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**Item No. 15.1.4**  
**Halifax Regional Council**  
**October 17, 2023**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed

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Cathie O'Toole, Chief Administrative Officer

**DATE:** September 14, 2023

**SUBJECT:** Amend AO10 Partial Tax Exemption to Apply to Commercial Properties

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**ORIGIN**

On September 12, 2023, Notice of Motion was given by Councillor Lovelace, as follows:

**TAKE NOTICE** that, at a future meeting of Halifax Regional Council, I propose to move amendments to Administrative Order 10, Respecting Partial Tax Exemption for Residential Taxation, the purpose of which is to extend tax relief to commercial properties destroyed by fire.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter, SNS 2008, c 39, subsections 71(2) and section 87, as follows:*

71 (2) The Municipality may not grant a tax concession or other form of direct financial assistance to a business or industry.

87 (1) The Council may, by policy, provide for the reduction, to the extent that the Council considers appropriate, of the taxes payable with respect to a property if a building situate on the property has been destroyed or partially destroyed by fire, storm or otherwise and the assessment of the property does not reflect that the building has been destroyed or partially destroyed, and provide for the reimbursement of any overpayment resulting from the reduction.

(2) A policy adopted pursuant to subsection (1) may be made retroactive to April 1, 1999.

(3) Upon a request by the Clerk, the Director of Assessment shall value the property for the purpose of a policy adopted pursuant to subsection (1) but, for greater certainty, may not change the assessment of the property except in accordance with the Assessment Act, 2008, c. 39, s. 87

Administrative Order 10, the *Partial Tax Exemption Administrative Order* (AO 10)

**Recommendation on Page 2**

## **RECOMMENDATION**

It is recommended that Halifax Regional Council refuse to adopt the amendments to Administrative Order 10, the *Partial Tax Exemption Administrative Order*.

## **BACKGROUND**

Provincial legislation allows the Municipality to provide property tax relief for properties destroyed or partially destroyed by fire. Council has already done so for residential properties in AO 10. This report discusses updates to AO10 to also permit commercially assessed properties to apply for tax relief where the building has been destroyed by the Tantallon and Hammonds Plains wildfire.

On August 28, 2023, the Chief Administrative Officer received correspondence from the Associate Deputy Minister of the Department of Municipal Affairs and Housing for the Province which indicates the Province's position with respect to HRM's legislative authority to waive property taxes for property owners who have suffered property losses as a result of recent natural disasters in HRM.

It is the Province's position that subsection 87(1) of that Charter applies equally to residential and commercial properties notwithstanding the general prohibition against providing direct financial assistance to a business or industry contained in subsection 71(2). From their perspective, subsection 87(1) should not be viewed as an exception to the rule contained in 71(2), but rather a way to address an otherwise inequitable situation where a person or entity is required to pay municipal taxes on a building that has been damaged for reasons beyond the taxpayer's control. In other words, 87(1) simply gives HRM the authority to levy appropriate taxes based on the current state of the property, and does not otherwise violate the principle against providing a tax concession to a business. The Province also noted that subsection 87(2) allows HRM to make a policy under 87(1) retroactive.

For the reasons noted above, it is the Province's position that HRM can rely on the authority in subsection 87(1) to provide a tax reduction to commercial taxpayers who have suffered building losses due to the recent wildfires.

## **DISCUSSION**

Notwithstanding the wishes of the Provincial government or local Councillor, HRM staff are recommending that no tax relief be provided to commercial properties for two reasons. Firstly, with respect, staff do not agree with the interpretation provided by the Province. The Charter prohibits the tax concessions to businesses and says:

71(2) The Municipality may not grant a tax concession or other form of direct financial assistance to a business or industry.

The Charter provisions (87(1)) allowing a tax reduction for properties damages by fire does not mention "commercial properties" so the provision prohibiting tax reductions for business continues to apply.

Secondly, business interruption insurance (including property tax coverage) is available to business owners and the decision to purchase insurance and type of insurance is a private matter between the business owner and their independent broker. There are no similar insurance policies available to cover property taxes under a residential policy. As business owners have the option to purchase an insurance policy that could cover property taxes in these instances, it is recommended the Administrative Order not be updated to include commercial property tax relief.

## **FINANCIAL IMPLICATIONS**

There are no financial implications under the recommended proposal.

If Council selects Alternative 1 (provide tax relief to the 4 commercial properties destroyed in the May/June 2023 fire), staff recommend only extending relief to businesses that did not have appropriate insurance coverage. If relief was provided to all four commercial properties destroyed in the wildfire the financial implication is estimated to be ~\$70K.

### **RISK CONSIDERATION**

The risks are discussed in a separate Private & Confidential report that accompanies this report.

