



BILL NO. 181

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

An Act to Implement HRM by Design

CHAPTER 41
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 25, 2008**

The Honourable Jamie Muir
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act to Implement HRM by Design

Be it enacted by the Governor and Assembly as follows:

1 The *Halifax Regional Municipality Charter*, an Act passed in the present session of the House of Assembly, is amended by adding immediately after Section 31 the following Section:

31A (1) This Section applies only with respect to the HRM by Design Downtown Plan Area.

(2) A community council stands in the place and stead of the Council with respect to incentive or bonus zoning agreements if the Council so provides in the policy establishing the community council.

(3) A development officer stands in the place and stead of the Council with respect to incentive or bonus zoning agreements to the extent that the Council so provides by land-use by-law.

(4) An incentive or bonus zoning agreement, or amendment to an incentive or bonus zoning agreement, entered into by a community council or a development officer must be signed by the Mayor and the Clerk on behalf of the Municipality.

(5) Where an incentive or bonus zoning agreement entered into by a community council or a development officer purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council.

2 Section 218 of the Act is amended by

(a) adding immediately after clause (e) the following clause:

(ea) “external appearance of structures” includes the exterior design of structures, the design features of structures and the facade of structures;

and

(b) adding immediately after clause (f) the following clause:

(fa) “HRM by Design Downtown Plan Area” means the area delineated in the map in Schedule B to this Act;

3 The Act is further amended by adding immediately after Section 240 the following Section:

240A Where the Council adopts a secondary municipal planning strategy and land-use by-law for the HRM by Design Downtown Plan Area, the Council shall conduct a review of the planning documents and report on the review to the public within ten years of their adoption.

4 Clause 244(5)(k) of the Act is amended by adding “in the HRM by Design Downtown Plan Area” immediately after “zoning”.

5 The Act is further amended by adding immediately after Section 254 the following Sections:

254A (1) Where a municipal planning strategy so provides, a land-use by-law may provide for incentive or bonus zoning agreements respecting the HRM by Design Downtown Plan Area.

(2) A land-use by-law that provides for incentive or bonus zoning agreements must

(a) identify the developments that are subject to an incentive or bonus zoning agreement;

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

(c) set out the matters that the Council may consider before approving an incentive or bonus zoning agreement; and

(d) set out the method to be used to determine the contribution for incentive or bonus zoning.

(3) An incentive or bonus zoning agreement may

(a) include plans or maps;

(b) provide for the time when the conditions under which the incentive or bonus zoning agreement may be discharged with or without the concurrence of the property owner;

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

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

(e) include any terms respecting incentive or bonus zoning and the external appearance of structures.

254B (1) The Council may, by resolution, adopt or amend an incentive or bonus zoning agreement.

(2) A public hearing is not required before approving an incentive or bonus zoning agreement or an amendment to an incentive or bonus zoning agreement.

(3) An incentive or bonus zoning agreement, an amendment to an incentive or bonus zoning agreement and a discharge of an incentive or bonus zoning agreement must be filed in the registry.

254C (1) An incentive agreement or bonus zoning is in effect until discharged by the Council.

(2) The Council may discharge an incentive or bonus zoning agreement in whole or in part, in accordance with the terms of the incentive or bonus zoning agreement or with the concurrence of the property owner.

(3) After an incentive or bonus zoning agreement is discharged, the land to which it related continues to be subject to the land-use by-law and any site plan approval.

6 (1) Subsection 255(1) of the Act is amended by

(a) striking out the period at the end of clause (g) and substituting “; and”; and

(b) adding immediately after clause (g) the following clause:

(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) Clause 255(3)(l) of the Act is amended by adding “in the HRM by Design Downtown Plan Area” immediately after “structures” in the first line.

7 The Act is further amended by adding immediately after Section 255 the following Section:

255A (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 255(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.

8 Section 256 of the Act is amended by adding immediately after subsection (6) the following subsections:

(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 255A(4)(h), there is no appeal.

9 Clause 259(2)(d) of the Act is amended by adding “in the HRM by Design Downtown Plan Area” immediately after “structures” in the first line.

10 (1) Subsection 260(1) of the Act is repealed and the following subsections substituted:

(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) Subsection 260(5) of the Act is repealed and the following subsections substituted:

(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.

11 Section 272 of the Act is amended by striking out the period at the end of clause (d) and substituting a semicolon and by adding immediately after clause (d) the following clause:

(e) the adoption or amendment of an incentive or bonus zoning agreement.

