

HALIFAX

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Item No. 4

Halifax Regional Council
November 12, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Jerry Blackwood, Director Corporate and Customer Services

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: September 16, 2019

SUBJECT: Joint Project for Regulatory Modernization - Phase II Update

INFORMATION REPORT

ORIGIN

On November 13th, 2018 Halifax Regional Council passed the following Motion:

That Regional Council extend the Regulatory Modernization Joint Project collaboration with the Province of Nova Scotia and Business Advisory Panel for a period of two (2) years, to December 31st, 2020.

LEGISLATIVE AUTHORITY

The HRM Charter subsections 71 and 79 permit the Municipality to undertake economic development activities such as:

71 (1) The Municipality may

(a) solicit and encourage the establishment and development of new, and the establishment, development and expansion of existing institutions, industries and businesses in and around the Municipality

(b) publicize the advantages of the Municipality or any part of the Municipality and the surrounding areas as a location for the establishment and expansion of institutions, industries and businesses;

79(5) In the event of ambiguity in whether or not the Municipality has the authority under this or any other Act to spend money or to take any other action, the ambiguity may be resolved so as to include, rather than exclude, powers the Municipality had on the day before this Section came into force.

Administrative Order Number 2017-002-ADM - Charter of Governing Principles for Regulation sets considerations and requirements for developing, adopting, and implementing new regulation in HRM.

BACKGROUND

With a shared interest in reducing regulatory burden for business and growing the economy, the Halifax Regional Municipality (HRM) and the Province of Nova Scotia (PNS) have partnered to reduce red-tape and reform regulation in priority areas using a common regulatory reform approach called the Joint project for Regulatory Modernization. An HRM Regulatory Modernization Project Lead works with staff in the NS Office of Regulatory Affairs and Service Effectiveness and a Business Advisory Panel to identify priority issues and opportunities and to develop action plans and strategies to get visible results. The Advisory panel provides essential industry input and oversight to identify the issues of importance to business to improve Halifax's regulatory environment and make it easier to do business here.

The Joint Project for Regulatory Modernization pilot began in 2016 with three objectives: 1.) adoption of a Charter of Governing Principles for Regulation (modelled after the Atlantic Premier's Charter) 2.) concrete action to reduce red-tape in specific areas of priority to business and, 3.) development of an HRM customer service model for business aligned with the NS Business Navigator Program. With targeted input and oversight from the Advisory Panel and a collaborative working relationship between the Municipality and the Province, the Pilot was completed in the fall of 2018 with the following accomplishments:

- Regional Council adopted the Halifax Charter of Governing Principles for Regulation, Administrative Order (AO) to guide how HRM considers and develops regulation and its implementation. To support the AO's implementation, regulatory impact assessment and business impact assessment tools have been developed to evaluate the costs and benefits of proposed regulation and (non-regulatory) alternatives before decisions are made and action is taken to use regulation to address a policy matter.
- Regulations and processes were updated in specific areas to improve customer service for business including streamlining the sidewalk café license process, making it easier for event organizers and staff to process noise exemption applications by removing unnecessary approval steps, and helping business navigate sign regulation by designing new communication materials.
- A Memorandum of Understanding was signed between HRM and the Province for data sharing to support the NS Business Navigator Service and HRM's business customers making it easier for entrepreneurs and business start-ups to navigate regulation and compliance steps across the two levels of government.

Both partners agree that more needs to be done Municipally and Provincially to reduce red-tape for business and reform regulation for better policy outcomes. The Business Advisory Panel will continue supporting the Joint Project for a second term and the Panel has endorsed an eighteen-month Phase II work-plan which was developed collaboratively across HRM business units and to help accomplish Council's priority outcomes for Economic Development, Service Delivery, and Governance.

DISCUSSION

There are certain success factors that are needed for Regulatory Modernization to take hold in any government structure, these include leadership for regulatory reform strategy and tactics at the upper levels of government and government administration, unity among government levels and departments around common objectives and action to make a measurable impact on reducing red-tape and improving regulation as a public policy instrument, and a common vision for regulatory modernization that stakeholders support. The Joint Project has been an effective conduit for building these success factors but more needs to be done to ensure regulatory reform and public service outcomes are accomplished.

Charter of Governing Principles for Regulation:

Putting the supports in place to effectively implement the Charter of Governing Principles for Regulation Administrative Order (AO) is a focus for HRM's current business plan.¹ The AO (Attachment 1) is required for HRM's general application by-laws and excludes land use and local improvement charges by-laws and subdivision regulation. However, the principles under the AO are in sync with the principles of good governance and can be applied more broadly across regulatory streams to help achieve regulatory modernization objectives for reducing red-tape and establishing better performing regulation.

