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Item No. 6
Halifax Regional Council
October 17, 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: October 16, 2023

SUBJECT: Legislative Update – 2023 Fall Sitting and Bill No. 329

INFORMATION REPORT

ORIGIN

2023 FALL SITTING OF Provincial Legislation

October 12, 2023, Government of Nova Scotia introduced for first reading Bill No. 329, Halifax Regional Municipality Charter (amended) and Housing in the Halifax Regional Municipality Act (amended).

LEGISLATIVE AUTHORITY

The relevant statutes for each legislative request are outlined in the discussion section of this report. A full copy of Bill No. 329 can be found [here](#).

BACKGROUND

Halifax Regional Municipality was created by, and gets its authority from, the Province of Nova Scotia. As a result, when the Municipality seeks to take an action outside the scope of its delegated authority, it must request that the province grant such authority through new legislation, legislative amendments, or by requesting that the province undertake an action on the Municipality's behalf.

Regional Council has several outstanding legislative requests with the province, with the oldest dating to 2008. Council's legislative requests are tracked by Government Relations and External Affairs (GRE), who work with staff across the organization to coordinate efforts to advance these requests. Since 2021 the Government of Nova Scotia has also introduced other changes intended to address the housing crisis in the province, with a focus on HRM, including changes to the HRM Charter and the Housing in the Halifax Regional Municipality Act granting the Minister of Municipal Affairs and Housing an expanded authority over planning and development in HRM, including the establishment of the Executive Panel on Housing and Special Planning Areas.

The 2023 Fall Sitting of the Legislature commenced on October 12, 2023 where the Government of Nova Scotia introduced for first reading Bill 329, which include amendments to the Halifax Regional Municipality Charter (HRM Charter) and the Housing in the Halifax Regional Municipality Act which, if approved, could have significant impact on municipal processes, authorities, and finances related to future planning and development.

On October 16, 2023, the Law Amendments Committee passed Bill No. 329 and referred the matter to the Committee of the Whole House.

An overview of these legislative changes proposed in Bill No. 329 is provided in the Discussion section below. The legislative overviews provided are not exhaustive but convey salient aspects of the new and/or amended legislation.

DISCUSSION

Bill 329 as introduced on October 12, 2023 for first reading includes 22 proposed amendments to the Halifax Regional Municipality Charter and the Housing in the Halifax Regional Municipality Act. The amendments are intended (as announced by the Province) to “speed up development approvals, increase density and reduce barriers to housing builds in HRM”. Some of the key changes include:

- giving the Minister complete authority to make decisions on any development in HRM without a recommendation from the Executive Panel on Housing or the Municipality;
- creating a trusted partner program by April 1, 2024 which will offer expedited approvals to qualified consultants and developers who have a solid track record of quality applications and developments;
- exempting healthcare facilities, including long-term care facilities, from land-use by-laws and subdivision by-law;
- temporary freeze (two years) on increases or new fees related to municipal permit and development fees, capital cost charges, including Halifax Water regional development charges and density bonusing charges and agreements, with any increases needing ministerial approval;
- giving HRM the authority to unilaterally discharge existing development agreements that are more restrictive, to enable height and density;
- granting all variances respecting setbacks or street walls unless HRM can demonstrate that they materially differ from the intent of the municipal planning strategy.

While some of the changes are supported by the Municipality and align well with the Deloitte report and the municipal application to the Housing Accelerator Program (HAF), other changes could benefit from clearer drafting, as well as greater consideration of processes and impacts.

Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes.

- A high-level review of Bill No.329, and impacts and analysis, is provided in Table 1 below. More detail is available in Attachment A.
- A copy of HRM’s submission to Law Amendments on October 16, 2023, is available in Attachment B.

Table 1 - Review of Bill No. 329 Proposed Amendments

Clause Description	Impact and Analysis
Clause 1 amends the Halifax Regional Municipality Charter to allow the Council of the Halifax Regional Municipality to	Impact: This amendment can provide for more flexible approach to implementing public participation programs when preparing planning documents.

Clause Description	Impact and Analysis
<p>adopt public participation programs by means other than policy.</p>	<p>Analysis: This change has been requested by staff. Some staff resources will be required to adjust existing processes, but this will not be significant.</p>
<p>Clause 2 requires the Municipality to create a trusted-partner program that allows for expedited administrative and residential development approvals.</p>	<p>Impact: Staff have been participating in the program design for the trusted-partner program to support the Provincial desire to establish this program. Staff have continually highlighted that the program will require additional staff resources to train participants, to run this separate application track, and to upgrade our electronic systems. The Deloitte Report on Trusted Partners did not recommend the inclusion of Municipal Planning Strategy applications.</p> <p>Analysis: Staff would recommend removing Municipal Planning Strategy amendments from the program as was originally agreed to. The deadline of April 1, 2024, is not realistic. This program will require additional staff resources and will not be sufficient to update online platforms, screen and train “preferred partners”. Additional staff resources will be required.</p>
<p>Clause 3 allows the Minister of Municipal Affairs and Housing to exclude healthcare facilities from the Parts of the Act related to planning and development and subdivision and from municipal planning strategies, land-use by-laws, development agreements, policies and subdivision by-laws.</p>	<p>Impact: Staff supports this change in principle but not as drafted because the language does not address infrastructure and site engineering issues which could result in health and safety risks.</p> <p>Analysis: The amendment would benefit from limiting this power to buildings classified as B1 to B3 under the National Building Code, and to adhere to infrastructure requirements.</p>
<p>Clause 4 prohibits, for a period of two years, the Municipality from changing, without the approval of the Minister, fees, certain charges and incentive or bonus zoning agreements that would increase the cost of applicants for approvals.</p>	<p>Impact: This proposed amendment could have significant impact on municipal budgets and resources and causes concern at a time when there is already a significant infrastructure deficit and unprecedented levels of growth.</p> <p>While CPI or other discrete increases to fees will be impacted, the greatest concern is that the new bill will prevent the Municipality from establishing new Capital Cost Contributions or Local Improvement Charges in new developments where infrastructure is needed without the Minister’s written permission. It will also freeze any increases to Halifax Water fees which are currently under review and will likely need to be adjusted to respond to high current and anticipated growth levels.</p> <p>Removing HRM’s ability to increase and collect fees required to fund infrastructure needed to support growth, will further compound our ability to respond to this infrastructure gap and deliver basic services to our residents. For example, the infrastructure investment required for Port Wallace will be approximately \$30,000,000. Some of these costs are borne by the developer, and some of them are borne by the municipality. A charge allows for infrastructure charges to be recouped at the time of subdivision or permit.</p>

