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**Item No. 14.1.09**  
**Halifax Regional Council**  
**July 17, 2018**

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

**SUBMITTED BY:** Original Signed  
Dave Reage, A/ Chief Administrative Officer

**DATE:** April 20, 2018

**SUBJECT:** **Administrative Order 50: Disposal of Surplus Real Property – Community Interest Category – Proposed Amendment to Schedule 2**

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**ORIGIN**

March 27, 2018 – Regional Council approved amendments to *Administrative Order 50* that included the addition of a Schedule of Fees (Schedule 2) for less than market value property sales under the Community Interest category.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter*, subsections 59(3) and 61(3)

59(3) In addition to matters specified in this Act or another Act of the Legislature, the Council may adopt policies on any matter that the Council considers conducive to the effective management of the Municipality.

61(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

*Administrative Order 50 the Disposal of Surplus Real Property*, clause 2(2)(b), as follows:

2 (2) The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories...

...

Community Interest

(b) Properties known to have potential for community use, in particular where:

(i) there has been a prior community or institutional use of the property; or

(ii) by location or scarcity of available property the consideration would reasonably arise.

*Administrative Order 18, the Revenue Collections Policy Administrative Order.*

*Administrative Order 14 Respecting the Application of Interest Charges on Outstanding Accounts*, clause 1(a), as follows:

**Recommendation on page 2**

(a) Simple Daily Interest at the rate of 1.25% monthly (15% annually) will be charged on outstanding amounts owing to the Halifax Regional Municipality.

### **RECOMMENDATION**

It is recommended that Halifax Regional Council adopt the amendments to Administrative Order 50, the *Disposal of Surplus Real Property Administrative Order*, as set out in Attachment 2 of this report, which will repeal and replace Schedule 2 of the Administrative Order.

### **BACKGROUND**

In March of 2018, Council approved amendments to *Administrative Order 50* that simplify the requirements for the disposal of property assigned to the Community Interest category. Included in the amendments was the addition of fixed fees towards some of the closing costs paid by HRM to enable a sale. Specifically, the 'new' Schedule 2 of *Administrative Order 50*, "Schedule of Transaction Fees: Community Interest Real Property Disposal", grouped common closing costs into three (3) categories with a fee to establish predictability for applicants and consistency in the application of policy.

The current Schedule 2 includes the following fees:

- migration and deed fees for the subject property up to a maximum of \$2,500 per transaction, plus HST;
- appraisal/comparative market analysis for the lesser of (i) 50% of the cost of the appraisal transaction or (ii) \$2,500 per property transaction; and
- full cost recovery for a plan of survey for the sub-division of land, including lot consolidation, legal description and deed.

In practice, fees paid for a property transaction would be up to a maximum of \$5,000 unless the municipality undertakes a sub-division of land to create a discrete parcel of land so as to enable a sale.

During the Council debate concern was raised with respect to "affordability" if closing costs were due in full upon closing of an Agreement of Purchase and Sale. Notwithstanding that some organizations may simply wish to avoid payment, there are circumstances where a lump-sum payment may present a challenge. Notably, those organizations formed for the purpose of making an application under *Administrative Order 50* to acquire a surplus municipal property. Typically, such groups do not have a financial record of substance and may be reluctant to undertake fundraising in advance of a conveyance decision. Although these circumstances are not common, the proposed amendment to Schedule 2 to allow for a payment plan option is considered preferable to any discretionary waiver of transaction fees that may be viewed as subjective or ad hoc. It should be noted that the payment plan option applies to transaction fees only and excludes the purchase price or deed transfer tax.

### **DISCUSSION**

If approved, Schedule 2 of *Administrative Order 2014-001-ADM* is amended to enable the payment of closing costs in monthly installments over a maximum payment term of 24 months. In accordance with *Administrative Order 18*, closing costs would be billed and due monthly<sup>1</sup>. The due date is 30 days from date of billing. The amount is interest free unless in arrears. If arrears do occur, the interest rate is 1.25% monthly (15% per annum) as set out in Section 1(a) of *Administrative Order 14*. The payment arrangement, billing and deposits will be administered by the Revenue Division, Finance & Asset Management. The additional volume of work in relation to the collection of fees for some Community Interest sales is expected to be nominal.

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<sup>1</sup> Some discretion may be permitted if payment intervals need to be established to coincide with a revenue schedule (for example, an operating grant).

### **FINANCIAL IMPLICATIONS**

Under the recommendations, fixed fees for closing costs charged back to a Purchaser still result in a net loss to HRM because (i) such costs do not fully reflect HRM's actual cash expenditures and (ii) a maximum payment threshold is applied (except for sub-division/lot consolidation). However, these same costs, both to HRM and the Purchaser, are expected to be lower than otherwise because of recent amendments made to Community Interest administrative procedures. The net loss to HRM on closing costs and interest revenue attributed to the recommended prepayment option is expected to be less than \$10,000 annually. This is based on the expected volume of Community Interest Real Property Disposals.

### **RISK CONSIDERATION**

Low. The volume of payment plans is expected to be low primarily due to a cap on fees recovered from non-profit purchasers.

### **COMMUNITY ENGAGEMENT**

Not applicable.

### **ENVIRONMENTAL IMPLICATIONS**

Not applicable.

