

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

**SUBMITTED BY:** Original Signed

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Cathie O'Toole, Chief Administrative Officer

**DATE:** March 14, 2024

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

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## **ORIGIN**

On October 17, 2023, Halifax Regional Council passed an amendment to a motion to amend Administrative Order 10 as follows:

**THAT** Halifax Regional Council:

1. Refuse to adopt the amendments to Administrative Order 10, the Partial Tax Exemption Administrative Order.
2. Direct the Mayor to write a letter requesting the Province amend section 87 of the Halifax Regional Municipal Charter to specifically permit the extension of tax concessions with respect to commercial properties

## **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) Notwithstanding subsection 71(2), 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**

It is recommended that Halifax Regional Council adopt the amendments to Administrative Order 10, the *Partial Tax Exemption Administrative Order*, as set out in Attachment 2 of the staff report dated March 14, 2024.

## **BACKGROUND**

At the time of the initial motion to amend Administrative Order 10 put to Council on October 17, 2023, HRM staff recommended that the motion be refused. In the alternative, staff recommended that Council bring forward the motion once amendments were made by the Province to the *Halifax Regional Municipality Charter* (the Charter) to allow the Municipality to provide property tax relief for properties destroyed or partially destroyed by fire. The limiting subsection was 71(2) that prohibits the Municipality from providing “grant a tax concession or other form of direct financial assistance to a business or industry”.

On November 9, Royal Assent was given to the amended Section 87(1) of the Charter to insert “Notwithstanding subsection 71(2)”, thus providing the clarity required to permit the Municipality to make changes to Administrative Order 10 to support tax relief to the commercial properties damaged in the May 2023 Tantallon and Hammonds Plains wildfire.

## **DISCUSSION**

Tax concessions have been provided to the taxpayers of residential properties that were damaged or destroyed in the May 2023 Tantallon and Hammonds Plains wildfire; however, similar concessions were unavailable to the four commercial properties that were similarly damaged or destroyed during the same event.

The change to Administrative Order 10 is narrow to support tax relief for only those commercial properties damaged or destroyed by the May 2023 Tantallon and Hammonds Plains wildfire. Specifically, the tax relief is intended to be available only to the commercial properties affected by the May 2023 wildfire and should not be construed as a long-term change in tax policy with respect to damage to commercial properties.

## **FINANCIAL IMPLICATIONS**

Tax relief to the four commercial properties that are subject to this amendment will amount to approximately \$70,000 of revenue to be reversed.

## **RISK CONSIDERATION**

There are no substantial risks associated with this modification as it is very narrow in scope and does not apply to commercial properties beyond those defined in Section 5.1(A) in Attachment 1.

## **COMMUNITY ENGAGEMENT**

No community engagement was required.

## **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

**ALTERNATIVES**

1. Regional Council could choose to deny commercial tax relief to businesses destroyed in the May/June 2023 wildfire and maintain current policy.

**ATTACHMENTS**

Attachment 1: Showing proposed changes to Administrative Order 10

Attachment 2: Amending Administrative Order

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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: Vicki Robertson, A/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:

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

(ba) “*Land Titles Clarification Act*” means the *Land Titles Clarification Act*, RSNS 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);

(ca) Notwithstanding subclause 2(c)(ii), for the purposes of commercial property under subsection 3.2A, "owner" shall include a corporation; 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.

3.2 A The applicant for a commercial property exemption under section 5 must be an 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:

- (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 fire; and
- (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,

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.

5.1 A. For the purposes of partial tax exemptions for 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.

(c) For the purposes of partial tax exemptions for commercial property under subsection 5.1 for the Tantallon and Hammonds Plains wildfires that commenced on May 28, 2023, this subsection shall be retroactive to April 1, 2023.

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.

7.1 A 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 October 31<sup>st</sup>, 2024.

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

**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. Subclause 2(c)(ii) is amended as follows:

(a) striking out the word “and” after the semi colon “;”;
4. Clause 2(ca) is added after clause 2(c) and before clause 2(d), as follows:

(ca) Notwithstanding subclause 2(c)(ii), for the purposes of commercial property under subsection 3.2A, “owner” shall include a corporation; and
5. 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”.
6. Subsection 3.2 is amended by adding the words “for a residential property exemption” after the word “applicant” and before the word “must”.
7. 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 an assessed owner.
8. 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,
9. 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.
10. 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;

11. Subsection 3A.1 is amended by:

- (e) repealing clause (a);
- (f) striking out the word “residential” after the word “a” and before the word “property” in clause (b); and
- (g) striking out the word “residential” after the word “a” and before the word “property” in clause (c).

12. 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”.

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

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

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

15. 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.

16. 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”.

17. Subsection 5.2 is amended by adding clause (c) after clause (b), as follows:

- (c) For the purposes of partial tax exemptions for commercial property under subsection 5.1 for the Tantallon and Hammonds Plains wildfires that commenced on May 28, 2023, this subsection shall be retroactive to April 1, 2023

18. Subsection 7.4 is added after subsection 7.4 and before subsection 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 September 30<sup>th</sup>, 2025.

Done and passed this      day of      , 202      .

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MAYOR

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MUNICIPAL CLERK