### **COMMUNITY ENGAGEMENT**

No community engagement was required.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

### **ALTERNATIVES**

1. Regional Council could choose to provide commercial tax relief to only businesses destroyed in the May/June 2023 wildfire. If Council selects this option, Council would need to defeat the motion arising from the staff recommendation and then provide notice of motion to amend Administrative Order 10. Council would then need to provide a motion at a subsequent meeting to adopt the amendments.

The Notice of Motion for Alternative 1 would be:

TAKE NOTICE that, at a future meeting of Halifax Regional Council, I propose to move amendments to Administrative Order 10, the *Partial Tax Exemption Administrative Order*, the purpose of which is to extend tax relief to commercial properties destroyed in the Tantallon and Hammonds Plains wildfire.

The motion for Alternative 1 would be:

That Halifax Regional Council adopt the amendments to Administrative Order 10, the *Partial Tax Exemption Administrative Order* as set out in Attachment 2 of this report.

2. Council could choose not to grant commercial tax relief at this time and request clear legislative amendment to enable it to be done in future.

### **ATTACHMENTS**

Attachment 1: Showing proposed changes to Administrative Order 10 for Alternative One

Attachment 2: Amending Administrative Order for Alternative One

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A copy of this report can be obtained online at [www.halifax.ca](http://www.halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Renée Towns, Director of Revenue, Treasurer, Finance & Asset Management

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**ADMINISTRATIVE ORDER 10**  
**RESPECTING PARTIAL TAX EXEMPTION FOR RESIDENTIAL TAXATION**

**BE IT RESOLVED** as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

**INTERPRETATION**

2. In this Administrative Order,

(a) “exemption” means the amount by which taxes levied on a residential property are reduced pursuant to this Administrative Order;

(b) “income” includes wages, salaries, emoluments, gratuities and honorariums arising from employment; fees, earnings and profits from any profession, trade, business or calling after deducting the expenses of earning the same; interest and dividends received directly or indirectly from shares, stocks, bonds, debentures, deposits, mortgages, agreements for sale, estates, loans and other investments; pensions, annuities, retiring allowance, compensation and similar income from any person, business, estate, insurance or other company, government or government agency wherever earned and includes

- (i) all world income for deemed residents and for non-residents working outside of Canada; and
- (ii) any owner withdrawals from a self-employed applicant;

but does not include:

- (i) an allowance paid pursuant to the War Veterans Allowance Act (Canada)
- (ii) a child tax benefit;
- (iii) a GST or HST rebate;
- (iv) an oil rebate;
- (v) a pension paid to armed forces personnel pursuant to the Pensions Act (Canada).

(ba) “*Land Titles Clarification Act*” means the *Land Titles Clarification Act*, RSN 1989, c. 250, as amended;

(bb) “main building” means the building on the property containing the primary use, and excludes accessory structures on the property such as a shed, a barn, or a garage;

(c) “owner” means an ownership interest holder named in a registered instrument at the Nova Scotia Registry of Deeds, and includes

- (i) a part owner, joint owner, tenant in common or joint tenant of the property;
- (ii) in the case of the absence or incapacity of the person having title to the property, a trustee, an executor, a guardian, an agent, an heir, or next of kin;
- (iii) a person having the care or control of the property through adverse possession;
- (iv) a person with a life interest in the property; or
- (v) a person who has been issued a Certificate of Claim by the Minister responsible for Natural Resources pursuant to the *Land Titles Clarification Act* where such Certificate has been filed at the Nova Scotia Registry of Deeds;

but shall not include

- (i) a trustee in bankruptcy; or
- (ii) a corporation (other than a registered Canadian Charity); and

(d) “residential property” shall be the structure in which the owner or owners reside and that connected portion of land assessed as residential or resource with a dwelling under the Assessment Act of Nova Scotia (1989), provided that in the case of property assessed under two or more assessment categories, any partial property tax exemption shall be calculated on the residential assessment or resource with dwelling portion only, and property or land assessed as commercial, farmland, resource, forest, residential farmland, or residential forest shall not be deemed to be residential property.

### 3.0 ELIGIBILITY FOR PARTIAL TAX EXEMPTIONS

3.1 An application for a partial exemption from the payment of real property taxes rated upon residential **or, in the case of a fire under section 5, commercial** property within the Municipality may be made in writing in the prescribed form to the Treasurer of the Municipality.

3.2 The applicant **for a residential property exemption** must be an assessed owner of the residential property and occupy a structure on the property as the applicant’s principal residence.

**3.2A The applicant for a commercial property exemption under section 5 must be the assessed owner.**

3.3 If application is made on behalf of an applicant by a trustee, guardian or executor, or other legal representative, proof of such legal agent status shall be filed with the application.