Clause Description	Impact and Analysis
	<p>In Suburban Areas (Future Serviced Communities or other projects requiring a Plan Amendment) this amendment would mean that no Density Bonusing Fees can be collected through the Interim Density Bonusing Program.</p> <p>Analysis: Additional information on the criteria the Minister will use to approve new fees or agreements, and exempt infrastructure charges from the freeze without requirement for Ministerial approval.</p>
<p>Clause 5 allows the Council of the Municipality to agree to development agreements in principle prior to finalizing small administrative amendments. The Chief Administrative Officer of the Municipality is given the authority to finalize those outstanding administrative amendments without returning to the Council.</p>	<p>Impact: The amendment does not define “small administrative amendments”, which could cause confusion and add time to the process.</p> <p>Analysis: The amendment would benefit from defining an “administrative amendment”.</p>
<p>Clause 6 allows the Chief Administrative Officer of the Municipality to discharge development agreements that are more restrictive in terms of height or density than the relevant land-use by-law.</p>	<p>Impact: This amendment was requested by HRM and is supported. A minor wording change is recommended to clarify that it pertains to completed development agreements. New land use by-laws will nearly always be more permissive.</p> <p>This amendment would benefit from companion legislation that would prohibit private covenants on lands that limit the number or types of units permitted in development (e.g. secondary suites). This would be like <i>The Clothesline Act</i> passed in 2010.</p> <p>Analysis: Replace the words “<i>more restrictive in terms of height or density than the relevant land-use by-law</i>” with “<i>completed</i>” to facilitate the level of changes that is required in Suburban Areas to accommodate growth.</p>
<p>Clause 7 removes the ability of the Council to require a larger notification distance for site plan approvals and a provision made redundant by other amendments.</p>	<p>Impact: HRM supports the amendment to constrain the notification area. There are very few site plan approval notification areas greater than 30 metres. This amendment is also suggesting Subsection 9 be repealed. This is not recommended; this would mean that non-substantive matters could be appealable (which they are not right now).</p> <p>Analysis: The amendment would benefit from maintaining Subsection 9 of the HRM Charter.</p>
<p>Clause 8 (a) requires a development officer to grant a variance respecting a setback or a street wall notwithstanding any land-use by-law or development agreement unless the variance would materially</p>	<p>Impact: The wording is unclear and may add to the current time to the process and create confusion. For example, the test for variances is defined in HRM Charter while criteria for site plan approval variations in the Centre Plan are defined in the LUB. The proposed amendment introduces conflict and a lack of clarity in the regulations. Furthermore, this</p>

Clause Description	Impact and Analysis
<p>conflict with the municipal planning strategy; and (b) allows a decision to reject the variance to be appealed to the Utility and Review Board, with the onus on the development officer to demonstrate the conflict.</p>	<p>amendment changes the appeal body from Community Council to the NSUARB, but only for applications refused by the development officer. This will create more time and more process.</p> <p>Analysis: This amendment is not needed and creates unnecessary process.</p>
<p>Clause 9 removes the ability to designate distances of greater than 30 metres where notice of a variance is required.</p>	<p>Impact: Subsection (5A) refers to the procedure where Council has increased the notification distance. If increasing the notification distance is no longer possible, it is not clear why subsection (5A) is not being repealed and replaced with a similar subsection to the replacement subsection (1A). It is also unclear how these sections on appeal process would interface with the amendments to section 250A, which require the development officer to approve certain variances. More consideration should be given to the best procedure for variances and appeals.</p> <p>Analysis: There is agreement that reduction in notification area will reduce appeals of variance decisions, but conflict within the amendments will create additional process, consideration and delay.</p>
<p>Clause 10 requires applications for appeals relating to site plan and variance approvals to state the grounds for appeal and allows the Minister to make regulations listing non-substantive matters that may not be appealed.</p>	<p>Impact: Property owners do not “apply” to appeal a decision on a variance or site plan approval. They have a statutory right to appeal a decision.</p> <p>A valid ground for appeal would be that the development officer erred in their analysis of the variance against the criteria in section 250 (3) of the Charter. As any appeal which does not demonstrate this should be dismissed, it is unclear what is intended by a “non-substantive” matter.</p> <p>These amendments still require that Council dismiss invalid appeals. This will still require a staff report, placement on the Community Council agenda, and a decision of Council. This will not save any time compared to holding a hearing and having the appeal dismissed, which appeals without merit generally are. If the goal is to improve approval timelines and reduce unnecessary process, this amendment does not achieve that.</p> <p>The amendment further creates powers for the Minister to create regulations on what constitutes non-substantive amendment and takes it out of Council’s hands.</p> <p>Analysis: The proposed legislation would benefit from removing the words “application for”, or deleting this amendment as it does meet the stated intent to reduce red tape.</p>

Clause Description	Impact and Analysis
<p>Clause 11 requires the Utility and Review Board to award costs against the Municipality when a decision of a development officer to refuse a variance in respect of a setback or street wall is overturned on appeal.</p>	<p>Impact: Development officers make decisions on variances respecting the criteria set out in the Charter. While decisions to refuse applications should be appealable, this amendment appears to seek to discourage any refusals rather than improve development application timelines or processes. Since a development officer is required by the HRM Charter to administer legislation as written, if an application is deemed not to meet the legislation it must be refused regardless of what the cost may be of an appeal. This creates unnecessary costs for the Municipality.</p> <p>Analysis: The amendment, as drafted, will add cost and process without creating shorter approval timelines.</p>
<p>Clause 12 deems any action taken under the Act or the regulations to address a housing supply crisis to not be injurious affection.</p>	<p>Impact: This amendment protects the Minister from any action taken under the Act.</p>
<p>Clause 13 clarifies that the Minister may exercise the Minister's powers without consultation or a recommendation or request.</p>	<p>Impact: It is unclear what the role of the Housing Panel will be in the future, and whether Municipal staff still be required to craft plans and by-laws as directed by the Minister.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p>
<p>Clause 14 allows the Minister to make an order designating any or all of the Municipality as a special planning area.</p>	<p>Impact: This has the potential to create uncertainty around current development proposals, staff resourcing, forward planning and could generate conflict with Council direction. It replaces integrated planning with site specific planning isolated from a larger land use and infrastructure planning. It has the potential negatively impact the environment, infrastructure delivery and financial resources.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p>
<p>Clause 15 allows the Minister to amend or repeal land-use by-laws, subdivision by-laws and municipal planning strategies in special planning areas without the recommendation of the Executive Panel on Housing in the Halifax Regional Municipality.</p>	<p>Impact: This amendment could create significant impacts and uncertainty for the HRM Administration, Regional Council, the private market and with the public as to which policies and by-laws will stand and which will not.</p> <p>Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources, and service delivery at the municipal</p>

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	<p>level, both operational and capital investments.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p>
<p>Clause 16 allows the Minister to approve development agreements or amendments to development agreements in special planning areas without the recommendation of the Panel.</p>	<p>Impact: It is unclear what the future role of the Housing Panel will be and whether any professional or technical advice will be considered by the Minister.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p> <p>Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources, and service delivery at the municipal level, both operational and capital investments.</p>
<p>Clause 17 allows the Minister as well as the Panel to approve development permits and subdivision approvals in special planning areas.</p>	<p>Impact: This language is broad, creating significant impact and uncertainty for the HRM Administration, Regional Council, the private market and with the public as how approvals proceed. Approvals not in keeping with HRM rules and regulations could impact financial resources, and service delivery at the municipal level, both operational and capital.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p> <p>Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources, and service delivery at the municipal level, both operational and capital investments.</p>
<p>Clause 18 deems property to not be injuriously affected by any action taken under the Act or the regulations.</p>	<p>Impact: This amendment protects the Minister from any action taken under the Act.</p>
<p>Clause 19 allows the Minister to make regulations prescribing timelines for the issuance or approval of development permits, agreements and related documents and set penalties for missing the timelines.</p>	<p>Impact: Municipal approval timelines have been significantly reduced thanks to Regional Council dedicating new staff resources and to improvements in operating procedures. Timelines often depend on the complexity of the project and proponent's ability to submit information.</p>

