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Item No. 12.1
Executive Standing Committee
May 27, 2019

TO: Mayor Savage and Members of Executive Standing Committee

-Original Signed-

SUBMITTED BY:

John Traves Q.C. Legal, Municipal Clerk & External Affairs

-Original Signed-

Kelly Denty, A/Chief Administrative Officer

DATE: March 15, 2019

SUBJECT: **Proposed Administrative Order 2019-003-GOV Respecting Parental Accommodation Policy for Elected Officials**

ORIGIN

On April 18, 2018, Bill No. 118, *Respecting Parental Accommodation*, was given Royal Assent and became law. Regional Council may adopt a parental accommodation policy to reflect the legislative changes and provide interim representation options during parental accommodation for a member of Regional Council.

LEGISLATIVE AUTHORITY

Municipal Elections Act, R.S.N.S. 1989, c. 300, section 18:

Halifax Regional Municipality Charter, S.N.S 2008, c. 39, sections 3, 14, 20, and 22:

Administrative Order One, *The Procedure of the Council Administrative Order*, Schedule 6, section 7:

A detailed outline of the legislative authority is provided in Attachment 1 of this report.

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RECOMMENDATION

It is recommended that the Executive Standing Committee recommend that Halifax Regional Council:

1. Adopt Administrative Order Number 2019-003-GOV Respecting Parental Accommodation for Elected Officials, as set out in Attachment 2 of this report; and
2. Adopt the amendments to Administrative Order 1, as set out in Attachment 3 of this report, to update Administrative Order 1 to reflect the new parental leave requirements.

BACKGROUND

In fall 2017, parental accommodation for Nova Scotia municipal elected officials became a topic of discussion throughout the province. Elected officials are not considered employees, and therefore do not qualify for parental leave. The HRM Charter (and MGA) previously provided that a Mayor or councillor who was absent for three consecutive meetings of Council without leave of the Council ceased to be qualified as Mayor or councillor. In other Nova Scotia municipalities parental leave for elected officials was granted by a motion of council. This meant that requests for parental leave could be publicly debated and could, ultimately, be rejected by a municipal council.

In December 2017, a Parental Accommodations Committee was established by the Province of Nova Scotia to develop a model policy and recommend legislative changes with respect to parental accommodations. The committee included representatives from the Nova Scotia Federation of Municipalities, the Association of Municipal Administrators, the Department of Municipal Affairs, and the Nova Scotia Advisory Council on the Status of Women. On February 26, 2018, the Committee's report and recommendations were presented to Executive Standing Committee, by way of MLA Claudia Chender.

On April 18, 2018, Bill No. 118, *Respecting Parental Accommodation*, was given Royal Assent amending section 18 of the *Municipal Government Act*, section 39 of the *Halifax Regional Municipality Charter* and section 2 and section 18 of the *Municipal Elections Act*. This bill:

- Defines parental accommodation to encompass pregnancy, birth, and adoption of a child;
- Allows those who are pregnant or have recently become a parent to miss three consecutive Council meetings without risk of losing their seat and without financial penalty for up to a maximum of fifty-two weeks; and
- Allows any elected official who is absent due to parental leave to return to committees on which they previously served.

In addition to the specific legislation changes, the Parental Accommodations Committee recommended that Nova Scotia municipalities adopt parental accommodation policies. These policies must include, at minimum:

- A plan for interim representation to address how constituents will continue to be represented during an absence or partial absence due to parental accommodation; and
- The minimum number of weeks' notice given to the CAO and Mayor in agreement with the Nova Scotia Labour Standards Code (currently four weeks).

DISCUSSION

The amendments to municipal government legislation allow elected officials to make personal family decisions in private, without public debate and a motion of Council. The proposed Administrative Order outlines procedures to guide elected officials when a member decides to take parental accommodation.

Council members who assist during a leave will not be entitled to additional compensation and would not be able to vote on behalf of or as a proxy for the member on leave.

Administrative Process: The amendments to the HRM Charter allow Regional Council members to take up to fifty-two consecutive weeks leave when pregnant, giving birth, or adopting a child. The proposed Administrative Order outlines an administrative process to follow to provide notice and ensures that leave related plans begin not less than four weeks before the leave is intended to begin.

Flexibility: The public nature of the Regional Council members' roles allows for elected officials to continue fulfilling certain responsibilities during their leave. The proposed Administrative Order allows the individual taking leave to outline in their notice whether their duties will be delegated to other individuals, staff or Council members.

Communications Plan: The proposed Administrative Order also outlines that staff will implement a service disruption strategy including a communications plan. The communications plan must inform residents on how they will be represented and how their requests will be met during a full or partial absence.

FINANCIAL IMPLICATIONS

There are no additional financial implications associated with this report that wouldn't already be accounted for in approved operating budgets. A Council member on parental accommodation shall continue to receive their salary and benefits for the duration of their leave, not to extend beyond the member's term in office. If approved, members of Council who assume additional duties during an accommodation will not receive additional remuneration.

RISK CONSIDERATION

There are no risks associated with the adoption of this administrative order.

COMMUNITY ENGAGEMENT

This proposed administrative order is in response to a provincial legislation amendment and required no community engagement at the municipal level.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

None.

ATTACHMENTS

Attachment 1 – Legislative Authority
Attachment 2 – Proposed Administrative Order 2019-003-GOV
Attachment 3 – Proposed Amendments to Administrative Order One

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Kevin Arjoon, Municipal Clerk, 902.490.6456

Attachment 1 - LEGISLATIVE AUTHORITY

Administrative Order One, *The Procedure of the Council Administrative Order*, Schedule 6, section 7:

The Executive Standing Committee shall oversee and provide advice on Administrative Order 32 the *By-law Development Administrative Order* and other policy matters related to the By-laws, Ordinances, Administrative Orders and Policies of the Council.

