

What is as-of-right development?

An as-of-right development is one that complies with all applicable zoning regulations and does not require any discretionary action by HRM Council. Most development in HRM is as-of-right.

Land development within a community is regulated based on Council's policies as stated in the area Municipal Planning Strategy (MPS). The policies are implemented through the corresponding Land Use By-law (LUB) and the Regional Subdivision By-law.

When an MPS is proposed for a community, a public participation process and one or more public hearings are required prior to Council approval. Public input into the land use (zoning) regulations takes place while the MPS and LUB are being developed and adopted by Council.

The Land Use By-law applies a zone (e.g. R-1, R-2, C-1, C-2, I-2, P, etc.) to every property within the geographic area to which the MPS applies. Each zone outlines what land uses may be permitted to develop "as-of-right" and lists specific criteria or conditions which the proposal must meet to be considered for approval. Examples include minimum lot frontage and area, lot coverage and building setbacks & height.

If a zone allows a particular development as-of-right, a person who develops their property in accordance with the requirements of the LUB is entitled to a development permit. The development review process requires all other municipal and provincial requirements to be met in order for permits to be issued for as-of-right projects. This approval process is administered by a Development Officer.

Public notification does not occur for individual, as-of-right, development projects. Public input into the general zoning regulations takes place when the community plan and land use by-law are being developed and adopted by Council.

How does an as-of-right project proceed?

Subdivision of land:

If land is zoned for a use that is permitted as of right, the developer files an application with HRM for the appropriate type of subdivision approval, depending on the scope of the project.

For infill lots on an existing public street where no service (municipal sewer, stormwater and water) upgrades are required, a **final subdivision** application may be made. This involves a full survey of all proposed lots, and the Development Officer is able to approve the proposed subdivision provided that the lots meet servicing, zoning and driveway access requirements and if all applicable parkland and subdivision fees are submitted.

If the project involves the construction of a new public street, a **concept subdivision** application is required to gather input from all necessary approval agencies to determine if appropriate street connections can be created, if the area is able to be serviced, either with municipal water and/or sewer or well and on-site septic, and whether parkland dedication requirements can be met.

From the concept subdivision stage, the project moves through the tentative (optional) and final subdivision stages. For further information, see HRM's brochure on the subdivision process.

Construction of new buildings:

As-of-right construction for a new structure on an individual lot can occur when a Construction Permit has been issued. A Construction Permit confirms that:

- the proposed structure complies with the land use by-law and the National Building Code;
- the property is capable of being serviced, either with municipal sewer and water services, or with an on-site system in unserved areas; and
- the proposed driveway access, if not already in place, has been approved.

What type of development can occur in my community?

A property's zoning determines what uses are permitted as-of-right. If a certain use is not listed as a permitted use within a zone, other options for land development may be available within the policies of the MPS which could allow consideration for rezoning or development agreement (contract development). Rezoning and development agreements require public consultation and approval by Council.

An HRM Development Approvals office can provide information concerning the types of development that may be considered as-of-right.

Information is also available regarding alternatives for development which is not permitted as of right. These alternatives include rezoning, development agreement, or plan amendment. Each of these alternatives requires a public participation process and must be approved by Council.

What are the zoning requirements for my area?

There are 22 Land Use By-laws within HRM. Each Land Use By-law contains zones that are specific to the respective Plan Area, and the zone criteria differ from one Plan Area to the next. For example, the provisions of the R-1 zone in Halifax are not the same as those for the R-1 zone in Sackville.

Any inquiry you may have concerning zoning or potential development of an area may be made at any of the offices listed in this brochure. HRM staff will assist you in determining the applicable zoning regulations for your area.

Note: Plan Areas do not correspond with electoral district boundaries. Zoning information is available through the ExploreHRM on-line mapping service at www.halifax.ca.

A Guide to As-of-Right Development

When can construction begin?

Construction of a new building can begin once a Construction Permit has been issued.

For new subdivisions, where an as-of-right project has been approved, the developer must enter into a servicing agreement with HRM prior to undertaking any street or service construction on the site. This agreement sets out the terms and conditions for the construction, acceptance and warranty of all new public infrastructure.

