

By-law Number 27-2021

of The Regional Municipality of Durham

Being a by-law to repeal By-law No. 70-2019, as amended, and replace it with a new Durham Region Transit Commission By-law for the purpose of operating the regional transit system known as Durham Region Transit (“DRT”).

Whereas the Council of The Regional Municipality of Durham had enacted By-Law No. 85-2004 being a by-law to transfer all of the lower-tier power relating to public transportation systems, other than highways, to the Region from all of its lower-tier municipalities;

And Whereas on September 28, 2005, the Council of The Regional Municipality of Durham endorsed the principle of creating and operating a regional public transit system through a transit commission created pursuant to s.195(2) of the Municipal Act, 2001, S.O. 2001, c.25;

And Whereas By-law 46-2005 of the Council of The Regional Municipality of Durham created the Durham Region Transit Commission for the purpose of operating the regional transit system known as Durham Region Transit (“DRT”);

And Whereas By-law 46-2005 was replaced by By-law 27-2007 which provided for the creation of an Executive Committee to the Durham Region Transit Commission;

And Whereas Council deemed it necessary to repeal and replace By-law No. 27-2007, as amended, with by-law 70-2019 which confirmed the Durham Region Transit Commission’s delegation of powers to the Transit Executive Committee to deal with matters related to the operations of Durham Region Transit on its behalf and clarifying the reporting structure of Durham Region Transit Commission which allows for reporting directly to Regional Council to seek approvals for reports as may be required;

And Whereas Council has deemed it necessary to repeal and replace By-law No. 70-2019, as amended, with a new by-law which confirms administration of the Executive Committee powers delegated to it through the Commission;

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

Definitions

1. In this by-law,

“Act” – The Municipal Act, 2001, S.O. 2001, c.25;

“Commission” – The members constituting the body corporate of the Durham Region Transit Commission;

“CAO” – The Chief Administrative Officer of The Regional Municipality of Durham;

“Chair” – The Chair of the Regional Municipality of Durham and The Durham Region Transit Commission person designated as the Chair of the Commission by Council;

“Durham” – The Regional Municipality of Durham;

“DRT” – the Regional transit system operating as “Durham Region Transit”;

“DRTC” – the Durham Region Transit Commission established under paragraph 2;

“Executive Committee” – means the Executive Committee of the Durham Region Transit Commission established under paragraphs 6 to 13;

“Regional Clerk” – the Regional Clerk for The Regional Municipality of Durham;

“Regional Council” – the elected Council of The Regional Municipality of Durham;

“Regional Solicitor” – the Director of Legal Services for The Regional Municipality of Durham;

“Treasurer” – The Commissioner of Finance and Treasurer of the Regional Municipality of Durham;

Durham Region Transit Commission

2. A municipal service board to be known as the Durham Region Transit Commission (“DRTC”) was established through By-law 46-2005 (repealed and replaced by By-law 27-2007).
3. The purposes of the DRTC are:
 - a. to operate and manage a regional transit system known as “Durham Region Transit” within the Region of Durham, as agent for Durham; and
 - b. to exercise such powers in connection with the regional transit system as are delegated to it by Durham for so long as Durham has the power to exercise said power.

Composition

4. The members of Durham Regional Council, as it exists from time to time, shall *ex officio* constitute the membership of the Commission.
5. The Chair of Regional Council shall *ex officio* be the Chair of the Commission.

Executive Committee

6. There shall be an executive committee of the Commission (the “Executive Committee”) consisting of the eight mayors, or their duly appointed Regional designates, of the lower tier municipalities in Durham Region, and the Regional Chair.
7. Subject to any limitations set out herein, the Executive Committee shall possess and may exercise, during the intervals between the meetings of the Commission, all of the powers of the Commission to make decisions concerning the operations of Durham Region Transit save and except those powers particularly reserved to the Commission by the by-law or as otherwise provided by law.
8. The Regional Chair may be the Chair of the Executive Committee, or may choose to designate a Chair from amongst the members, and the members of the Executive Committee shall elect a Vice Chair from amongst themselves.
9. The Chair of the Transit Executive Committee shall be compensated consistently with the compensation provided to Chairs of the other Regional Standing Committees as outlined in the Council remuneration by-law.
10. The Regional Chair shall have all the same rights and privileges as all other members and shall be eligible to be the Chair or Vice-Chair of the Executive Committee.

11. The Regional Clerk or designate shall act as the secretary of the Executive Committee, and any records generated thereby shall be deemed to be the records of the Commission.
12. Regular meetings of the Executive Committee shall be held once a month on the date and time decided by resolution of the Executive Committee, or at such other times as the Executive Committee sees fit to call a meeting.
13. The minutes of all meetings of the Executive Committee shall be prepared and kept by the Regional Clerk and shall be approved at the next Executive Committee meeting.
14. All of the provisions regarding the terms of office, vacancy and removal, open meetings and quorum which are provided for in this by-law with respect to the Commission shall also apply to the membership in, and conduct of meetings by, the Executive Committee.

