



Town of Newmarket
395 Mulock Drive P.O. Box 328,
Newmarket, Ontario, L3Y 4X7

Email: info@newmarket.ca | Website: newmarket.ca | Phone: 905-895-5193

Council Pregnancy and Parental Leave Policy Staff Report

Report Number: 2019-17

Department(s): Legislative Services

Author(s): Sarah Niezen, Records and Projects Coordinator

Meeting Date: February 25, 2019

Recommendations

1. That the report entitled Council Pregnancy and Parental Leave Policy dated February 25, 2019 be received; and,
2. That the Pregnancy and Parental Leave for Members of Council Policy attached to the report as **Attachment 1** be adopted; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

This report is to seek Council approval of the adoption of the attached Council Pregnancy and Parental leave policy as required by section 270 of the Municipal Act.

Background

In June 2017, [Corporate Services Information Report 2017-06](#) described the new requirement resulting from the Modernizing Ontario's Municipal Legislation Act (Bill 68) for the Town to adopt a policy with respect to Pregnancy or Parental Leave for Council.

In addition, the Municipal Act as amended, now permits a Member of Council to be absent from meetings for up to 20 consecutive weeks without requiring Council permission if the absence is related to a pregnancy or to the birth or adoption of a child.

This section of the Municipal Act, is intended to encourage more women in office and make municipal politics more inclusive.

Prior to Bill 68, if a Member of Council was pregnant, gave birth to a child or adopted a child, the Member was required to seek and receive a resolution of Council for a leave of absence. Clause 259 (1) (c) of the Municipal Act states that the office of a Member of Council of the municipality becomes vacant if the Member, is absent from the meetings of Council for three consecutive months without being authorized by a resolution of Council. The new subsection 259 (1.1) states that clause (1)(c) does not apply to vacate the office of a Member of Council of a municipality who is absent for 20 consecutive weeks or less if the absence is a result of the Members' pregnancy, the birth of the Member's child or the adoption of a child by the Member. Subsection 259 (1.1) is intended to ensure that Council cannot declare the seat vacant of a Member who is absent without notice or resolution of Council for the reasons listed.

Discussion

The draft Policy (**Attachment 1**) outlines a process for a Member to formally submit their intention to take pregnancy or parental leave to the Clerk using the provided form. The form sets out the administrative options for the Member's leave, such as the level of communication they wish to continue to receive.

The Policy provides as much flexibility as possible for Members recognizing that as elected representatives they have a unique role, and it is up to the individual Member to determine the level of service to provide their constituents. As currently drafted the Council Pregnancy and Parental Leave Policy currently permits the Member of Council on leave to continue to participate in events, and continue to represent their constituents at the level they choose and that is appropriate for their specific circumstances.

As required by Bill 68, all municipalities are required to have a policy by March 1, 2019, which means that the Region of York will be adopting a policy to deal with Pregnancy and Parental Leave for their members. There is nothing precluding a Member of Regional Council from taking parental leave while continuing to attend Town meetings or vice versa.

Definition of Parental Leave and Additional Circumstances

Although the definition of pregnancy and adoption is clear, the "birth of the member's child" could be open to interpretation to include birth of the member's child by a surrogate, or other means. This definition is not restricted to biological parentage.

Accordingly, staff have defined "additional circumstances" to mean the circumstances which bring a child into a Member of Council's custody, care and control for the first time. This definition is taken from section 48.1 of the Employment Standards Act, which will establish clarity and permit Council the option of permitting a type of parental leave

beyond what is already provided for in the Act. This type of leave would require a resolution of Council permitting the Member, who is seeking leave due to “additional circumstances”, to be absent from meetings of Council for more than three successive months.

Extended Leave

Members of Council may request extended leave beyond 20 weeks for parental leave or additional circumstances as outlined in the policy. Council must authorize the absence by resolution. A request for extended leave should be submitted to the Clerk using the Leave Advisory form and the Clerk will prepare a report for Committee of the Whole addressing any administrative requirements of an extended leave.

Remuneration

Unlike Town staff who are entitled to Employment Insurance (EI) for pregnancy/parental leave for the birth or adoption of a child in accordance with the Employment Standards Act, Members of Council do not pay Employment Insurance premiums and are not entitled to EI from the Town. As elected officials are not employees of the municipality the requirements of the Employment Standards Act with respect to paid, leave do not apply to Members of Council.

The Council Pregnancy and Parental Leave Policy currently permits the Member of Council on leave to continue to participate in events, and continue to represent their constituents at the level they choose and that is appropriate for their specific circumstances. With Council members potentially choosing to participate at varying levels and with a potential public expectation that members of Council remain available, Council Members have the option of continuing their duties at a reduced level. During the leave, a Member may choose to attend Council or committee meetings without triggering a termination of the leave. This is consistent with the approach taken by other municipalities.

A Member’s salary and any benefits will continue unaltered throughout the leave and a Member will have access to all of their office and technical resources,

Conclusion

Following approval of the required policy it will be posted on the website, circulated to all staff in the executive offices and shared with York Region.

Business Plan and Strategic Plan Linkages

This policy relates to the Well-equipped and managed link of the Town’s Community vision.

Consultation

This policy was drafted in conjunction with the Director of Human Resources and the Director of Legal Services & Procurement. The Region of York, and other lower tier York Region municipalities were consulted regarding the drafting of the policy.

Human Resource Considerations

None.

Budget Impact

None.

Attachments

Attachment 1 – Pregnancy and Parental Leave Policy for Members of Council

Approval

Kiran Saini,

Acting Director of Legislative Services/Town Clerk

Lisa Lyons,

Acting Commissioner of Corporate Services

Contact

For more information please contact Sarah Niezen, Records and Projects Coordinator at sniezen@newmarket.ca