The Charter's Core Principles include:

- Regulation is an effective public policy instrument when it's designed to achieve measurable outcomes.
- Government should favour non-regulatory options such as education, voluntary compliance, partnerships, and incentives whenever feasible before defaulting to regulation.
- When regulation is used, it should be in the lightest form possible to achieve the desired outcomes.
- The process of developing and implementing regulation should be transparent, evidence-based and consultative with affected parties so that the cost benefits are fully understood.

HRM is continuing to build an operational framework to support the AO's implementation and evidence-based decisions that will help improve Council's outcomes. The Municipal business plan for 2019/2021 includes deliverables to help implement a consistent Regulatory Impact Assessment (RIA) process so that policy issues and regulatory proposals are analyzed in a more structured way before actions are taken. The RIA process helps gather valuable information on the costs and benefits of proposed regulation and non-regulatory options when amending existing by-laws or introducing new regulation.

A Regulatory Impact Assessment tool and business impact assessment (BIA) calculator tailored to HRM's needs has been developed and is being used to improve regulatory quality and reduce unnecessary red-tape for businesses, organizations, citizens, and the Municipality. The RIA guides "regulators" (including HRM staff, managers, and Council) through a process of demonstrating why regulation is preferred over other policy instruments to achieve the objectives, that stakeholders have been effectively engaged, and that the compliance and enforcement strategy is designed with good (measurable) indicators of regulatory performance. Regulatory proposals that have undergone the RIA process, and a BIA where businesses are impacted, include Plastic bags, Taxis and Limousines, Transit passes and On-Street Parking.

Incorporating a more structured impact assessment into HRM's regulatory development process requires a new way of thinking about when and how regulation is used as a public policy instrument. More work needs to be done to develop an effective operational framework to support regulators in their work and to shift the HRM culture toward regulatory modernization. This shift requires new operational and change management supports, sustained corporate oversight for regulatory reform outcomes, and unified support and work prioritization by HRM directors. Internal actions that are underway to support the shift include:

- A Regulatory Impact Assessment "tool-box" and training to support implementation.
- Incorporating early communication into the HRM Report Centre work flow (the technology that manages Council Reports) to signal to report-writers that an RIA and BIA may be required.
- Exploring adding a Regulatory Impact Section to Council Report templates requiring staff to demonstrate that red-tape reduction and regulatory cost benefits have been considered.
- Regular updates to the Performance Excellence Executive Steering Committee (CAO and Business Unit Directors) on operational and process improvements under the Joint Project work-plan that are helping to advance HRM's Performance Excellence outcomes.

¹ The Halifax Regional Municipality Charter of Governing Principles for Regulation AO was adopted by Regional Council in February 2018 and was modelled after a similar Charter adopted by the Atlantic Premiers in 2015.

Municipal – Provincial Partnership:

The Joint Project partnership between HRM and the Province has proven to be a successful model of how governments can work together on common interests. In this case, both HRM and the Province are interested in lightening regulatory impact on business. We know that sectors and economies are more interconnected than ever and that a joint inter-governmental approach will help improve the quality of regulation and policy outcomes and reduce red-tape for businesses that are wanting to operate here in Halifax. This approach recognizes that when governments actively work together public service can be a catalyst for business success rather than a barrier.

After a trial period of forming and testing the partnership the two orders of government are in a positive position to continue with the Joint Project work and to demonstrate measurable results by the end of 2020. The partnership is important to both provincial and municipal regulatory reform efforts and while both orders of government will continue to work hard to advance their respective regulatory modernization strategies, the Joint Project partnership is key to accomplishing stronger public results through joint action, sharing knowledge and public resources, and aligning regulatory approaches in areas of opportunity.

In January 2019 Mayor Savage and Premier MacNeil received a joint award from the Canadian Federation of Independent Business for the Joint Project and while that recognition speaks to the success of the partnership, both parties understand that more work needs to be done. There is a common understanding that regulatory reform is not just a project but an ongoing targeted effort.

Phase II Workplan:

The current work-plan was developed jointly by HRM and the Province and in consultation with the Business Advisory Panel. It focusses on advancing a shared work-plan of red-tape reduction action and maintaining a productive government-to-government relationship to continue building a shared regulatory reform approach. The work will be implemented over 18 months with a target completion of December 2020. The work-plan includes the following key actions:²

Red Tape Reduction and Customer Service Improvements:

- Review HRM regulations (Streets and Encroachment By-laws) and processes and complete changes that will make it easier for businesses to work in the municipal right-of-way to conduct routine maintenance on their infrastructure such as changing a sign lightbulb or washing windows. Streamlining may include the following:
 - Reducing the requirement for two permits to just one
 - Enabling an annual permit which could allow work to take place on the sidewalk provided the sidewalk is not completely closed to pedestrians
- Reduce processing times for high-volume routine planning and development permits to reduce wait times for applicants and focus more staff resources on major planning applications
- Develop and implement Phase I of the modernized HRM online Permit, Licencing and Compliance (PLC) software including:
 - Self-service customer portal with on-line payment.
 - Electronic plan submission, review, and revisions
 - Document and work-flow management and communication
 - Faster, more accurate electronic approvals

² Where an action requires Ministerial or Municipal Council approval the deliverable may shift according to the direction and decisions.