### **ALTERNATIVES**

1. Regional Council could refuse to adopt the amendments. If Regional Council selects this option, the transactions fees will continue to be due on closing of the sale.
2. Regional Council could pass the Attachment 2 with amendments. This may require a supplementary report depending on the extent of the amendments.
3. In addition to the standard billing and collection procedures set out in *Administrative Order 18*, Council could direct staff to make HRM invoke the right of set-off whereby an amount owned to HRM may be deducted from a payment due to the same party (for example, a cash grant) and direct staff to prepare amendments to the necessary policies to implement same. If Council selects this option a Supplementary Recommendation Report would be required.

### **ATTACHMENTS**

1. Showing Proposed Changes to Administrative Order 50 (shown in grey highlighted text).
2. Amending Administrative Order.

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

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**SCHEDULE 1**

**Purchase Price**

9. The amount of the purchase price for any community interest property must include the following costs:

(a) the deed transfer tax, in accordance with Section 109 of the *Municipal Government Act*, if applicable; and

(b) subject to sections 2 and 3 of Schedule 2, the transaction fees incurred by the Municipality, as set out in section 1 of Schedule 2.

**SCHEDULE 2**

**SCHEDULE OF TRANSACTION FEES:  
COMMUNITY INTEREST REAL PROPERTY DISPOSAL**

1. The purchase price shall include the following transaction fees:

Migration and Deed Fess for the Property:	maximum \$2,500 per property transaction, plus HST
Appraisal/Comparative Market Analysis:	lesser of 50% of the cost of the appraisal or \$2,500 per property transaction, plus HST
Plan of Survey for the Subdivision of Land, including Lot Consolidation, legal description and deed:	full cost recovery

2. If Council approves the sale of a community interest property to a non-profit organization in accordance with Schedule 1 of this Administrative Order, the non-profit organization awarded the property may make application to the Treasurer of the Municipality for a payment plan respecting the remittance of the transaction fees required by section 1 of this Schedule.

3. (1) Subject to subsection 2 of this Schedule, Council hereby delegates to the Treasurer of the Municipality the authority to approve and enter into on behalf of the Municipality a payment plan with the non-profit organization that was awarded the property for the payment of the transaction fees required by clause 9(b) of this Administrative Order.

(2) The Treasurer may only approve and enter into a payment plan if all the parties agree to the following terms and conditions:

(a) the maximum payment term shall not exceed twenty-four (24) consecutive months;

(b) subject to clause (f), the amount owed shall be interest free and shall be billed monthly;

(c) the non-profit organization shall have the option to pay the remaining balance owed at any time during the term of the payment plan without penalty;

(d) a specified fee shall be set for a non-sufficient funds (NSF) payment;

(e) the due date for a payment shall be thirty (30) days from the date of billing;

(f) simple daily interest at a rate set by Administrative 14, *Respecting the Application of Interest Charges on Outstanding Accounts*, shall be applied to any arrears; and

(g) after ninety (90) a persistently overdue account will be referred to the Revenue Division for collections in accordance with the *Revenue Collections Policy Administrative Order*, including an offset for any amounts that the Municipality might owe the non-profit organization.

**ADMINISTRATIVE ORDER NUMBER 50**  
**RESPECTING THE DISPOSAL OF SURPLUS REAL PROPERTY**

**BE IT RESOLVED** by the Council of the Halifax Regional Municipality that Administrative Order 50, *the Disposal of Surplus Real Property Administrative Order*, is further amended as follows:

1. Clause 9(a) is amended by:

(a) adding the words and comma “subject to sections 2 and 3 of Schedule 2,” at the beginning of the clause; and

(b) by adding the words and number “section 1 of” after the word “in” and before the word “Schedule”.

2. Schedule 2 is amended by:

(a) adding the following number, words and colon after the word “DISPOSAL” and above the line starting “Migration”:

1. The purchase price shall include the following transaction fees:

(b) adding sections 2 and 3 after the newly numbered section 1 as follows:

2. If Council approves the sale of a community interest property to a non-profit organization in accordance with Schedule 1 of this Administrative Order, the non-profit organization awarded the property may make application to the Treasurer of the Municipality for a payment plan respecting the remittance of the transaction fees required by section 1 of this Schedule.

3. (1) Subject to subsection 2 of this Schedule, Council hereby delegates to the Treasurer of the Municipality the authority to approve and enter into on behalf of the Municipality a payment plan with the non-profit organization that was awarded the property for the payment of the transaction fees required by clause 9(b) of this Administrative Order.

(3) The Treasurer may only approve and enter into a payment plan if all the parties agree to the following terms and conditions:

(a) the maximum payment term shall not exceed twenty-four (24) consecutive months;

(b) subject to clause f, the amount owed shall be interest free and shall be billed monthly;

(c) the non-profit organization shall have the option to pay the remaining balance owed at any time during the term of the payment plan without penalty;

- (d) a specified fee shall be set for a non-sufficient funds (NSF) payment;
- (e) the due date for a payment shall be thirty (30) days from the date of billing;
- (f) simple daily interest at a rate set by Administrative 14, *Respecting the Application of Interest Charges on Outstanding Accounts*, shall be applied to any arrears; and
- (g) after ninety (90) a persistently overdue account will be referred to the Revenue Division for collections in accordance with the *Revenue Collections Policy Administrative Order*, including an offset for any amounts that the Municipality might owe the non-profit organization.

Done and passed in Council this                      day of                      , 2018.

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Mayor

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Municipal Clerk