12 Section 282 of the Act is repealed and the following Section substituted:

282 No person shall breach the terms of a development agreement, site plan, or an incentive or bonus zoning agreement.

13 Subsections 283(1) and (2) of the Act are repealed and the following subsections substituted:

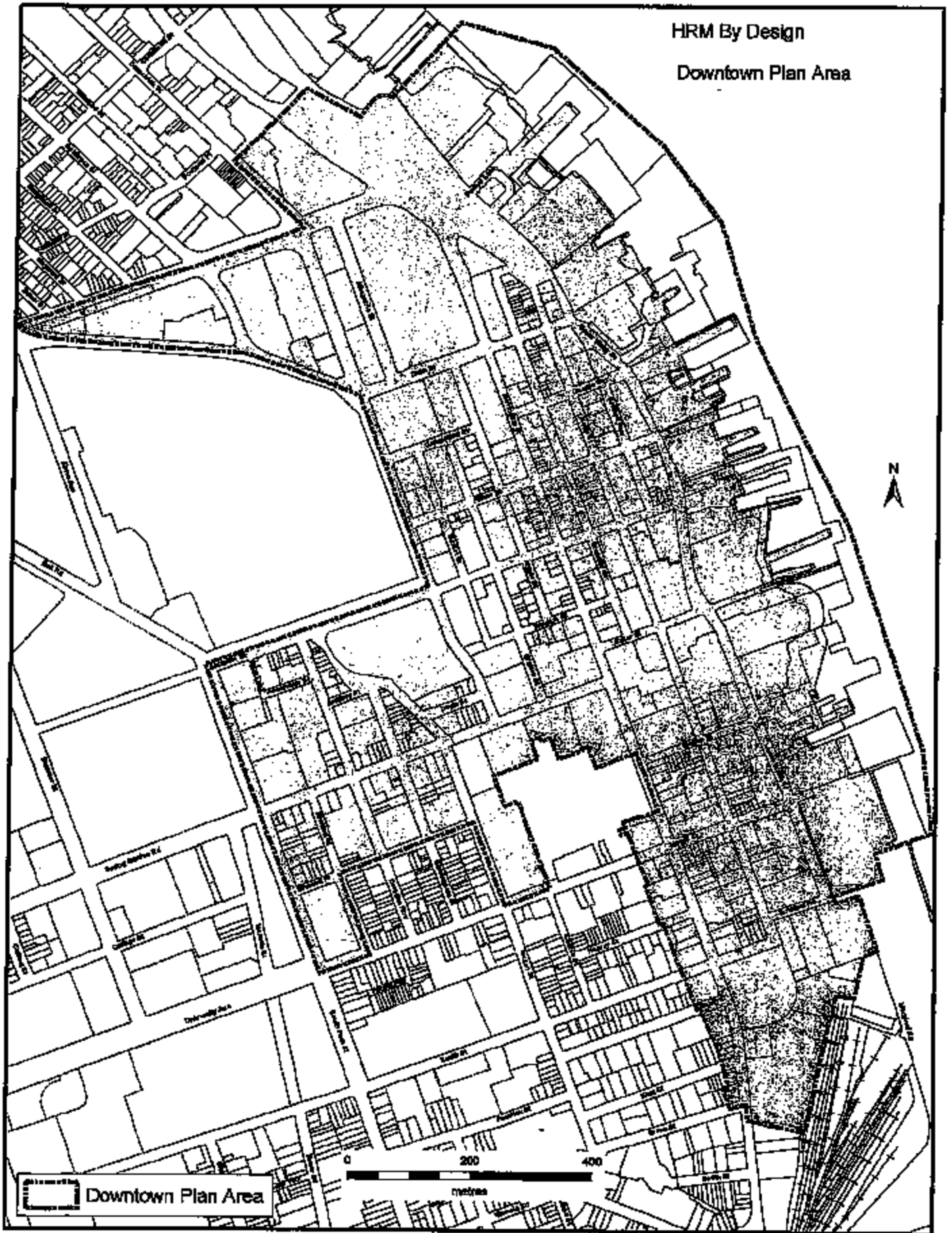
(1) Upon the breach either of a development agreement or an incentive or bonus zoning agreement, the Municipality may, where thirty days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the development agreement or the incentive or bonus zoning agreement, or take such remedial action as is considered necessary to correct a breach of the development agreement or an incentive or bonus zoning agreement, including the removal or destruction of any thing that contravenes the terms of a development agreement or an incentive or bonus zoning agreement.

(2) All reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the development agreement or the incentive or bonus zoning agreement.

14 The Schedule to the Act is renamed as Schedule A and the following Schedule added:

SCHEDULE B

HRM By Design
Downtown Plan Area



15 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