Clause Description	Impact and Analysis
	<p>Analysis: Introducing timelines and penalties could create the need to add staff and financial resources.</p>
<p>Clause 20 excludes the Act and actions done under it from requirements to consult with the Municipality.</p>	<p>Impact: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p>
<p>Clause 21 excludes this Act from the requirement to consult with the Municipality before making amendments to the Halifax Regional Municipality Charter.</p>	<p>Impact: This is of concern to the Municipality as any amendments to the HRM Charter can have significant impact on municipal operations and administrative procedures. Municipal staff work with the HRM Charter daily and amendments made without consultation can have unintended consequences. The best way to shorten approval timelines is to holistically update land use documents.</p> <p>Analysis: Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.</p>
<p>Clause 22 provides the amendments respecting healthcare facilities have retroactive effect to January 1, 2023.</p>	<p>Impact: This could have impacts to infrastructure and services.</p>

FINANCIAL IMPLICATIONS

The full implications of the proposed changes are not known at this time. The approval of developments without consultation with the Municipality or the Housing Panel and providing both exemptions and variances to planning strategies and subdivision by-law will have impacts on municipal services and infrastructure potentially for many years to come.

The freeze on any new development or infrastructure fees, and any increases to fees (including CPI) increases will have impacts on:

- CPI increases to all fees under AO 15 which is estimated to be between \$350,000 and \$500,000 per year.
- Bonus Zoning agreements will eliminate the ability to collect density bonusing fees in suburban areas, and there will be no ability to revisit fees associated with land value assessment increases
- Halifax Water fees which are currently under review and could be negatively impacted.
- Capital Cost Contributions in new developments that require new infrastructure or upgrades to existing infrastructure. For example in the recently approved Port Wallace Special Planning Area developer infrastructure fees were approximately \$19 M and municipal fees were \$10M. The loss of CCCs can have a significant impact on municipal budgets if not individually approved by the Minister.

RISK CONSIDERATION

NA

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

ATTACHMENTS

Attachment A: Bill 329 Initial Review – 16.10.23

Attachment B: HRM Bill 329 Submission to Law Amendments - October 16, 2023

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
<p>Clause 1 amends the Halifax Regional Municipality Charter to allow the Council of the Halifax Regional Municipality to adopt public participation programs by means other than policy.</p>	<p>1 Subsection 219(1) of Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, is amended by striking out ", by policy," in the first line.</p>	<p>This eliminates the requirement for notification of public participation programs when preparing planning documents.</p> <p>Existing Administrative Order for Public Participation will need to be updated to reflect new powers, which will require some staff time to prepare a report and update the AO.</p>	<p>Allows for more efficient process for Regional Council.</p> <p>Legal support will be needed in redrafting of AO.</p>
<p>Clause 2 requires the Municipality to create a trusted-partner program that allows for expedited administrative and residential development approvals.</p>	<p>2 Chapter 39 is further amended by adding immediately after Section 219A the following Section: 219B (1) The Municipality shall create, regulate and administer a trusted-partner program by-law made in accordance with this Section, and, without limiting the generality of the foregoing, the by-law may prescribe processes and procedures for the governance or administration of residential development approvals that differ from those under Part VIII or IX or the regulations. (2) For greater certainty, a by-law made under this Section may create and distinguish between classes of applicants based on their municipal accreditation status under the by-law and prescribe different processes and terms for dealing with the applications of various classes of applicants. (3) The permits and approvals referred to in this Section may include (a) subdivision approval; (b) approvals related to municipal planning strategies and land-use by-laws and development agreements under Parts VIII and IX; (c) building permits and approvals under the Building Code Act; and (d) any other permits and approvals relating to the development and construction of housing or mixed-use development that includes residential development under any enactment. (4) The trusted-partner program and the by-law under this Section must reflect (a) public safety and adherence to relevant codes, standards, and best practices in planning and construction; (b) the social and economic urgency of efficient processes and quality construction, bearing in mind any housing shortage;</p>	<p>The Deloitte Trusted Partners Program Report and staff had been awaiting the final report to bring to Regional Council. The program was expected to exclude municipal planning strategy amendments, this is not reflected in the proposed legislation.</p> <p>The Trusted Partners Program will require additional staff resources, which has been highlighted with the province, and would require additional funds from Regional Council.</p> <p>While Deloitte has prepared a program outline and objectives, there are still several matters outstanding.</p> <p>This includes detailed design of the program, upgrade our electronic system processes to reflect the new process steps, new staff to train users on requirements, complete audits, and to act as single points of contact for tracking applications and responses in the system.</p> <p>The timeframe to implement the program of April 2024 is not realistic and will divert staff resources away from delivering permits within the current system.</p>	<p>Trusted Partners program will require other parts of the organization to staff up to train applicants on the requirements, to work with any new system requirements, and for audit function. TPW, Parks and Recreation, Fire Services, other levels of government.</p>

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
	<p>(c) transparency of process;</p> <p>(d) establishment of objective criteria and processes for evaluation and accreditation of the reliability of design and development professionals, developers and builders, for the purpose of applications for residential development approvals;</p> <p>(e) consultation with design professionals, regulators and builders in the development of the trusted-partner program;</p> <p>(f) an assumption that the work of accredited applicants is competent and meets relevant construction standards and requirements and that professional certifications and representations may be relied upon;</p> <p>(g) the need to eliminate duplicative internal reviews and oversight; and</p> <p>(h) that projects involving accredited design professionals and builders enrolled in the trusted-partner program will be subject to an expedited process on a priority basis, within specified times, and on other terms contained in the program.</p> <p>(5) A by-law made under this Section may include provisions for the granting of development permits allowing for a development to proceed in phases.</p> <p>(6) Notwithstanding Section 250, a by-law made under this Section may include provisions allowing a development officer to grant a variance to a planning document or an amendment to a development agreement for the purpose of this Section if the variance or amendment is consistent with the intent of the development planning document or development agreement, as the case may be.</p> <p>(7) Sections 251 and 252 apply to any variance granted under subsection (6), including any right of appeal.</p> <p>(8) A by-law made under this Section is subject to the approval of the Minister.</p> <p>(9) The Municipality shall adopt a by-law under this Section by April 1, 2024, or by such later date as may be specified in writing by the Minister.</p> <p>(10) Where the Municipality has not adopted a by-law under this Section by the date specified by or under subsection (9), the Minister may, after consultation with the Municipality, approve a form of such by-law which, when approved by the</p>		

