

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
1 CHARLES III, 2022

Bill 39

(Chapter 24 of the Statutes of Ontario, 2022)

An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001 and to enact the Duffins Rouge Agricultural Preserve Repeal Act, 2022

The Hon. S. Clark

Minister of Municipal Affairs and Housing

1st Reading	November 16, 2022
2nd Reading	November 23, 2022
3rd Reading	December 8, 2022
Royal Assent	December 8, 2022



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 39 and does not form part of the law.
Bill 39 has been enacted as Chapter 24 of the Statutes of Ontario, 2022.*

SCHEDULE 1 CITY OF TORONTO ACT, 2006

The Schedule amends the *City of Toronto Act, 2006* by adding section 226.9.1. Section 226.9.1 provides that if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law and require city council to consider and vote on the proposed by-law at a meeting. The by-law is passed if more than one third of the members of city council vote in favour of the by-law.

SCHEDULE 2 DUFFINS ROUGE AGRICULTURAL PRESERVE REPEAL ACT, 2022

The Schedule enacts the new *Duffins Rouge Agricultural Preserve Repeal Act, 2022*, which repeals the older *Duffins Rouge Agricultural Preserve Act, 2005*. The new Act provides that the easements and covenants that were described in the repealed Act are deemed to have the legal effect they would have had if the repealed Act had never been in effect. The new Act also provides for the interaction of those covenants and easements with certain provisions of the *Conservation Land Act*. Related causes of actions and proceedings are prohibited.

SCHEDULE 3 MUNICIPAL ACT, 2001

The Schedule amends the *Municipal Act, 2001* by adding section 218.3, which authorizes the Minister of Municipal Affairs and Housing to appoint, by order, for the term of office beginning in 2022, the head of council of The Regional Municipality of Niagara, The Regional Municipality of Peel and The Regional Municipality of York. A new section 218.4 requires the Minister to give notice of such order and a new section 218.5 authorizes the Minister to make regulations relating to the appointment of a head of council under section 218.3.

A new section 284.11.1 of the Act provides that if a head of council of a designated municipality is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law and require the council to consider and vote on the proposed by-law at a meeting. The by-law is passed if more than one third of the members of council vote in favour of the by-law.

**An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001
and to enact the Duffins Rouge Agricultural Preserve Repeal Act, 2022**

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His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Better Municipal Governance Act, 2022*.

**SCHEDULE 1
CITY OF TORONTO ACT, 2006**

1 Paragraph 3 of subsection 159 (1) of the *City of Toronto Act, 2006* is amended by striking out “sections 5, 5.1 and 5.2” and substituting “sections 5, 5.1, 5.2 and 5.3”.

2 Section 160.1 of the Act is amended by striking out “section 5, 5.1 or 5.2” wherever it appears and substituting in each case “section 5, 5.1, 5.2 or 5.3”.

3 Section 226.7 of the Act is amended by striking out “sections 226.8 and 226.9” wherever it appears and substituting in each case “sections 226.8, 226.9 and 226.9.1”.

4 The French version of subsection 226.8 (1) of the Act is amended by striking out “pourrait” and substituting “pourrait potentiellement”.

5 The French version of section 226.9 of the Act is amended by striking out “pourrait” wherever it appears and substituting in each case “pourrait potentiellement”.

6 The Act is amended by adding the following section:

Powers re by-laws

226.9.1 (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

Procedure

(2) Despite any procedure by-law passed by the City under subsection 189 (2) and subject to any prescribed requirements, if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law to city council and require city council to consider and vote on the proposed by-law at a meeting.

Same

(3) The head of council shall, in accordance with the regulations, provide to the clerk and to each member of city council,

- (a) a copy of any by-law proposed under subsection (2); and
- (b) the head of council’s reasons for the proposal.

More than one-third vote required

(4) Despite any procedure by-law passed by the City under subsection 189 (2) and despite subsection 194 (3), a by-law described in subsection (2) is passed if more than one third of the members of council vote in favour of the by-law.

Head of council may vote

(5) For greater certainty, the head of council may vote as a member of city council in a vote to pass a by-law described in subsection (2).

