a) provide for the membership of the design review committee;
- (b) provide for the appointment of the chair and other officers of the committee;
- (c) fix the terms of appointment and set out provisions respecting re-appointment if any;
- (d) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a Council member;
- (e) determine the reimbursement of members of the committee for expenses incurred as members;
- (f) establish the duties and procedure of the committee;
- (g) provide for the matters the committee may consider when reviewing the external appearance of structures for a development;

and

(h) list non-substantive matters that may not be appealed.

(5) The by-law referred to in subsection (1) may provide that the members are to be appointed by resolution.

(6) There is an appeal to the Council from a decision of the design review committee, except in relation to those non-substantive matters listed in the by-law pursuant to clause (4)(h).

(7) The design review committee shall approve or refuse an application within sixty days from the date of the application.

(8) An application that is not approved or refused within sixty days is deemed to have been refused.

(9) An appeal to the Council, pursuant to subsection (6) must be heard by the Council within sixty days unless the parties to the appeal agree otherwise and the Council shall render its decision within thirty days after having heard the appeal.

(10) Where a design review committee approves or refuses to approve an application for a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

#### Site-plan approval

247 (1) A development officer shall approve an application for site plan approval unless

(a) the matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or

(b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.

(2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

(3) Notwithstanding subsection (2), the Council may require a larger notification distance for site-plan approvals in its land-use by-law if the municipal planning strategy so provides.

(4) The Council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(5) The Council may by resolution provide that any person applying for approval of a site plan must pay the Municipality the cost of

(a) notifying affected land owners; and

(b) posting a sign.

(6) A development officer may, with the concurrence of the property owner, discharge a site-plan, in whole or in part.

(7) Subsections (8) and (9) apply only with respect to the HRM by Design Downtown Plan Area.

(8) A development officer may, with concurrence of the property owner, amend the site plan for matters that are non-substantive.

(9) For those amendments consisting of non-substantive matters listed in the by-law pursuant to clause 246A(4)(h), there is no appeal.

### **Development permit in site-plan approval area**

248 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved, the development otherwise complies with the land-use by-law and

(a) the appeal period has elapsed and no appeal has been commenced;

or

(b) all appeals have been abandoned or disposed of or the site plan has been affirmed by the Council.

### **Conveyance to person not a party**

249 Where the owner of property that is subject to a development agreement or a site plan conveys all or part of the property to a person not a party to the development agreement or site plan, the development agreement or the site plan continues to apply to the property until, in the case of a development agreement, it is discharged by the Council and, in the case of a site-plan, it is discharged by the development officer.