Occasionally, a developer will request permission to provide performance security for street and service construction. This enables the lots to be approved and permits to be issued to begin construction. However, occupancy permits may not be issued until the primary services (street, sanitary, storm and water) are accepted by HRM.

What about traffic?

When an as-of-right subdivision involves the construction of a new street, the developer is required to provide a detailed traffic analysis to show if any improvements are needed to enable the development to proceed. This study may recommend upgrades to existing infrastructure or have specific recommendations with respect to street classifications or signalization.

When the development is proceeding as infill on an existing public street and a new street is not being considered, the proposed lots are examined to ensure that each new lot has a safe driveway access to the existing street network.

What are riparian buffers?

Riparian buffers are undisturbed areas around watercourses which provide natural protection from flooding, and may also reduce impacts of sedimentation and erosion on watercourses. Riparian buffers can help to regulate the temperature of adjacent watercourses and can protect important wildlife habitats.

Retaining undisturbed areas around watercourses and along the coastline is important for the protection of water quality and wildlife. With the adoption of the Regional Plan in August 2006, HRM Land Use By-laws were amended to include riparian buffer requirements for lots being developed that are on or adjacent to natural bodies of water.

When new lots are created, any riparian buffers must be identified in order to ensure that there is adequate room on the property for development. Recognizing that there are many existing lots which may be prohibited from development under the new regulations, the by-laws contain grandfathering provisions that allow more flexible application of the riparian buffer for development of existing lots.

Note: The riparian buffer applies to watercourses within and adjacent to your property. Check with Development Approvals staff to determine if the buffer around a watercourse has an impact on your property. More information on the Regional Plan may be found at www.halifax/regionalplanning or by calling 490-8479.

What about property damage during construction?

All property owners are responsible for what takes place on their property. If a developer encroaches on or damages an adjacent property, that developer is expected to take responsibility for any damage with individual property owners that might be affected. HRM encourages friendly and open communication between land owners.

When can blasting take place?

The removal of bedrock is common during construction of a new street or building foundation. Blasting requires a permit from HRM. The blaster must be provincially licensed.

There are standards set out in the HRM Blasting By-law to provide notice to the affected neighbours and to ensure the safety of persons and property during blasting. Insurance is required to protect public property. Any damages on private property must be addressed with the blaster and their insurance company. If you have any questions respecting blasting, please contact Engineering staff at the branch office in your area.

What happens to construction debris?

Construction and demolition debris needs to go to a licensed recycling and disposal facility. For more information, visit our website at www.halifax.ca/wrms/cdrdebris.html.

When can construction occur during the day?

Hours of work during construction are regulated through the HRM Noise By-law. Noise is prohibited:

- before 7:00 a.m. and after 9:30 p.m. Monday to Friday;
- before 7:00 a.m. and after 8:00 p.m. on Saturday; and
- before 9:00a.m. and after 7:00 p.m. on Sunday and holidays including Remembrance Day.

To lodge a noise complaint, please call 490-4000 and your complaint will be directed to the appropriate authority.

Who can I call?

You may apply for subdivision or construction approval at any one of the three Development Approvals offices listed below.

Halifax Branch Office - Bayers Road Centre
7071 Bayers Road, Suite 2005, Halifax
Information..... 490-5650
Fax..... 490-4645

Sackville Branch Office - Acadia Centre
636 Sackville Drive, Lower Sackville
Information..... 869-4375
Fax..... 869-4254

Dartmouth Branch Office - Alderney Gate
40 Alderney Drive, 2nd Floor, Dartmouth
Information..... 490-4490
Fax..... 490-4661

Office Hours
8:30 a.m. to 4:30 p.m. Monday through Friday
(except statutory holidays)

Other contacts:

Halifax Water 490-4827
NS Transportation 424-5328
NS Environment 424-7773

This brochure has been prepared to provide basic information about the as-of-right approval process. Any difference between the contents of this brochure and applicable by-laws, regulations, codes and procedures shall be resolved by reference to the official documents.