7 Clause 226.15 (1) (c) of the Act is amended by striking out “the head of council is required to follow in exercising a power or performing a duty under” and substituting “the head of council, city council and the clerk are required to follow in connection with”.

Commencement

8 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 2
DUFFINS ROUGE AGRICULTURAL PRESERVE REPEAL ACT, 2022

Definition

1 In this Act,

“DRAPA easement or covenant” means an easement or covenant that is described in subsection 2 (1) of the *Duffins Rouge Agricultural Preserve Act, 2005*, as it read immediately before its repeal.

Effect of repeal on DRAPA easement or covenant

2 Every DRAPA easement or covenant is deemed to have the legal effect it would have had if subsection 2 (1) of the *Duffins Rouge Agricultural Preserve Act, 2005* had never been in effect.

Interaction with Conservation Land Act

3 (1) Subsections 3 (4.2), (4.3) and (4.4) of the *Conservation Land Act* do not apply to a DRAPA easement or covenant.

Notices

(2) Any notice that was registered under the *Conservation Land Act* in accordance with subsection 2 (2) of the *Duffins Rouge Agricultural Preserve Act, 2005*, before the day the *Duffins Rouge Agricultural Preserve Act, 2005* was repealed, against land affected by a DRAPA easement or covenant is of no effect as of the day this section comes into force.

No cause of action

4 (1) No cause of action arises as a direct or indirect result of,

- (a) the enactment, amendment or repeal of any provision of this Act or of the *Duffins Rouge Agricultural Preserve Act, 2005*;
- (b) the making, amending or revoking of any provision of a regulation under this Act; or
- (c) anything done or not done in accordance with,
 - (i) any provision of this Act or of the *Duffins Rouge Agricultural Preserve Act, 2005*, or
 - (ii) any provision of a regulation made under this Act.

Proceedings barred

(2) No proceeding, including but not limited to any proceeding for a remedy in contract, restitution, tort, misfeasance, bad faith, trust or fiduciary obligation, and any remedy under any statute, that is based on a cause of action described in subsection (1) may be brought or maintained against any person, including,

- (a) the Crown and its current and former employees, officers and agents;
- (b) current and former members of the Executive Council;
- (c) conservation bodies as defined in subsection 3 (1) of the *Conservation Land Act* and their current and former employees, officers and agents.

Application of subs. (2)

(3) Subject to subsection (6), subsection (2) applies to any proceeding, including any court, administrative or arbitral proceeding, claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages or any other remedy or relief, and includes a proceeding to enforce a judgment or order made by a court or tribunal outside of Canada.

Temporal application

(4) Subsections (1) and (2) apply regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the day this section comes into force.

Proceedings set aside

(5) Any proceeding referred to in subsection (2) that was commenced before the day this section comes into force shall be deemed to have been dismissed, without costs, on the day this section comes into force.

Exception — judicial review

(6) Subsections (1) and (2) do not apply to prevent an application for judicial review.

No expropriation or injurious affection

(7) Nothing referred to in subsection (1) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Not entitled to be compensated

(8) Despite any other Act or law, no person is entitled to compensation for any loss or damages, including loss of revenues, loss of profit or loss of expected earnings or denial or reduction of compensation that would otherwise have been payable to any person, arising from anything referred to in subsection (1).

Regulations

5 The Lieutenant Governor in Council may make regulations governing any transitional matters that may arise in connection with the enactment of this Act or the repeal of the *Duffins Rouge Agricultural Preserve Act, 2005*, which may include the impact of the enactment or repeal on a DRAPA easement or covenant.

6 The *Duffins Rouge Agricultural Preserve Act, 2005* is repealed.

Commencement

7 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8 The short title of the Act set out in this Schedule is the *Duffins Rouge Agricultural Preserve Repeal Act, 2022*.

**SCHEDULE 3
MUNICIPAL ACT, 2001**

1 The *Municipal Act, 2001* is amended by adding the following sections:

Head of council, appointment by Minister

218.3 (1) For the term of office beginning in 2022, the Minister may, by order, appoint and fix the duration of the term of the head of council of the following municipalities:

1. The Regional Municipality of Niagara.
2. The Regional Municipality of Peel.
3. The Regional Municipality of York.

Effect of order

(2) An order made under subsection (1) takes effect on the date and at the time specified in the order.