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
	<p>Minister, is deemed for all purposes to be a by-law made by the Municipality under this Section.</p> <p>(11) A by-law made under this Section may only be repealed or amended with the approval of the Minister.</p> <p>(12) The Minister may make regulations specifying additional terms and provisions to be included in a by-law made under this Section.</p> <p>(13) The exercise by the Minister of the authority contained in subsection (12) is a regulation within the meaning of the Regulations Act.</p>		
<p>Clause 3 allows the Minister of Municipal Affairs and Housing to exclude healthcare facilities from the Parts of the Act related to planning and development and subdivision and from municipal planning strategies, land-use by-laws, development agreements, policies and subdivision by-laws.</p>	<p>3 Chapter 39 is further amended by adding immediately after Section 229B the following Section:</p> <p>229C (1) In this Section,</p> <p>(a) "healthcare facility" means any healthcare use, operation, service or facility operated or to be operated by a person other than the Province, but licensed or otherwise authorized by the Province, including any related or incidental facility;</p> <p>(b) "healthcare facility area" means an area within the Municipality designated as a healthcare facility area by an order made under subsection (2).</p> <p>(2) The Minister may, by order, on such terms as the Minister considers necessary for accomplishing the purpose of this Section,</p> <p>(a) deem as urgently required for the purpose of this Section any existing or proposed healthcare facility;</p> <p>(b) identify and describe the area of land on which the healthcare facility is or will be located and designate it as a healthcare facility area for the purpose of this Section; and</p> <p>(c) prescribe terms with respect to the subdivision of land within the healthcare facility area, permissible uses within the healthcare facility area or development of the healthcare facility, that the Minister considers advisable for accomplishing the purpose of this Section, which may include terms, conditions or events upon which the order ceases to be in force in whole or in part.</p> <p>(3) Where the Minister has made an order under subsection (2), Parts VIII and IX of this Act and any municipal planning strategies, land-use by-laws, development agreements, policies and subdivision by-laws in force in the Municipality do not apply to the healthcare facility area or to the establishment, siting, development, operation or use of a healthcare facility</p>	<p>Clause 3 allows the Minister of Municipal Affairs and Housing to exclude healthcare facilities from the Parts of the Act related to planning and development and subdivision and from municipal planning strategies, land-use by-laws, development agreements, policies and subdivision by-laws.</p> <p>In principle staff appreciate the critical need to expedite approvals for these projects and to eliminate the need to comply with development regulations.</p> <p>Staff would suggest limiting this power to buildings classified as B1 to B3 under the National Building Code, and that infrastructure and servicing requirements be added to be considered prior to approval.</p>	<p>Location of large health care facilities has an impact on municipal water and sewer infrastructure, transportation, transit and connectivity to surrounding areas.</p>

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
	<p>within the healthcare facility area, or to the subdivision of land in connection therewith, except to the extent the Minister may specify in the order.</p> <p>(4) Before making or amending an order pursuant to subsection (2), the Minister shall consult with the Municipality.</p> <p>(5) A healthcare facility that is the subject of an order is deemed to hold a development permit for the purpose of the Building Code Act and to comply with the requirements of any other enactment identified in the order.</p> <p>(6) Where the Minister is satisfied that an order is no longer required to expedite the development or availability of a healthcare facility, the Minister shall revoke the order.</p> <p>(7) Notwithstanding the revocation of an order under subsection (6), a healthcare facility exempted from the application of Parts VIII and IX and the municipal planning strategies, land-use by-laws and subdivision by-laws in force in the Municipality under subsection (3) may continue without change and in accordance with any terms prescribed in the order notwithstanding any non-conforming structure, non-conforming use of land or non-conforming use in a structure.</p> <p>(8) Where there is a conflict or inconsistency between this Section and another provision of this Act or between this Section and any other enactment, this Section prevails.</p> <p>(9) For greater certainty, where a healthcare facility area overlaps with a special planning area created pursuant to subsection 15(1) of the Housing in Halifax Regional Municipality Act, within the overlapping area, this Section prevails.</p> <p>(10) Upon making an order under subsection (2), the Minister shall</p> <p>(a) send a copy of the order to the Clerk; and</p> <p>(b) give notice that the order is in effect on the Province's website.</p> <p>(11) Where the Clerk receives a copy of the order under clause (10)(a), the Clerk shall cause the order to be posted on a publicly available website for the Municipality.</p> <p>(12) The Minister may make such regulations as are in the Minister's opinion required to implement this Section fully and effectively.</p> <p>(13) The exercise by the Minister of the authority contained in subsections (2) and (12) is a regulation within the meaning of the Regulations Act.</p> <p>(14) The Minister may make an order under subsection (2) that has retroactive effect to a day not earlier than June 1, 2023.</p>		

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
<p>Clause 4 prohibits, for a period of two years, the Municipality from changing, without the approval of the Minister, fees, certain charges and incentive or bonus zoning agreements that would increase the cost of applicants for approvals.</p>	<p>4 Chapter 39 is further amended by adding immediately after Section 236 the following Section: 236A (1) Notwithstanding any other provision of this Act or any other enactment, for a period of two years after this Section comes into force, (a) no change may be made to any fee, infrastructure, capital or similar charge; (b) no change may be made to the formula or rate used in the calculation of any fee, infrastructure, capital or similar charge; (c) no new fee, infrastructure, capital or similar charge may be created; (d) no change may be made to an incentive or bonus zoning agreement; and (e) no new incentive or bonus zoning agreement may be created, that would have the effect of increasing the cost to applicants for development approvals beyond the cost that would have been chargeable immediately prior to the coming into force of this Section.</p> <p>(2) For greater certainty, development approvals referred to in subsection (1) include subdivision approvals, development agreement approvals, development permits, building permits, plumbing fees and any other fee or charge imposed or payable in connection with development under an enactment policy, resolution or otherwise, and includes fees and charges for water and wastewater infrastructure levied by the Halifax Water Commission.</p> <p>(3) The prohibition under subsection (1) does not apply if the Minister gives written approval for the fee, charge, change made to a fee or charge or incentive or bonus zoning agreement.</p>	<p>Will prevent the collection of density bonusing fees in the Suburban Areas for 2 years unless approved by the Minister.</p> <p>Legislation will impact all planning happening in Special Planning Areas which will rely on the collection of Capital Cost Charges or Local Improvement Charges.</p>	<p>Freezing of current fees and prohibition of on new infrastructure, capital or similar charge will have a significant impact on municipal service delivery with respect to: density bonusing, providing essential infrastructure (water, stormwater, sewer, fire, transit) to new communities or upgrading infrastructure for infill developments.</p>
<p>Clause 5 allows the Council of the Municipality to agree to development agreements in principle prior to finalizing small</p>	<p>5 Chapter 39 is further amended by adding immediately after Section 240C the following Section: 240D</p>	<p>Administrative details can slow down the process and delays development from beginning. However, the amendment does not define “small administrative amendments” and may add a</p>	<p>N/A</p>

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
administrative amendments. The Chief Administrative Officer of the Municipality is given the authority to finalize those outstanding administrative amendments without returning to the Council.	<p>(1) Notwithstanding Sections 240, 240A, 240B, 240C and 245, where a development agreement or amendment to a development agreement has been presented and debated during the public hearing process before the Council, and where the development agreement or amendment to a development agreement otherwise meets the requirements outlined in Sections 242 and 243, but requires minor administrative amendments prior to being finalized, the Council may approve the development agreement or amendment to a development agreement in principle.</p> <p>(2) Where amendments to a municipal planning strategy or land-use by-law would be required prior to approval in principle of either a development agreement or amendment to a development agreement, approval of any associated amendment to the municipal planning strategy or land-use by-law may be approved at the same meeting of the Council in which the supporting amendment to the municipal planning strategy or land-use by-law is passed by the Council.</p> <p>(3) Once a development agreement or amendment to a development agreement has received approval in principle by the Council, the Chief Administrative Officer may approve any remaining administrative amendments without the development agreement or amended development agreement having to be heard again by the Council.</p> <p>(4) A development agreement or amendment to a development agreement that has been approved in principle by the Council and any remaining administrative amendments that have been approved by the Chief Administrative Officer pursuant to this Section are deemed to receive final approval when the supporting amendment to the municipal planning strategy or land-use by-law takes effect, and all requirements in Section 243 have been met.</p>	second or extended appeal period which may be more limiting than the current practice.	
Clause 6 allows the Chief Administrative Officer of the Municipality to discharge development agreements that are	6 Section 244 of Chapter 39, as amended by Chapter 13 of the Acts of 2022, is further amended by adding immediately after subsection (2) the following subsection:	This amendment was requested by HRM and is supported. A minor wording change is recommended to clarify that it pertains to completed development agreements. New land use by-laws will nearly always be more permissive.	N/A