3.4 Applications for a low-income exemption shall include proof of income from the prior year from Canada Customs and Revenue Agency, and in respect of self-employment income both the Canada Customs and Revenue Agency business statement and personal income tax statement, for all persons eighteen years of age or older occupying the property as their principal residence.

3.5 An applicant for a fire damage exemption shall establish

(a) **for residential properties**, that the structure occupied as their principal residence, **or**

(b) **for commercial properties under section 5, the main building on the property,**

has suffered a major fire, as identified by HRM Fire Services in a fire incident report. Properties damaged by a fire resulting from arson or other criminal activity carried out by, or with the consent of, the property owner are not eligible.

3.6 An applicant for a low-income exemption may be deemed to occupy a residential property as a principal residence, for up to twelve (12) months, while temporarily displaced due to fire damage. An applicant who wishes to remain eligible beyond this period, on the basis of a delay in re-construction due to financial hardship or insurance settlement delays, may make a request in writing with supporting materials to the Treasurer of the Municipality.

3.7 A property tax exemption will not be granted in respect of a second home, cottage or a rental unit of the applicant ~~or a residential unit used solely to run a business.~~

### 3A APPLICATIONS FOR HOMES ~~BUILDINGS~~ DESTROYED IN WILDFIRE ~~A FIRE~~

3A.1 Notwithstanding section 3, ~~where~~ **the Treasurer may only waive the requirement for an application if:**

(a) ~~a state of local emergency has been declared or three (3) or more residential properties have been subject to damage by a fire,~~ **Repeal**

- (b) ~~a residential property has been destroyed by natural disaster; and~~ **Repeal**
- (c) ~~the Municipality has notified the owner of the residential property that a request has been forwarded to the Director of Assessment to have the property reassessed,~~ **Repeal**
- (d) the application is for an exemption that results from a fire; and
- (e) the Treasurer has prior knowledge a fire has occurred on the particular property that would be the subject of the waiver.

~~no application for partial exemption shall be required.~~

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## **5.0 DETERMINATION OF EXEMPTION FOR HOMES BUILDINGS DESTROYED BY FIRE**

**5.1** Upon receipt of an acceptable fire damage tax exemption application, the municipal Clerk shall request the Director of Assessment to ~~have provide a revised opinion on value for the residential or commercial property reassessed~~ to reflect the condition of the property following the fire. If reconstruction work has been done prior to the time of ~~reassessment~~ **the revised opinion on value**, the estimated ~~assessment~~ value for this program shall be based on the property condition prior to the reconstruction work.

**5.1A.** For the purposes of commercial property under subsection 5.1, "fire" means the Tantallon and Hammonds Plains wildfire that commenced on May 28, 2023.

**5.2** (a) The revised **opinion on value assessment** shall be used for taxation, pro-rated for the period commencing from the date of the fire to the end of the fiscal year, **and the Treasurer shall reimburse any overpayment in the taxes for that fiscal year resulting from the revised opinion on value.**

(b) Notwithstanding subsection 5.2 (a), if the fire occurs between the assessment State Date (December 1<sup>st</sup>) and the end of the fiscal year, the revised **opinion on value assessment** shall be used for taxation, prorated for the period: from the date of the fire to the end of the fiscal year, plus the entire subsequent fiscal year.

**5.3** An applicant may apply for both the low-income and fire-damage tax exemptions in respect of a residential property, if eligible for both. The low-income tax exemption shall be applied to the tax bill for the subject fiscal year after adjusting for the fire damage tax exemption.

**5.4** If the property taxes for the subject fiscal year, after adjusting for the fire damage tax exemption, are below the minimum tax payable identified in subsection 6.1, then the taxes would not be further reduced and the minimum tax payable would not apply.

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## **7.0 APPLICATION DEADLINES**

**7.1** An application for a low-income tax exemption for a fiscal year shall be submitted by December 31st of that fiscal year. No application can be made for a retroactive low-income tax exemption.

**7.1A** Notwithstanding section 7.1, an application for exemption for the 2015/16 fiscal year shall be submitted by March 31, 2016.

**7.2** An application for a fire damage tax exemption shall be submitted within six (6) months after the

fire.

7.3 Notwithstanding, subsection 7.2, for fires that occurred between December 1st, 2008 and March 31st, 2010, an application for a fire damage tax exemption shall be submitted by September 30th, 2010.

7.4 Notwithstanding subsection 7.2, for the 2023-2024 fiscal year, an application for a fire damage tax exemption shall be submitted on or before December 29th, 2023.

Done and passed in Council this 27<sup>th</sup> day of April, 2010.

