**Pregnancy & Parental Leave Policy**

**POLICY STATEMENT**

The City of Hamilton (“the City”) recognizes that life events such as pregnancy, childbirth and when a child joins a family are significant periods of time for all persons involved. The City supports employees through these events with the provision of pregnancy and parental leaves in accordance with Ontario’s *Employment Standards Act* (ESA).

The City is fully committed to maintaining an inclusive and respectful work environment consistent with the *Ontario Human Rights Code* (OHRC). New parents and pregnant employees who require additional supports that are not covered under this policy should refer to the City’s policies on Employment Accommodation, Breastfeeding on City Premises, Unpaid Leave of Absence, or Flexible Work Arrangements for more information pertaining to their specific needs.

**PURPOSE**

The purpose of this policy is to:
- provide employees with an overview of pregnancy and parental leaves available under the ESA
- outline the roles and responsibilities of employees and supervisors in (1) the accommodation of pregnancy-related needs, and (2) implementing pregnancy and parental leaves of absence

**SCOPE**

This policy applies to employees who are eligible to take pregnancy and parental leave as permitted under applicable employment standards legislation.

Unionized employees should also refer to their applicable collective agreement for any related provisions.

**DEFINITIONS**

**Parent**

As per the Ontario *Employment Standards Act*, a “parent” includes:
- a birth parent (biological)
- an adoptive parent (whether or not the adoption has been legally finalized)
- a person who is in a relationship of some permanence with a parent of the child and who plans on treating the child as his or her own. This includes same-sex, trans and gender diverse partnerships.

**Parent Who Has Given Birth**

The parent who carried and delivered a child, including through caesarean section.
**Pregnancy**

The process of having a baby from conception up to the period following childbirth.

Special needs and circumstances that may be experienced by a pregnant woman are also included within the definition of pregnancy. Experiences of pregnancy will differ between individuals, and needs can relate to circumstances arising from:

- fertility treatments and other interventions to get pregnant
- miscarriage
- abortion
- complications because of pregnancy or childbirth
- conditions that result directly or indirectly from an abortion/miscarriage
- recovery from childbirth
- breastfeeding.

**Pregnancy Leave**

The leave provided under Ontario’s *Employment Standards Act* to the parent who has given birth, for the purpose of recovering from the physical demands of childbirth.

**Parental Leave**

The leave provided under Ontario’s *Employment Standard’s Act* to parents for the purpose of providing care to any child that has come under the care, custody, and control of the parent for the first time. Applies to the parent who has given birth following the end of the pregnancy leave. Leave for the purpose of adoption is considered parental leave.

**TERMS & CONDITIONS**

**1. Pregnancy Leave**

1.1 A parent who has given birth is entitled to 17 weeks of pregnancy leave from the City provided that they have been employed by the City for a minimum of 13 weeks prior to commencing the leave.

1.2 The parent who has given birth must take 17 weeks of pregnancy leave before starting a parental leave. In compliance with the ESA, an employee can commence their pregnancy leave up to and including 17 weeks in advance of the baby’s due date. If the pregnancy leave has not started by the date of birth, it will be deemed to have commenced immediately upon the birth date of the child.
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| 2. Miscarriage and Stillbirth    | 2.1 An employee who suffers a miscarriage within the 17-week period leading up to the due date will be entitled to pregnancy leave. The pregnancy leave of an employee who has a miscarriage or stillbirth ends on the date that is the latter of: 17 weeks after the leave began; or 12 weeks after the stillbirth or miscarriage.  
2.2 An employee who suffers a miscarriage is not eligible for parental leave under the ESA. |
| 3. Parental Leave               | 3.1 A parent who has given birth is entitled to 61 weeks of parental leave beyond the 17 weeks of pregnancy leave. The child’s other parent is entitled to a maximum of 63 weeks of parental leave.  
3.2 If the child’s other parent chooses to take parental leave, they must begin their leave no later than 78 weeks after the birth or after the child first comes into their care, custody or control.  
3.3 Employees may take a shorter leave if desired; however once commencing the leave it must be taken all together. For instance, employees cannot begin the leave, return to work, and then decide to take the remainder of the leave at a later date. |
| 4. Notice Period                | 4.1 Employees are encouraged to provide as much notice as possible before taking pregnancy or parental leave so that the City can plan accordingly. Employees must give the City written notice at least two weeks before the start of the leave.  
4.2 Where an employee must begin their leave immediately due to unforeseen circumstances such as illness or complications caused by pregnancy, and cannot provide two weeks’ notice, the employee will inform their supervisor as soon as possible.  
4.3 Employees must give the City written notice of when they plan to end the leave or if they wish to change the return date to an earlier or later time.  
4.4 Employees who decide not to return to work at the end of the leave are requested to give the City at least four weeks written notice of his/her intention to terminate employment. |
| 5. Right to Reinstatement       | 5.1 Upon their return, an employee who has taken pregnancy leave, parental leave, or both is entitled to return to the same job that they had before the leave. In the event that the job that the employee |
### 6. Employment Insurance