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
more restrictive in terms of height or density than the relevant land-use by-law.	(2A) The Chief Administrative Officer may discharge a development agreement, in whole or in part, if the terms of the agreement are more restrictive in terms of height or density than the relevant land-use by-law.		
Clause 7 removes the ability of the Council to require a larger notification distance for site plan approvals and a provision made redundant by other amendments.	7 Subsections 247(3) and (9) of Chapter 39 are repealed.	<p>The repeal of subsection (3) will have no impact on current HRM policies, as there are currently no site plan approval notification areas greater than 30 metres.</p> <p>However, the repeal of subsection (9) will introduce a new appeal process where there currently isn't one, adding impacts to staff resources.</p> <p>Specifically, non-substantive site plan approvals in the Downtown Halifax LUB area for matters such as new signs or insignificant changes to streetwalls are approved by the development officer without any opportunity for appeal by the public.</p> <p>The repeal of subsection (9) would introduce a potentially lengthy appeal process to applications which have been deemed to be minor and not in need of an appeal process. This amendment will add time and delay to applications which are currently quite streamlined.</p>	
Clause 8 (a) requires a development officer to grant a variance respecting a setback or a street wall notwithstanding any land-use by-law or development agreement unless the variance would materially conflict with the municipal planning strategy; and (b) allows a decision to reject the variance to be appealed to the Utility and Review Board, with the onus on the development officer to demonstrate the conflict.	<p>8 Chapter 39 is further amended by adding immediately after Section 250 the following Section:</p> <p>250A</p> <p>(1) A development officer shall grant under Section 250 a variance respecting a setback or a street wall notwithstanding any land-use by-law or development agreement unless the variance would materially conflict with the municipal planning strategy.</p> <p>(2) A decision to reject a variance under subsection (1) may be appealed to the Board, with the onus on the development officer to prove to the Board how the variance materially conflicts with the municipal planning strategy.</p> <p>(3) Sections 264 to 269 apply, with necessary changes, to an appeal under this Section.</p>	<p>The wording is unclear and may add to the current time to the process and create confusion. The proposed amendment introduces conflict and a lack of clarity in the regulations. Furthermore, this amendment changes the appeal body from Community Council to the NSUARB, but only for applications refused by the development officer which will create an inconsistency, more time and more process. This amendment is not needed and as written creates unnecessary process.</p>	

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
<p>Clause 9 removes the ability to designate distances of greater than 30 metres where notice of a variance is required.</p>	<p>9 (1) Subsections 251(1) and (1A) of Chapter 39 are repealed and the following subsections substituted:</p> <p>(1) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted only to every assessed owner whose property is within thirty metres of the applicant's property.</p> <p>(1A) Any municipal planning strategy or by-law made before the coming into force of this subsection that requires notice to be given to assessed owners whose property is more than thirty metres of the applicant's property is deemed to require notice to be given only to assessed owners whose property is within thirty metres of the applicant's property.</p> <p>(2) Subsection 251(5) of Chapter 39 is amended by striking out ", or such greater distance as determined by the Council by policy" in the fifth and sixth lines.</p> <p>(3) Clause 251(5A)(a) of Chapter 39, as enacted by Chapter 41 of the Acts of 2008 and amended by Chapter 13 of the Acts of 2022, is further amended by adding "only" immediately after "hearing" in the second line.</p>	<p>These amendments still require that Council dismiss invalid appeals. This will still require a staff report, placement on the Community Council agenda, and a decision of Council. This will not save any time compared to holding a hearing and having the appeal dismissed. If the goal is to improve approval timelines and reduce unnecessary process, this amendment does not achieve that.</p> <p>The amendment further creates powers for the Minister to create regulations on what constitutes non-substantive amendment and takes it out of Council's hands.</p>	
<p>Clause 10 requires applications for appeals relating to site plan and variance approvals to state the grounds for appeal and allows the Minister to make regulations listing non-substantive matters that may not be appealed.</p>	<p>10 Chapter 39 is further amended by adding immediately after Section 251 the following Section:</p> <p>251A</p> <p>(1) Any application for appeal of a decision or matter referred to in Sections 247 to 251 must, at the time the application is filed, clearly state the grounds for appeal.</p> <p>(2) An application for appeal of a decision or matter referred to in Sections 247 to 251 may not be made in respect of a non-substantive matter prescribed by the regulations.</p> <p>(3) The Council shall dismiss without hearing any application for appeal that fails to comply with subsection (1) or is in respect of a non-substantive matter prescribed by the regulations.</p> <p>(4) The Minister may make regulations prescribing non-substantive matters for the purpose of this Section.</p>	<p>The amendment, as drafted, will add cost and process without creating shorter approval timelines.</p>	