Halifax Regional Municipality Charter, S.N.S 2008, c. 39, sections 3, 14, 20, and 22:

- 3 (ava) "parental accommodation" means a leave of absence by a Council member due to
- (i) the pregnancy of the Council member,
 - (ii) the birth of the child of the Council member, or
 - (iii) the adoption of a child by the Council member;
- ...
14 (4) The Mayor or a councillor who, without leave of the Council, is absent from three consecutive meetings of the Council, ceases to be qualified as Mayor or as a councillor.
- (4A) Subsection (4) does not apply to the Mayor or a councillor who is absent for fifty-two or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of birth or adoption.
- ...
20 (1) The Council may make policies
- ...
(d) providing for and fixing
- ...
(v) the deduction to be made from the remuneration of such persons, other than persons on parental accommodation, for missing more than three Council or committee meetings in a year,
- ...
22 (1) A person appointed by the Council as a member of a board, commission or committee pursuant to this or any other Act of the Legislature who, without leave of the board, commission or committee, is absent for three consecutive regular meetings, ceases to be a member.
- (1A) Subsection (1) does not apply to a Council member who sits as a member of a municipal committee and who is absent for fifty-two or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of birth or adoption.

Municipal Elections Act, R.S.N.S. 1989, c. 300, section 18:

- 18 (6) A councillor who, without leave of the council, is absent from three consecutive regular meetings of the council shall thereby vacate his office, and the office shall be declared vacant by the council, whether or not the councillor has vacated his office.
- (6A) Subsection (6) does not apply where the councillor is absent for fifty-two or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

Attachment 2 – Parental Accommodation Policy for Elected Officials

ADMINISTRATIVE ORDER NUMBER 2019-003-GOV RESPECTING PARENTAL ACCOMODATION FOR ELECTED OFFICIALS

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of section 14 of the *Halifax Regional Municipality Charter*, as follows:

Short Title

1. This Administrative Order may be known as the *Parental Accommodation Policy for Elected Officials*.

Interpretation

2. In this Administrative Order,

- (a) “CAO” means the Chief Administrative Officer or delegate;
- (b) “Council” means the Council of the Halifax Regional Municipality;
- (c) “HRM” means the Halifax Regional Municipality;
- (d) “member” means a member of the Council of the Halifax Regional Municipality; and
- (e) “parental accommodation” means a leave of absence by a Council member due to
 - (i) the pregnancy of the Council member;
 - (ii) the birth of the child of the Council member; or
 - (iii) the adoption of a child by the Council member.

Purpose and Objectives

3. The objectives of this Administrative Order are to:

- (a) provide parental accommodation to members; and
- (b) recognize that members maintain all rights and privileges of their office when on parental accommodation and can exercise those rights at any time.

Application

4. This Administrative Order applies to all members of the Council.

Parental Accommodation Leave

5. Subject to this Administrative Order, a member may take parental accommodation, commencing during a pregnancy or within twelve (12) months of a birth or adoption.

6. A parental accommodation permitted by this Administrative Order may not:

- (a) exceed fifty-two (52) consecutive weeks;
- (b) extend beyond the member's term in office.

Notice of Leave

7. A member shall notify the Mayor and the CAO of their intent to take parental accommodation a minimum of four weeks before the start of the leave. The notice shall include:

- (a) the start date of the parental accommodation and the expected return date; and
- (b) information about those duties, if any, the member will continue to undertake during all or part of the parental accommodation, including with respect to existing appointments to boards and committees.

8. The member is encouraged to consider the process that will be implemented to ensure that the member's constituents remain represented during the parental accommodation, which may include another member of council providing coverage or any other process that the member of council taking parental accommodation determines is appropriate.

9. If the member's process to ensure constituents remain represented during the parental accommodation includes another member of Council providing coverage during the parental accommodation, a copy must be provided to the member providing coverage.

10. Upon receipt of the notice of leave and any planned delegation of duties outlined, the Mayor and CAO shall review the notice and may provide any feedback they deem necessary to the member.

11. A member may revise their notice during their parental accommodation by submitting a revised notice to the Mayor and Chief Administrative Officer.

Salary and Benefits

12. A Council member on parental accommodation shall continue to receive their salary and benefits for the duration of their leave, not to extend beyond the Member's term in office, in accordance with Subsection 20(1)(d)(v) of the *Halifax Regional Municipality Charter*.

Regional Council and committee meetings

13. A member on parental accommodation may attend any meeting of Regional Council or a board or committee and exercise all rights and privileges of office.

14. If a member is absent from a meeting due to parental accommodation, the Municipal Clerk shall record the reason for the absence in the minutes of the meeting.

Roles and Responsibilities

15. HRM staff shall:

(a) provide advice and support to ensure the continuity of municipal services for constituents; and

(b) implement a communication plan outlining interim representation for constituents affected by parental accommodation based on the notice provided by the member in accordance with section 7.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on [month], [day], 2019.

Kevin Arjoon, Municipal Clerk

**ATTACHMENT 3
(Amending Administrative Order)**

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 1
THE PROCEDURE OF THE COUNCIL ADMINISTRATIVE ORDER**

BE IT RESOLVED as an Administrative Order of the Council of the Halifax Regional Municipality that Administrative Order 1, the Procedure of the Council Administrative Order is further amended as follows:

1. Section 125 is amended by adding subsection (3A) after subsection (3) and before section (4):

(3A) Subsection (3) does not apply to a Member who is absent for fifty-two or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of birth or adoption.

Done and passed in Council this day of A.D. 2019

Mayor

Municipal Clerk