Term of Office

15. The term of office of members of the Commission shall coincide with their term in office as a Durham Regional Councillor or Chair, as the case may be.
16. At the discretion of the Mayor, their term of office on the Executive Committee or the term of office for their duly appointed Regional designate, where applicable, may be a two-year term with the second appointment, if required, to be made in December of the second year of the four year term of Council.
17. Subject to paragraphs 18 and 19, members of the Commission shall continue to hold office until their successors are elected as members of Regional Council and thereby become *ex officio* members of the Commission.

First Meeting; Number of Meetings Each Year

18. The regular meetings of the Commission shall be held on the same date, and location as the meetings of Regional Council or at such other times as the Commission may direct. The Chair of the Commission is authorized to call its first meeting in each new term of the Commission.
19. The Commission shall meet on an annual basis in December to confirm the proceedings of all resolutions, contracts, actions and directions of the Durham Region Transit Executive Committee for the current year.

Vacancies; Removal

20. Each member of the Commission holds office by virtue of being an elected member of Regional Council.
21. A member of the Commission who is a member of Regional Council ceases to be a member of the Commission if he or she ceases to be a member of Regional Council.
22. A member of the Commission may resign from office by providing notice in writing to the Commission.
23. Despite paragraph 20, a resignation is not effective if it would reduce the numbers of the Commission to less than a quorum.
24. If the office of a member of the Commission becomes vacant, the Commission shall:

- a. declare the office to be vacant at its next meeting or, if vacancy occurs as a result of the death of the member, at either of its next two meetings; and
- b. immediately forward a copy of its declaration to Regional Council.

Open Meetings; Quorum

25. All meetings of the Commission shall be open to the public except where a meeting may be closed to the public by the Act.
26. A person may be expelled from a meeting of the Commission for improper conduct.
27. A majority of members of the Commission constitutes a quorum.

Minutes; Records; Rules of Conduct

28. The minutes of all meetings of the Commission shall be prepared and kept by the Regional Clerk and shall be approved at the next Commission meeting.
29. The Regional Clerk shall retain and preserve the records of the Commission including its by-laws, resolutions, minutes and proceedings of regular, special or committee meetings. Such records will be retained and preserved in accordance with the record retention period established by Regional Council.
30. The Commission shall adopt and apply Regional Council's Rules of Procedure, as they may exist from time to time, with respect to its own proceedings.
31. The Executive Committee shall operate pursuant to the Region's Proceedings in Committee Rules.
32. The Regional Chair and the Regional Clerk, in their capacity as official record keeper and minute taker for the Commission, are authorized to execute any agreement which has been the subject of a report to, and was approved by, the Commission "or the Executive Committee as the case may be".
33. The Regional Clerk shall be the Freedom of Information Co-ordinator for the DRT.
34. Any reference to the Regional Clerk in the by-law and the Regional Clerk's duties shall adhere to the Clerk's statutory duties and requirements as listed under s. 228(1) of the Municipal Act, 2001 and such other duties as may be applicable under the Municipal Act, 2001 or any other Act.

Administration

35. Administration for DRT shall be provided through a General Manager who shall be appointed by the Commission in accordance with its policies respecting staffing, compensation and other human resource matters.
36. The CAO shall *ex officio* be the Chief Administrative Officer of DRT.
37. The Treasurer shall *ex officio* be the Treasurer and Chief Financial Officer of DRT and any approvals that the Treasurer may require from Regional Council in their capacity as the Chief Financial Officer of DRT, the Treasurer shall report directly to Regional Council on behalf of the Commission to seek approval as per Clause 56 below.
38. The Director of Legal Services shall *ex officio* be the Solicitor of DRT.