6.1 The Federal Employment Insurance Act provides eligible employees with pregnancy leave and/or parental leave benefits that are payable over the period that the employee is off on such leaves. Employment insurance is paid to one parent or the other, or can be split between both parents.

### 7. Benefits

7.1 For employees who are eligible for benefits, continued coverage will be offered during pregnancy leaves and parental leaves as follows:

- Benefit coverage includes extended health and dental coverage, group life insurance and accidental death and dismemberment insurance benefits.

- Employees enrolled in optional life insurance will have the option to continue coverage during their leave. If an employee chooses to cease coverage during leave and wishes to continue coverage upon their return, the employee will have to reapply. This will require an employee to medically qualify for this coverage with the Insurer.

- Short-term and Long-term disability benefits are excluded from coverage while an employee is on a pregnancy leave or parental leave of absence except for post-delivery short-term recovery as outlined below.

7.2 Employees are advised to review their respective Collective Agreements where applicable for specific details on their benefits during pregnancy and parental leave.

### 8. Post-Delivery Short-Term Disability Benefits

8.1 A parent who has given birth is eligible to receive 6 weeks of Short Term Disability benefits paid by the City immediately following the delivery. This benefit must be applied for by submitting a completed short-term disability claim form to Return to Work Services within two weeks of the delivery. Any delay in submitting the form should be discussed with an Attendance Management Coordinator.

8.2 The 6-week Short Term Disability period does not extend the 78-week pregnancy and parental leave. It is part of the leave period held before leave no longer exists upon their return, the employee will be placed in a comparable job.
and is a payment issue only.

8.3 In the event that an employee begins their pregnancy leave and does not deliver until a later date, the 6 weeks of STD benefits will not begin until the date of delivery.

9.1 When it is known that an employee will be taking pregnancy or parental leave, their supervisor must complete a Performance Assessment (PA) before the individual commences their leave.

10.1 An employee who is away from the workplace due to a pregnancy or parental leave is entitled to any pay increase they normally would receive during that time.

10.2 An employee who was due for a merit increase during their leave, and did not have a PA completed prior to commencing their leave, may be required to work for an assessment period before the merit increase will be initiated.

10.3 Pay or merit increases will take effect upon the employee’s effective date of return, but will be retroactive to the date that the employee was eligible.

11.1 Seniority, service and vacation entitlement continue to accrue for employees who are on pregnancy and parental leave.

12.1 If an employee wishes to maintain pension service credits he/she must pay the employee’s contributions for the duration of the leave. The City will match these contributions.

13.1 Employees who will be away from the workplace on a pregnancy or parental leave must leave all City of Hamilton property (such as laptops, pagers, cell phones, etc) with their direct supervisor at the end of their last scheduled work day before the leave.

13.2 In the event that an employee has to start their leave earlier than was anticipated, the employee must make arrangements with their supervisor to return the property as soon as it is possible to do so.
### Compliance
Compliance with this policy shall be interpreted in a manner consistent with the Ontario *Human Rights Code*. Failure to comply with this Policy will result in the appropriate disciplinary action up to and including termination of employment.

### Related Documents
The following related documents are referenced in this Policy:

1. Ontario *Employment Standards Act*
2. Federal *Employment Insurance Act*
4. Unpaid Leave Policy
5. Flexible Work Arrangements Policy
6. Employment Accommodation Policy
7. Workplace Breastfeeding Policy

### History
The Corporate Policy Review Group was consulted in the creation of this Policy.

This policy was approved by the Executive Director of Human Resources, in consultation with Human Resources Leadership Team, on 2016-02-09.

This policy was amended on 2018-01-25 to reflect changes made to pregnancy and parental leave entitlements within Ontario’s *Employment Standards Act*. 