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
	(5) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the Regulations Act.		
Clause 11 requires the Utility and Review Board to award costs against the Municipality when a decision of a development officer to refuse a variance in respect of a setback or street wall is overturned on appeal.	<p>11 (1) Section 266 of Chapter 39 is amended by adding immediately after subsection (6) the following subsection: (6A) Notwithstanding subsection 28(1) of the Utility and Review Board Act, the Board shall, by order, impose costs on the Municipality if (a) the Board overturns a decision of a of development officer under Section 250A; and (b) the Board determines that the awarding of costs is in the interests of justice.</p> <p>(2) Subsection 266(7) of Chapter 39 is amended by adding "or (6A)" immediately after "(6)" in the first line.</p>	Development officers make decisions on variances respecting the criteria set out in the Charter. While decisions to refuse applications should be appealable, this amendment appears to seek to discourage any refusals rather than improve development application timelines or processes. Since a development officer is required by the HRM Charter to administer legislation as written, if an application is deemed not to meet the legislation it must be refused regardless of what the cost may be of an appeal. This creates unnecessary costs for the Municipality.	
Clause 12 deems any action taken under the Act or the regulations to address a housing supply crisis to not be injurious affection.	12 Section 270 of Chapter 39 is amended by adding "or by any action taken under this Act or the regulations to address a housing supply crisis" immediately after "agreement" in the fifth line.	This amendment protects the Minister from any action taken under the Act.	
Clause 13 clarifies that the Minister may exercise the Minister's powers without consultation or a recommendation or request.	<p>13 Chapter 21 of the Acts of 2021, the Housing in the Halifax Regional Municipality Act, is amended by adding immediately after Section 4 the following Section: 4A (1) The Minister may exercise any power under this Act or the regulations at the Minister's sole discretion.</p> <p>(2) For greater certainty, the Minister is not required to consult with the Panel or the Municipality prior to exercising a power under this Act or the regulations and may exercise any power under this Act or the regulations without a recommendation of the Panel or a request from the Municipality.</p>	<p>This creates 3 avenues for approval: municipal approval, housing panel and the Minister.</p> <p>It is unclear what the role of the Housing Panel will be in the future, and whether Municipal staff still be required to craft plans and by-laws as directed by the Minister.</p>	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.
Clause 14 allows the Minister to make an order designating any or	14 (1) Section 15 of Chapter 21 is amended by adding immediately after subsection (1) the following subsections:	This has the potential to create uncertainty around current development proposals, staff resourcing, forward planning and could generate conflict with Council direction. It replaces	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
all of the Municipality as a special planning area.	<p>(1A) In addition to the authority set out in subsection (1), the Minister may, in the Minister's sole discretion, make an order designating an area or areas of the Municipality, including the entire Municipality, a special planning area, if the Minister is satisfied the order is required for the purpose of accelerating housing development in the Municipality.</p> <p>(1B) Where the Minister makes an order under subsection (1A) designating the entire Municipality as a special planning area, the Minister may, as the Minister considers appropriate, exclude certain areas or matters from the order.</p> <p>(2) Subsection 15(2) of Chapter 21 is amended by adding "or (1A)" immediately after "(1)" in the first line.</p> <p>(3) Subsection 15(3) of Chapter 21 is amended by adding "or (1A)" immediately after "(1)" in the first line.</p>	integrated planning with site specific planning isolated from a larger land use and infrastructure planning. It has the potential negatively impact the environment, infrastructure delivery and financial resources.	
Clause 15 allows the Minister to amend or repeal land-use by-laws, subdivision by-laws and municipal planning strategies in special planning areas without the recommendation of the Executive Panel on Housing in the Halifax Regional Municipality.	<p>15 Subsection 16(1) of Chapter 21 is amended by</p> <p>(a) striking out "On" in the first line and substituting "The Minister may, in the Minister's sole discretion, or on";</p> <p>(b) striking out "and" at the end of clause (a); and</p> <p>(c) striking out clause (b) and substituting the following clauses:</p> <p>(b) amend a subdivision by-law within a special planning area if considered necessary to advance the purpose of this Act; and</p> <p>(c) amend a municipal planning strategy as the Minister considers necessary as a result of an amendment or repeal of a land-use by-law made under clause (a) or amendment of a subdivision by-law made under clause (b).</p>	<p>This amendment could create significant impacts and uncertainty for the HRM Administration, Regional Council, the private market and with the public as to which policies and by-laws will stand and which will not.</p> <p>Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources, and service delivery at the municipal level, both operational and capital investments.</p>	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.
Clause 16 allows the Minister to approve development agreements or amendments to development agreements in special planning areas without the recommendation of the Panel.	<p>16 Subsection 17(1) of Chapter 21 is repealed and the following subsection substituted:</p> <p>(1) The Minister may, in the Minister's sole discretion, or on the recommendation of the Panel, and in place of the Council or a community council who may otherwise have authority to act, approve a development agreement or an amendment to a development agreement within a special planning area.</p>	<p>It is unclear what the future role of the Housing Panel will be and whether any professional or technical advice will be considered by the Minister.</p> <p>Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources,</p>	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
		and service delivery at the municipal level, both operational and capital investments.	
Clause 17 allows the Minister as well as the Panel to approve development permits and subdivision approvals in special planning areas.	<p>17 (1) Subsection 18(1) of Chapter 21 is amended by adding "or the Minister" immediately after "Panel" in the second line.</p> <p>(2) Subsection 18(2) of Chapter 21 is amended by adding "or the Minister" immediately after "Panel" in the first line.</p> <p>(3) Subsection 18(3) of Chapter 21 is amended by adding "or the Minister" immediately after "Panel" in the first line.</p> <p>(4) Subsection 18(4) of Chapter 21 is amended by adding "or the Minister" immediately after "Panel" in the first line.</p>	Changes to land use affect density and infrastructure assumptions. This amendment replaces integrated planning with site specific planning that is isolated from a larger land use and infrastructure planning. It has the potential to create significant impact to environmental, infrastructure and financial resources, and service delivery at the municipal level, both operational and capital investments.	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.
Clause 18 deems property to not be injuriously affected by any action taken under the Act or the regulations.	18 Chapter 21 is further amended by adding immediately after Section 21 the following Section: 21A Property is deemed not to be injuriously affected by any action taken under this Act or the regulations.	This amendment protects the Minister from any action taken under the Act.	
Clause 19 allows the Minister to make regulations prescribing timelines for the issuance or approval of development permits, agreements and related documents and set penalties for missing the timelines.	19 Subsection 24(1) of Chapter 21 is amended by (a) striking out the period at the end of clause (e) and substituting a semicolon; and (b) adding immediately after clause (e) the following clauses: (f) prescribing timelines within which planning and development permits, agreements and related documents must be issued or approved; (g) setting penalties for missing a timeline prescribed under clause (f); (h) respecting the waiver by the Minister of any penalty referred to in clause (g).	Introducing timelines and penalties could create the need to add staff and financial resources.	Introducing timelines and penalties could create the need to add staff and financial resources.
Clause 20 excludes the Act and actions done under it from requirements to consult with the Municipality.	20 Chapter 21 is further amended by adding immediately after Section 26 the following Section: 26A Notwithstanding Section 382 of the Halifax Regional Municipality Charter, nothing in this Act or the regulations or done pursuant to this Act or the regulations triggers any requirement to consult with the Municipality.	Significant powers have been conferred to the Minister as an individual actor, with no requirements for professional advice and knowledge, or transparent procedures or processes, or municipal consultation.	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.

Bill 329 Components		Impacts to the Municipality	
Clause	Amendment	P&D Service Delivery	Municipal Service Delivery
Clause 21 excludes this Act from the requirement to consult with the Municipality before making amendments to the Halifax Regional Municipality Charter.	21 Notwithstanding Section 382 of the Halifax Regional Municipality Charter and Section 519 of the Municipal Government Act, nothing in this Act or done pursuant to the provisions enacted or amended by this Act triggers any requirement to consult with the Halifax Regional Municipality or to notify the Nova Scotia Federation of Municipalities.	This is of concern to the Municipality as any amendments to the HRM Charter can have significant impact on municipal operations and administrative procedures. Municipal staff work with the HRM Charter daily and amendments made without consultation can have unintended consequences. The best way to shorten approval timelines is to holistically update land use documents.	Any changes to HRM planning documents or development approvals can have a significant impact on Municipal operations, services, and finances.
Clause 22 provides the amendments respecting healthcare facilities have retroactive effect to January 1, 2023.	22 Section 3 has effect on and after January 1, 2023.	This could require that staff revisit previous decisions and contradict any prior advice provided.	Any changes to development approvals can have a significant impact on Municipal operations, services, and finances.