39. The General Manager shall report to the Commission through the CAO.

Powers and Duties; Limitations on Delegation; Consents

40. Subject to the limitations and conditions contained in paragraphs 41 to 43, hereof the following powers, rights, authorities and privileges of Regional Council with respect to the control and management of Durham's Regional transit system are delegated to the Commission:
- a. The operation and management of a Regional transit system known as "Durham Region Transit" within the Region of Durham, on behalf of Durham;
 - b. The management or supervision of the management of the business and affairs of DRT;
 - c. The rights and responsibilities for employing, as corporate employer, of all employees involved in the operation of DRT;
 - d. The management of Durham's assets used in connection with the Regional transit system including making all operational decisions in connection with said assets;
 - e. The management or supervision of the management of the workforce employed by the Commission, providing that the management is done in a manner consistent with Durham's policies respecting staffing, compensation and other human resource matters;
 - f. The collection of fees and charges imposed by Regional Council in respect of the provision of a Regional transit system within the Region of Durham;
 - g. The making of contributions to Durham's reserves and reserve funds for the purposes of the Regional transit services;
 - h. The development of annual and long-range plans and strategies;
 - i. The entering into of contracts in connection with the provision of Regional transit services having a term not greater than twenty (20) years;
 - j. The appointment of the General Manager in accordance with paragraph 35.
41. The Commission shall report directly to and seek the approval of Regional Council before extending, enlarging or materially expanding the Regional transit services. Otherwise, the General Manager will report directly to the Commission.
42. The Commission shall submit to the Regional Treasurer, in the form and at time required, within the approved Regional processes and timetables for business planning:
- a. Annual operating and capital business plans and budgets;
 - b. Five-year operating and 10-year capital business plans; and
 - c. Any other data required by the Treasurer.
43. Regional Council shall be responsible for passing by-laws imposing fees and charges in respect of Regional transit services operated by the Commission and for all other financing in respect of those services.
44. Notwithstanding the provisions of paragraph 40(b), DRT shall adopt and implement the Purchasing By-law, the Budget Management and Expenditure Control policies, and other financial and risk management policies of Durham as amended from time to time.

45. Notwithstanding the provisions of paragraph 40(b), DRT may implement its own policies and procedures save and except for those identified in Paragraph 44 provided said policies are consistent with Durham's corporate policies and procedures.
46. DRT shall establish and maintain a community advisory committee to provide a liaison for discussion of issues of community concern affecting the Regional transit system.
47. The Commission shall, at all times and in the form requested, provide Durham with information requested by it relating to the operations of DRT.
48. The Commission shall obtain all corporate services from Durham, where available.
49. Notwithstanding the provisions of paragraphs 40(b) and (d), all assets used by and for the Regional transit service shall be maintained in Durham's name, and shall be used by the Commission pursuant to the provisions of a Transit Asset Use Agreement between it and Durham.
50. In the event of conflict between the decisions of the Executive Committee and that of the Commission, then the decisions of the Commission shall govern.

Budget; Business Plan; Annual Report; Fees and Charges

51. Further to Paragraph 42, the Commission shall also make recommendations to the Treasurer with respect to the fees and charges necessary to support the Regional transit system at the time of its budget submissions. The Treasurer shall report directly to Regional Council on behalf of the Commission in a consistent fashion with established Regional Reporting.
52. The Commission shall submit to the Treasurer an Annual Report no later than 120 days after the end of the preceding financial year for which the Treasurer shall report directly to Regional Council on behalf of the Commission in a consistent fashion with established Regional Reporting. The Annual Report shall be in the form required by Regional Council and shall include the following:
 - a. Financial statements, audited upon request;
 - b. Information regarding the efficiency and effectiveness in its delivery of Regional transit services and any barriers to the achievement of improvements in the delivery of those services;
 - c. Explanations and information regarding any material discrepancy between the actual results from operations and the current Business Plan; and
 - d. Any other information required by Regional Council.

Auditor

53. The Auditor appointed by Durham to annually audit its own accounts, transactions and financial statements shall be the auditor for the Commission.
54. The Auditor shall have the right of access at all reasonable hours to all records of the Commission.
55. The Commission shall pay the audit fees attributable to the audit of its accounts, transactions and financial statements by the Auditor.

Charge Backs

56. The Commission shall pay the cost for corporate services and any other services provided to it by Durham. The Commission shall also pay for all insurance premiums or any other costs deemed appropriate by the Treasurer paid by Durham on its behalf in connection with Regional transit services and in connection with the ownership of all transit related assets.

Financial Accountability and Transparency

57. As it relates to the authority and powers of the Commission, as delegated to the Executive Committee, the Regional Treasurer acting in the capacity as Chief Financial Officer of DRT, shall seek any further approvals as may be required by the Regional Treasurer if any of the following occur in the course of the Commission or the Executive Committee acting under delegated authority from the Commission in exercise of their duties pursuant to this by-law:
58. That a matter may fall under the Regional Treasurer's statutory authority under s. 286(1) of the Municipal Act, R.S.O., 2001; or
59. That a matter may have a significant impact on the year end budget results in comparison to what was approved within the budget for that given year, or on a subsequent year budget or budget forecast; or
60. That a matter may have the impact of a significant implication on a future year budget or subsequent year budget forecast.
61. In such instances as described in this Clause, the Regional Treasurer shall report directly to Regional Council in their capacity as DRT Treasurer on behalf of the Commission to seek approval. Under the Regional Treasurer's discretion, items under Paragraph 42 may still go through the relevant committee before seeking Regional Council approval, if it is required to conform with approved Regional processes and timetables for business planning.

By-law Repealed

62. By-law Nos. 27-2007, 23-2018, and 70-2019 are hereby repealed.

This By-law shall come into force on the day it is approved by the Council of The Regional Municipality of Durham.

This By-law Read and Passed on the 29th day of September, 2021.

J. Henry, Regional Chair and CEO

R. Walton, Regional Clerk