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Mayor

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Acting Municipal Clerk

**Attachment 2**  
**(Amending Administrative Order)**

**HALIFAX REGIONAL MUNICIPALITY**  
**ADMINISTRATIVE ORDER 10**  
**RESPECTING PARTIAL TAX EXEMPTION FOR RESIDENTIAL TAXATION**

**BE IT RESOLVED** by the Council of the Halifax Regional Municipality that Administrative Order 10, the *Partial Tax Exemption Administrative Order*, is amended as follows:

1. The title of the Administrative Order is amended by striking out the word “Residential” after the word “FOR” and before the word “TAXATION”.
2. Clause 2 (bb) is added after clause 2(a) and before clause 2(c), as follows:

(bb) “main building” means the building on the property containing the primary use, and excludes accessory structures on the property such as a shed, a barn, or a garage;
3. Subsection 3.1 is amended by adding the words and commas “or, in the case of a fire under section 5, commercial” after the word “residential” and before the word “property”.
4. Subsection 3.2 is amended by adding the words “for a residential property exemption” after the word “applicant” and before the word “must”.
5. Subsection 3.2A is added after subsection 3.2 and before subsection 3.3, as follows:

**3.2A** The applicant for a commercial property exemption under section 5 must be the assessed owner.
6. Subsection 3.5 is amended by:
  - (a) adding the comma and word “, or” after the words “principal residence” and before the words “has suffered”;
  - (b) lettering the words and comma “that the structure occupied as their principal residence, or” as clause (a);
  - (c) adding the words and comma “for residential properties,” at the beginning of the newly lettered clause (a); and
  - (d) adding clause (b) after clause (a) and before the words “has suffered a major fire”, as follows:
    - (b) for commercial properties under section 5, the main building on the property,
7. Subsection 3.7 is amended by deleting the words “or a residential unit used solely to run a business” after the word “applicant” and before the period at the end of the subsection.
8. Section 3A is amended by:
  - (a) striking out the word “HOMES” after the word “FOR” and before the word “DESTROYED”, in the header;

(b) adding the word “BUILDINGS” after the word “FOR” and before the word “DESTROYED”, in the header;

(c) striking out the word “WILDFIRE” after the word “IN” and before the end of the header;

(d) adding the words “A FIRE” after the word “IN” and before the end of the header;

(e) striking out the word “where” after the word, number, and comma “section 3,” and before the colon;

(f) adding the words “the Treasurer may only waive the requirement for an application if” after the word, number, and comma “section 3,”

(g) striking out the words “no application for partial exemption shall be required” after clause (c) and before the period at the end of the subsection;

(h) repealing clauses (a),(b), and (c); and

(i) adding clauses (d) and (e) after the newly repealed clause (c) and before the newly struck words “no application”, as follows:

(d) the application is for an exemption that results from a fire; and

(e) the Treasurer has prior knowledge a fire has occurred on the particular property that would be the subject of the waiver.

9. The header for section 5 is amended by:

(a) striking out the word “HOMES” after the word “FOR” and before the word “DESTROYED”; and

(b) adding the word “BUILDINGS” after the word “FOR” and before the word “DESTROYED”.

10. Subsection 5.1 is amended by:

(a) adding the words “residential or commercial” after the words “have the” and before the words “property reassessed”;

(b) adding the words “provide a revised opinion on value for” after the word “have” and before the word “the”;

(c) striking out the word “have” after the word “to” and before the newly added word “provide”;

(d) striking out the word “reassessed” after the word “property” and before and words “to reflect”;

(e) striking out the word “reassessment” after the words “time of” and before the comma and words “the estimated”;

(f) striking out the word “assessment” after the word “estimated” and before the word “value”; and

(g) adding the words “the revised opinion on value” after the newly struck word “reassessment” and before the comma and words “, the estimated”.

11. Subsection 5.1A is added after subsection 5.1 and before subsection 5.2, as follows:

**5.1A.** For the purposes of commercial property under subsection 5.1, “fire” means the Tantallon and Hammonds Plains wildfire that commenced on May 28, 2023.

12. Clause 5.2(a) is amended by:

(a) striking out the word “assessment” after the word “revised” and before the word “shall”;

(b) adding the words “opinion on value” after the word “revised” and before the newly struck word “assessment”; and

(c) adding the words and comma “, and the Treasurer shall reimburse any overpayment in the taxes for that fiscal year resulting from the revised opinion on value” after the words “fiscal year” and before the period at the end of the clause.

13. Clause 5.2(b) is amended by:

(a) striking out the word “assessment” after the word “revised” and before the word “shall”; and

(b) adding the words “opinion on value” after the word “revised” and before the newly struck word “assessment”.

14. Subsection 7.4 is added after subsection 7.4 and before section 7A as follows:

7.4 Notwithstanding subsection 7.2, for the 2023-2024 fiscal year, an application for a fire damage tax exemption shall be submitted on or before December 29th, 2023.

Done and passed this     day of     , 202     .

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MAYOR

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MUNICIPAL CLERK