The PLC software will be released in three phases:

Phase 1: Permitting and Inspection (including mobile inspections)

Phase 2: Licencing and compliance

Phase 3: Planning and Subdivision

Council and Municipal customers will benefit from significant efficiencies and service quality with the Permit, Licensing and Compliance Software which has already been funded under Capital Project CI990013 for a total approved budget of \$7,530,300.

- Develop a joint (HRM/PNS) approach for improving inspection service for business focussing on priority areas which include developing and implementing:
 - A business-focussed customer service training pilot with HRM fire inspectors and provincial inspectors to respond to the unique needs of small and medium sized business.
 - Communication tools to help simplify regulatory information and compliance process.
 - An Inspector Navigator role to help coordinate inspections and streamline information to make it easier for businesses to comply with multiple inspections. This will be a 12-month pilot partnership between the NS Office of Regulatory Affairs and Service Effectiveness and HRM Fire Services.
- The Province will collaborate with HRM to consider granting HRM more autonomy to approve contracts over \$500,000 without Minister approval. This requires an amendment to Section 111(5) of the Halifax Regional Municipality Charter.
- The Province will collaborate with HRM to ensure that any legislative changes to the Halifax Regional Municipality Charter regarding proposed provincial mandatory land-use planning regulations reflect HRM's unique needs and regional planning structure
HRM will provide information to the NS Business Navigators on municipal permit and licence standards and regulatory process to help streamline and coordinate information sharing for businesses requesting help in navigating the regulatory process.

Regulatory Tables:

Align HRM and Provincial regulatory approaches in specific areas of over-lapping responsibility and that have an impact on business. This action will include:

- Piloting an inter-governmental model of collaboration by establishing *regulatory priorities tables*³ in specific policy areas that would have a direct and tangible impact on reducing red-tape for business and aligning government regulatory action. These tables may focus on:
 - Issues where the steps for business compliance could be simplified by coordinating regulatory implementation and sharing data such as the proposed Provincial short-term accommodations regulation and property registry.
 - Areas where early and targeted HRM/PNS collaboration could align regulatory approaches (or alternative policy options) such as the development of provincial regulations under the Traffic Safety Act or Coastal Protection Act.

³ These are small, focused teams of Provincial and Municipal staff working together to develop regulatory approaches in specific areas to maximize red-tape reduction for business and align outcomes.

Measurement and Assessment:

Develop a performance management framework and action plan to monitor and measure red-tape reduction in specific areas to improve public service delivery including:

- Set a target to reduce processing times for specific licences and permits and measure progress.
- Customize the Business Impact Assessment (BIA) tool to include government cost of red tape.
- Calculate municipal red-tape reduction for business and report on progress.
- Train HRM and PNS staff using the RIA and BIA tools and explore additional tools and approaches for improving the regulatory impact assessment process and outcomes.

The completion of this 18-month regulatory modernization work plan will result in measurable red-tape reduction in areas where businesses can see tangible results, stronger alignment of regulatory service delivery and policy implementation between HRM and the Province in priority areas, and more robust regulatory impact assessment before key decisions are made.

FINANCIAL IMPLICATIONS

There are no new financial costs created by this update report as the Joint Project for Regulatory Modernization actions are funded by pre-approved budgets

COMMUNITY ENGAGEMENT

The Joint Project Advisory Panel meets regularly to provide business sector insight to HRM and the Province on the areas of most importance to businesses for reducing regulatory burden. Advisory Panel stakeholders are largely independent businesses, developers, economic development and business sector organizations. Other stakeholders are engaged more generally and as needed including individuals and groups with an interest in regulatory reform and the modernization of public service delivery. The Joint Project objectives and actions are communicated through the HRM Reducing Red-Tape web-page and through the NS Office of Regulatory Affairs.