ATTACHMENT B: HRM Bill 329 Submission to Law Amendments - October 16, 2023

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 1 amends the Halifax Regional Municipality Charter to allow the Council of the Halifax Regional Municipality to adopt public participation programs by means other than policy.</p>	<p>Remove requirement for HRM Council to provide 7-day notice when considering a public participation program.</p>		<p>This amendment is supported as it has the ability to provide for a more flexible approach to implementing public participation programs when preparing planning documents.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 2 requires the Municipality to create a trusted-partner program that allows for expedited administrative and residential development approvals.</p>	<p>Recommended by Deloitte and based on the principle of reverse onus, the Trusted Partner progress will establish a fast-track development process for trusted partners with a record of submitting quality development applications. Two specific components of the trusted partner program include:</p> <ul style="list-style-type: none"> -the ability for HRM staff to issue phased development permits for large scale developments -alternative compliance for As-Of-Right Development 	<p>Trusted Partners program will require HRM to staff up to train applicants on the requirements, to work with any new system requirements, and for audit function.</p> <p>TPW, Parks and Recreation, Fire Services, other levels of government.</p>	<p>Generally HRM staff supports the change and has already committed to implement the program under the Housing Accelerator Fund initiative. Initial work is already underway. The proposed changes do not reflect previous discussions with the Province and do not fully adopt the Deloitte recommendations.</p> <p>The April 1, 2024 deadline is not reasonable/achievable to draft the necessary by-law, changes, design the program, upgrade our electronic system processes to reflect the new process steps, hire and train new staff to train users/trusted partners on requirements, complete audits, and to act as single points of contact for tracking applications and responses in the system.</p> <p>HRM's position is that authority for approval of the by-law ought to be with Council as opposed to the Minister given the partnership ultimately is with HRM not the Minister.</p> <p>The amendment would benefit from simplified wording.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 3 allows the Minister of Municipal Affairs and Housing to exclude healthcare facilities from the Parts of the Act related to planning and development and subdivision and from municipal planning strategies, land-use by-laws, development agreements, policies and subdivision by-laws.</p>	<p>To ensure the expedient construction of healthcare facilities, the Minister of Municipal Affairs will be given the authority to create areas within which long term care facilities are exempt from all municipal planning requirements.</p>	<p>Location of large health care facilities has an impact on municipal water and sewer infrastructure, transportation, transit and connectivity to surrounding areas.</p>	<p>HRM supports this amendment in principle but not as drafted because the language does not address infrastructure and site engineering needs/issues which creates the potential for health and safety risks if these issues are exempt from consideration.</p> <p>At a minimum, HRM believes the legislature should limited the Minister’s exercise of this power to buildings classified as B1 to B3 under the National Building Code.</p>

ATTACHMENT B: HRM Bill 329 Submission to Law Amendments - October 16, 2023

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 4 prohibits, for a period of two years, the Municipality from changing, without the approval of the Minister, fees, certain charges and incentive or bonus zoning agreements that would increase the cost of applicants for approvals.</p>	<p>For a two year period, HRM will be required to receive Ministerial approval for increasing, changing, or adding new fees or charges to all infrastructure, permit, application and approval fees related to residential development.</p>	<p>Freezing of current fees and prohibition of on new infrastructure, capital or similar charge will have a significant impact on municipal service delivery with respect to: density bonus affordable housing grant program, and providing essential infrastructure (water, stormwater, sewer) to new communities or upgrading infrastructure for infill developments.</p>	<p>This proposed amendment will have significant impact on municipal budgets and resources and causes concern at a time when there is already a significant infrastructure deficit and unprecedented levels of growth.</p> <p>While CPI or other discrete increases to fees will have an impact, the greatest concern is that the new bill will prevent the Municipality from establishing new Capital Cost Contributions in new developments where infrastructure is needed without the Minister’s written permission. It will also freeze and increases to Halifax Water fees which are currently under review due to high current and anticipated growth levels.</p> <p>Removing HRM’s ability to increase and collect fees required to fund infrastructure needed to support growth, will further compound our ability to respond to this infrastructure gap and deliver basic services to our residents. This also reduce HRM’s ability to collect funds to invest in affordable housing projects delivered by non-profits and helps the offset project increases.</p> <p>HRM believes the legislature should establish clear criteria the Minister will use to approve new fees or agreements, and that infrastructure charges should be exempted from the freeze.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 5 allows the Council of the Municipality to agree to development agreements in principle prior to finalizing small administrative amendments. The Chief Administrative Officer of the Municipality is given the authority to finalize those outstanding administrative amendments without returning to the Council.</p>	<p>Substantive elements of a development agreement are approved by Council. However, administrative details are often what slows down the process and delays development from beginning.</p> <p>This change would clarify Council’s role which is to approve a development agreement in principle leaving contractual / administrative details of the approval to be dealt with by staff (CAO).</p>		<p>Staff generally supports this amendment, because administrative details are often what slows down the process and delays development from beginning. However, the amendment does not define “administrative amendments” and arguably adds an appeal period which may be more limiting than the current practice and contrary to the intent of the legislation.</p>
<p>Clause 6 allows the Chief Administrative Officer of the Municipality to discharge development agreements that are more restrictive in terms of height or density than the relevant land-use by-law.</p>			<p>This amendment was requested by HRM and is supported but minor wording change is recommended to clarify that it pertains to completed development agreements. New land use by-laws will nearly always be more permissive. HRM recommends the language “<i>more restrictive in terms of height or density than the relevant land-use by-law</i>” in Clause 6 be substituted with the word “<i>completed</i>” to facilitate creation of new plans and LUBs.</p> <p>This amendment would also be more impactful with a companion legislation that would prohibit private covenants on lands that limit the types of units permitted in development (e.g. secondary suites). This would be similar to the <i>Clothesline Act</i> passed in 2010.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 7 removes the ability of the Council to require a larger notification distance for site plan approvals and a provision made redundant by other amendments.</p>	<p>HRM chose to set the notification distance for variances to site plans beyond the minimum legislative requirement of 30 m. The result is increased appeals and increased nuisance appeals.</p> <p>This change will limit HRM to the 30 m boundary, ensuring only those directly impacted by a variance and with substantive claims can appeal a decision.</p>		<p>There are no site plan approval notification areas greater than 30 metres however HRM supports the removal in principle but recommends that subsection 9 not be repealed as this appears to create new grounds for appeal for non-substantive amendments which are <i>not</i> currently subject to appeal and consequently is contrary to the stated intent of the legislation.</p>

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 8 (a) requires a development officer to grant a variance respecting a setback or a street wall notwithstanding any land-use by-law or development agreement unless the variance would materially conflict with the municipal planning strategy; and (b) allows a decision to reject the variance to be appealed to the Utility and Review Board, with the onus on the development officer to demonstrate the conflict.</p>	<p>This change is not part of what HRM understands to be the Government’s stated package of Housing-Related Changes to Increase Housing Supply and Expedite Residential Development.</p>	<p>Appeals to UARB will add timelines and costs.</p>	<p>This is a far-reaching, problematic amendment where there is already an efficient and timely process in place to review variances which will also impact the enforcement of existing legislation by professional and experienced Development Officers.</p> <p>The wording of Clause 8 is confusing, contrary to the stated intent of the legislation and will not speed things up. For example, the test for variances is defined in HRM Charter while criteria for site plan approval variations in the Centre Plan are defined in the LUB. It is not clear what aspects of a streetwall can be varied, and if setbacks are varied it may have the effect of eliminating all setbacks (which will have an impact on municipal infrastructure and pedestrian space). The proposed amendment introduces conflict and a lack of clarity in the regulations. Furthermore, this amendment changes the appeal body from Community Council to the NSUARB, but only for applications refused by the Development Officer which will create an inconsistency, more time and more process. Regardless of which appeal body is chosen to hear variance appeals, the same appeal body should hear all variance appeals, both approvals and refusals.</p> <p>Currently, decisions of the Development Officer which are appealed to the UARB can only be overturned if the Board determines the Development Officer’s decision conflicts with the LUB or subdivision by-law.</p> <p>HRM’s position is that the Suburban Plan can create site plan variations and that additional flexibility can be introduced in the Centre Plan through the site plan approval process making this amendment unnecessary and recommends Clause 8 be removed. If Clause 8 is not removed and the appeal body is changed to the NSUARB which is <i>not</i> recommended, then it is recommended sections 251, 252, and 262-268 of the Charter also be amended to clarify the process, powers, and basis on which the Board may overturn the Development Officer’s decision.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 9 removes the ability to designate distances of greater than 30 metres where notice of a variance is required.</p>			<p>Subsection (5A) refers to the procedure where Council has increased the notification distance. If increasing the notification distance is no longer possible, it is not clear why subsection (5A) is not being repealed and replaced with a similar subsection to the replacement subsection (1A). It is also unclear how these sections on appeal process would interface with the amendments to section 250A, which require the development officer to approve certain variances. More consideration should be given to the best procedure for variances and appeals.</p> <p>HRM recommends Clause 9 be removed pending determination of the best procedure for variance and appeals having consideration for all implications.</p>