Previous appointment ceases to have effect

(3) If the Minister makes an order appointing a head of council under subsection (1) and, on the day the order takes effect, a head of council has been appointed by the members of council, the appointment by the members of the council ceases to have effect as of that day.

Deemed to be member of council

(4) A person appointed by the Minister under subsection (1) to be the head of council is deemed to also be a member of council.

Notice of order

218.4 If the Minister makes an order under subsection 218.3 (1), the Minister shall,

- (a) publish the order in *The Ontario Gazette*; and
- (b) as soon as possible after the order is made, provide a copy of the order to the municipality to which it relates.

Regulations

218.5 (1) The Minister may make regulations,

- (a) governing the appointment of a head of council under subsection 218.3 (1), including,
 - (i) prescribing rules to facilitate the transition of the head of council appointed under subsection 218.3 (1);
 - (ii) prescribing powers and duties of the head of council appointed under subsection 218.3 (1);
- (b) providing for modifications to this Act, the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996*, or the regulations made under any of those Acts, as are necessary for the implementation of section 218.3 of this Act or any regulations made under clause (a) of this subsection.

Retroactivity

(2) A regulation made under subsection (1) is, if it so provides, effective with reference to a period before it was filed, but not earlier than six months before the date the regulation was made.

Conflict, regulation made under cl. (1) (b)

(3) A regulation made under clause (1) (b) prevails to the extent of a conflict between a provision of the regulation and any provision of,

- (a) this Act or a regulation made under it; or
- (b) the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996* or of a regulation made under those Acts.

Same

(4) The conflict provision in subsection (3) prevails over any other conflict provision in the this Act, the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996*.

Power to change method for selecting head of council

218.6 Nothing in section 218.3 limits the power of a municipality referred to in subsection 218.3 (1) to change the method of selecting its head of council under section 218 for any regular election after 2022.

2 Subsection 221 (1) of the Act is amended by striking out “218.1 or 220” wherever it appears and substituting in each case “218.1, 218.3 or 220”.

3 Paragraph 3 of subsection 223.3 (1) of the Act is amended by striking out “sections 5, 5.1 and 5.2” and substituting “sections 5, 5.1, 5.2 and 5.3”.

4 Section 223.4.1 of the Act is amended by striking out “section 5, 5.1 or 5.2” wherever it appears and substituting in each case “section 5, 5.1, 5.2 or 5.3”.

5 (1) Subsection 284.9 (1) of the Act is amended by striking out “sections 284.10 and 284.11” at the end and substituting “sections 284.10, 284.11 and 284.11.1”.

(2) Subsection 284.9 (2) of the Act is amended by striking out “sections 284.10 and 284.11” and substituting “sections 284.10, 284.11 and 284.11.1”.

6 The French version of subsection 284.10 (1) of the Act is amended by striking out “pourrait” and substituting “pourrait potentiellement”.

7 The French version of section 284.11 of the Act is amended by striking out “pourrait” wherever it appears and substituting in each case “pourrait potentiellement”.

8 The Act is amended by adding the following section:

Powers re by-laws

284.11.1 (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

Procedure

(2) Despite any procedure by-law passed by the municipality under subsection 238 (2) and subject to any prescribed requirements, if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law to the council and require the council to consider and vote on the proposed by-law at a meeting.

Same

(3) The head of council shall, in accordance with the regulations, provide to the clerk and to each member of council,

- (a) a copy of any by-law proposed under subsection (2); and
- (b) the head of council’s reasons for the proposal.

More than one-third vote required

(4) Despite any procedure by-law passed by the municipality under subsection 238 (2) and despite section 245, a by-law described in subsection (2) is passed if more than one third of the members of council vote in favour of the by-law.

Head of council may vote

(5) For greater certainty, the head of council may vote as a member of council in a vote to pass a by-law described in subsection (2).

9 Clause 284.17 (1) (d) of the Act is amended by striking out “a head of council is required to follow in exercising a power or performing a duty under” and substituting “a head of council, a council and the clerk are required to follow in connection with”.

Commencement

10 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.