



BILL NO. 329

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
2 Charles III, 2023*

**An Act to Amend Chapter 39
of the Acts of 2008,
the Halifax Regional Municipality Charter,
and Chapter 21 of the Acts of 2021,
the Housing in the Halifax Regional Municipality Act**

CHAPTER 18
ACTS OF 2023

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 9, 2023**

The Honourable John Lohr
Minister of Municipal Affairs and Housing

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

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**An Act to Amend Chapter 39
of the Acts of 2008,
the Halifax Regional Municipality Charter,
and Chapter 21 of the Acts of 2021,
the Housing in the Halifax Regional Municipality Act**

Be it enacted by the Governor and Assembly as follows:

HALIFAX REGIONAL MUNICIPALITY CHARTER

1 Subsection 87(1) of Chapter 39 of the Acts of 2008, the *Halifax Regional Municipality Charter*, is amended by striking out “The” in the first line and substituting “Notwithstanding subsection 71(2), the”.

2 Subsection 219(1) of Chapter 39 is amended by striking out “, by policy,” in the first line.

3 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;

(c) transparency of process;

(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;

(e) consultation with design professionals, regulators and builders in the development of the trusted-partner program;

(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;

(g) the need to eliminate duplicative internal reviews and oversight; and

(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.

(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.

(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.

(7) Sections 251 and 252 apply to any variance granted under subsection (6), including any right of appeal.

(8) A by-law made under this Section is subject to the approval of the Minister.

(9) The Municipality shall adopt a by-law under this Section by the date specified in the regulations.

(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 Minister, is deemed for all purposes to be a by-law made by the Municipality under this Section.

(11) A by-law made under this Section may only be repealed or amended with the approval of the Minister.

(12) The Minister may make regulations specifying

(a) additional terms and provisions to be included in a by-law made under this Section;

(b) a date by which the Municipality shall adopt a by-law under this Section.

(13) The exercise by the Minister of the authority contained in subsection (12) is a regulation within the meaning of the *Regulations Act*.

4 Chapter 39 is further amended by adding immediately after Section 229B the following Section:

229C (1) In this Section,

(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;

(b) “healthcare facility area” means an area within the Municipality designated as a healthcare facility area by an order made under subsection (2).

(2) The Minister may, by order, on such terms as the Minister considers necessary for accomplishing the purpose of this Section,

(a) deem as urgently required for the purpose of this Section any existing or proposed healthcare facility;

(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

(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.

(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 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.

(4) Before making or amending an order pursuant to subsection (2), the Minister shall consult with the Municipality.

(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.

(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.

(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.

(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.

(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.

(10) Upon making an order under subsection (2), the Minister shall

- (a) send a copy of the order to the Clerk; and
- (b) give notice that the order is in effect on the Province's website.

(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.

(12) The Minister may make such regulations as are in the Minister's opinion required to implement this Section fully and effectively.

(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*.

(14) The Minister may make an order under subsection (2) that has retroactive effect to a day not earlier than June 1, 2023.

5 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) subject to subsection (3), 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) subject to subsection (3), 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.

(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.

(3) A new incentive or bonus zoning agreement, capital cost contribution agreement or local improvement charge may be created if the formulas and methods for calculating charges used in the agreement are

- (a) the same as those in effect at the time this Section comes into force; or
- (b) in accordance with formulas approved by the Minister.

(4) The prohibition under subsection (1) does not apply if the Minister gives written approval for the change made to a fee or charge or incentive or bonus zoning agreement.

6 Chapter 39 is further amended by adding immediately after Section 240C the following Section:

240D (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.

(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.

(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.

(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.

7 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:

(2A) The Chief Administrative Officer may discharge a completed development agreement in whole or in part.

8 Subsections 247(3) and (9) of Chapter 39 are repealed.

9 Chapter 39 is further amended by adding immediately after Section 250 the following Section:

250A(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.

(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.

(3) Sections 264 to 269 apply, with necessary changes, to an appeal under this Section.

10 (1) Subsections 251(1) and (1A) of Chapter 39 are 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 only to every assessed owner whose property is within thirty metres of the applicant's property.

(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.

(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.

(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.

11 Chapter 39 is further amended by adding immediately after Section 251 the following Section:

251A(1) Any appeal of a decision or matter referred to in Sections 247 to 251 must, at the time the appeal is filed, clearly state the grounds for appeal.

(2) An 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.

(3) The Council shall dismiss without hearing any appeal that fails to comply with subsection (1) or is in respect of a non-substantive matter prescribed by the regulations.

(4) The Minister may make regulations prescribing non-substantive matters for the purpose of this Section.

(5) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*.

12 Chapter 39 is further amended by adding immediately after Section 257 the following Section:

257A (1) The Chief Administrative Officer may modify or discharge a private covenant in so far as it is more restrictive than the current zoning for the land it governs with respect to height or density.

(2) A covenant modified or discharged under subsection (1) is deemed to have been modified or discharged for offending public policy under subsection 61(1) of the *Land Registration Act* and a certified copy of the decision of the Chief Administrative Officer may be registered or recorded as if it were an order of the court made under that subsection

(3) A decision of the Chief Administrative Officer under subsection (1) may be appealed to the Board.

(4) Sections 264 to 269 apply, with necessary changes, to an appeal under this Section.

13 (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 development officer under Section 250A; and

(b) the Board determines that the awarding of costs is in the interests of justice.

(2) Subsection 266(7) of Chapter 39 is amended by adding “or (6A)” immediately after “(6)” in the first line.

14 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.

HOUSING IN THE HALIFAX REGIONAL MUNICIPALITY ACT

15 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.

(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.

16 (1) Section 15 of Chapter 21 is amended by adding immediately after subsection (1) the following subsections:

(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.

(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.

(2) Subsection 15(2) of Chapter 21 is amended by adding "or (1A)" immediately after "(1)" in the first line.

(3) Subsection 15(3) of Chapter 21 is amended by adding "or (1A)" immediately after "(1)" in the first line.

17 Subsection 16(1) of Chapter 21 is amended by

(a) striking out "On" in the first line and substituting "The Minister may, in the Minister's sole discretion, or on";

(b) striking out "and" at the end of clause (a); and

(c) striking out clause (b) and substituting the following clauses:

(b) amend a subdivision by-law within a special planning area if considered necessary to advance the purpose of this Act; and

(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).

18 Subsection 17(1) of Chapter 21 is repealed and the following subsection substituted:

(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 oth-

erwise have authority to act, approve a development agreement or an amendment to a development agreement within a special planning area.

19 (1) Subsection 18(1) of Chapter 21 is amended by adding “or the Minister” immediately after “Panel” in the second line.

(2) Subsection 18(2) of Chapter 21 is amended by adding “or the Minister” immediately after “Panel” in the first line.

(3) Subsection 18(3) of Chapter 21 is amended by adding “or the Minister” immediately after “Panel” in the first line.

(4) Subsection 18(4) of Chapter 21 is amended by adding “or the Minister” immediately after “Panel” in the first line.

20 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.

21 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).

22 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.

EXCLUSION FROM CONSULTATION AND EFFECTIVE DATE

23 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.

24 Section 4 has effect on and after January 1, 2023.