ATTACHMENTS

Attachment 1 – Administrative Order 2017-002-ADM Charter of Governing Principles for Regulation

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

Report Prepared by: Holly Richardson, Project Lead Regulatory Modernization, Corporate & Customer Services, 902.818.8430

**ADMINISTRATIVE ORDER NUMBER 2017-002-ADM
CHARTER OF GOVERNING PRINCIPLES FOR REGULATION**

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

WHEREAS the Province of Nova Scotia has adopted principles that guide regulators on regulatory reform and modernization

AND WHEREAS regulation is a powerful and sometimes necessary instrument of public policy that can support efficient and effective markets and protect consumers, workers, and the health, safety and environment of citizens and communities;

AND WHEREAS the purposes of the *Halifax Regional Municipality Charter* include enhancing, the ability of the Council to respond to present and future issues in the Municipality and recognizing that the functions of the Municipality are to provide good government and develop and maintain safe and viable communities;

AND WHEREAS unnecessary or outdated regulation can distort markets, unduly burden citizens, businesses and governments, and impede economic growth;

AND WHEREAS regulation should never be an instrument of first resort, and should be deployed only when necessary and where there is clearly no better policy alternative;

AND WHEREAS regulation should not impose undue costs and obligations on business, social enterprises, individuals and community groups unless a cost benefit analysis shows that the regulation is warranted;

AND WHEREAS the policy outcomes and impacts of regulation should be measurable;

Short Title

1. This Administrative Order may be cited as the *Charter of Governing Principles for Regulation Administrative Order*.

Purpose

2. The purpose of this Administrative Order is to set out considerations for the development, adoption, and implementation of new regulation in the Municipality.

Interpretation

3. In this Administrative Order,

- (a) "Council" means the Council of the Municipality;
- (b) "HRM Charter" means the *Halifax Regional Municipality Charter*, 2008, SNS. C.39, as amended;
- (c) "Municipality" means the Halifax Regional Municipality; and
- (d) "Regulation" means a by-law adopted by Council in the execution of a power granted by or under an enactment.

Application

4. (1) Subject to subsection 2, this Administrative Order is to be used in the development and consideration of new by-laws, amendments to existing by-laws, and the implementation of such by-laws that, in the opinion of the Municipality, will impose new restrictions on a business, industry, community or citizen.

(2) This Administrative Order shall not apply to land use by-laws or by-laws imposing local improvement charges.

Developing Regulation

5. The purpose of a Regulation and its outcomes shall be stated at the outset.
6. Regulations must not be inconsistent with an enactment of the Province or of Canada.
7. Unless Council otherwise directs, when developing a Regulation, the following will be considered:
 - (a) whether the Regulation is expected to achieve the stated purpose, including whether the Regulation is proportionate and targeted at the stated purpose;
 - (b) whether satisfactory outcomes can be achieved by alternative non-regulatory approaches;
 - (c) whether analysis of the costs and benefits demonstrates that the regulatory approach will achieve outcomes more effectively than the alternative non-regulatory approaches;
 - (d) whether the Regulation imposes unreasonable restrictions on those being regulated;
 - (e) the extent of existing municipal regulations in the area to be regulated;
 - (f) whether the new Regulation duplicates existing regulatory requirements and processes adding unnecessary complexity and burden on affected parties;
 - (g) the importance of accessible and transparent administrative processes and customer service standards in achieving efficient and effective regulatory performance;
 - (h) whether the Regulation responds to an existing community need rather than a current event;
 - (i) the anticipated costs of regulatory compliance for those being regulated and the costs of regulatory enforcement to the Municipality, including whether there is an ability to reduce such costs by repealing or amending existing regulations or the manner in which existing regulations are implemented;
 - (j) how success of the Regulation will be measured, including the outcomes that will be monitored if the regulation is adopted; and
 - (k) whether it would be appropriate to draft the Regulation in plain language.

Considerations for the Adoption of a Regulation

8. When considering Regulations, Council may consider:
 - (a) any consideration in section 5, 6, and 7 of this Administrative Order;
 - (b) if a Regulation is warranted;
 - (c) if the purpose of a Regulation may be achieved by an alternative means, including
 - (i) whether a Regulation is preferable to a self-regulatory approach, such as doing an education program, and
 - (ii) whether the alternative means of achieving the purpose of the Regulation will, in the opinion of Council, be ineffective in achieving the purpose;

- (d) if the remedial provisions of the Regulation are predictable, proportionate, and are targeted at compliance;
- (e) if the Regulation complies with this Administrative Order; and
- (f) any other matter Council considers appropriate.

Adoption Process

9. Subject to section 19 of the *HRM Charter*, Council meetings where a Regulation is considered must be open to the public.

10. Council will hold a public hearing before adopting a Regulation if:

- (a) a public hearing is required by the HRM Charter; or
- (b) Council decides it wants to hold a public hearing.

Review Regulation

11. (1) Adopted Regulations may be reviewed from time to time.

(2) Regulations that are reviewed must be reviewed objectively and may include external consultations.

Posting Regulations

12. Adopted Regulations must be made accessible to the public.

Effective Date

13. This Administrative Order comes into force February 1, 2018.

Mike Savage, Mayor

Kevin Arjoon, 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 December, 12, 2017.

Kevin Arjoon, Municipal Clerk

Notice of Motion:
Approval:
Effective Date:

December 5, 2017
December 12, 2017
February 1, 2018