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 10 requires applications for appeals relating to site plan and variance approvals to state the grounds for appeal and allows the Minister to make regulations listing non-substantive matters that may not be appealed.</p>	<p>HRM has the authority within the Centre Plan to outline through by-law a list of non-substantive matters that cannot be appealed when a Development Officer approves or denies a site plan.</p> <p>This authority will be extended to the entire municipality to reduce appeals based on poor relationships and petty grievances. Substantive appeals will not be impacted.</p>		<p>Property owners do not “apply” to appeal a decision on a variance or site plan approval. They have a statutory right to appeal a decision.</p> <p>A valid grounds for appeal would be that the Development Officer erred in their analysis of the variance against the criteria in section 250 (3) of the Charter. Any appeal which does not demonstrate this should be dismissed. It is unclear what is intended by a “non-substantive” matter.</p> <p>These amendments still require that Council dismiss invalid appeals. This will still require a staff report, placement on the Community Council agenda, and a decision of Council. This will not save any time compared to holding a hearing and having the appeal dismissed, which appeals without merit generally are. If the goal is to improve approval timelines and reduce unnecessary process, this amendment does reduce the number of nuisance appeals.</p> <p>The amendment further creates powers for the Minister to create regulations with respect to what constitutes non-substantive amendment and takes it out of Council’s hands.</p> <p>HRM recommends that Clause 10 be deleted but if left in it is recommended the Clause be amended by removing the words “<i>application for</i>” throughout the Clause.</p>

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 11 requires the Utility and Review Board to award costs against the Municipality when a decision of a development officer to refuse a variance in respect of a setback or street wall is overturned on appeal.</p>	<p>This change is not part of what HRM understands to be the Government’s stated package of Housing-Related Changes to Increase Housing Supply and Expedite Residential Development.</p>		<p>The decisions required of Development Officers differ from the types of decisions that are made by Council. While Council must make a decision on a planning application which reasonably carries out the intent of the MPS, Development Officers are required to make decisions which in their professional opinion comply with the by-law. This is a much more stringent criterion. Refusals are a last resort and are only issued when there is no avenue open to the Development Officer under the provisions of the by-law to approve an application. Where a refusal by a Development Officer is overturned, that decision is then influences all future decisions involving similar fact situations.</p> <p>While decisions to refuse applications should certainly be appealable, this amendment appears to seek to discourage any refusals rather than improve development application timelines or processes. Since a Development Officer is required by the HRM Charter to administer legislation as written, if an application is deemed not to meet the legislation it <i>must</i> be refused regardless of what the cost may be of an appeal.</p> <p>The current prohibition on costs being awarded at the URARB serves as a necessary deterrent to frivolous and unnecessary appeals and HRM recommends Clause 11 be deleted however if this amendment is to be retained, it should at a minimum provide for an award of costs to HRM should the appeal fail to deter meritless appeals.</p>
<p>Clause 13 clarifies that the Minister may exercise the Minister's powers without consultation or a recommendation or request.</p>			<p>Changes to HRM planning documents or development approvals can and generally have an impact on Municipal operations, services, and finances. It is unclear what the role of the Housing Panel will be in the future, and whether Municipal staff will still be required to craft plans and by-laws as directed by the Minister. Provincial communications outline more detailed changes to built form and development in the suburban area and creates uncertainty around holistic long range planning such as the Suburban Plan.</p>

ATTACHMENT B: HRM Bill 329 Submission to Law Amendments - October 16, 2023

Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 14 allows the Minister to make an order designating any or all of the Municipality as a special planning area.</p>		<p>Very significant potential impact on municipal services if done without consultation with HRM.</p>	<p>This is very concerning to the Municipality and has the potential to create a lot of uncertainty around current development proposals, staff resourcing, forward planning and potential conflict with Council direction. It replaces long-range and integrated planning with site specific planning isolated from a larger land use infrastructure planning. It has the potential to create very significant potential environmental, infrastructure and financial impact on municipal resources, both operational and capital.</p> <p>It is not clear what criteria the Minister will use to establish new special planning areas or for designating the entirety of the Municipality a special planning area.</p>
<p>Clause 15 allows the Minister to amend or repeal land-use by-laws, subdivision by-laws and municipal planning strategies in special planning areas without the recommendation of the Executive Panel on Housing in the Halifax Regional Municipality.</p>	<p>In Special Planning Areas the Minister has the authority to amend or repeal a land use bylaw.</p> <p>The change will extend the authority to subdivision bylaws.</p>		<p>I appears this amendment may have been intended to make minor changes to approved Special Planning areas but the language is overly broad and can create significant impact and uncertainty not only with the private market but also with the public as to which by-laws will stand and which will not. Major changes can affect density and infrastructure assumptions which were central to the comprehensive planning process for Special Planning Areas.</p> <p>HRM recommends the legislature delete Clause 15 or alternatively limiting permitted amendments to those that are purely administrative or procedural in nature.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 16 allows the Minister to approve development agreements or amendments to development agreements in special planning areas without the recommendation of the Panel.</p>			<p>The Housing Panel allowed municipal staff to provide professional planning advice and present planning documents to the Panel as drafted by municipal staff. It is unclear what the future role of the Housing Panel will be and whether any professional or technical advice will be considered by the Minister.</p>
<p>Clause 17 allows the Minister as well as the Panel to approve development permits and subdivision approvals in special planning areas.</p>			<p>It is unclear whether municipal staff will be expected to review technical aspects of approved development permits or subdivisions and their alignment with municipal infrastructure and to what extent, if any, their professional advice will have on the Minister’s decision.</p>
<p>Clause 19 allows the Minister to make regulations prescribing timelines for the issuance or approval of development permits, agreements and related documents and set penalties for missing the timelines.</p>			<p>Municipal approval timelines have been significantly reduced thanks to new staff resources and operating procedures. Further reductions will require additional staff resources, which may not be possible with the imposition of fee freezes although some of the Housing Accelerator Funding will be directed to that purpose. Timelines often depend more on the complexity of the project and proponent’s ability to submit information than on HRM’s staff’s response time.</p>

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Clause	Stated Provincial Intent	Municipal Service Delivery	HRM Comments
<p>Clause 20 excludes the Act and actions done under it from requirements to consult with the Municipality.</p>			<p>This is of concern to the Municipality as it has the potential to remove municipal jurisdiction for land use planning without the commensurate financial resources to mitigate impacts on municipal services both in the short and long term.</p>