

HALIFAX

P.O. Box 1749
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Item No. 14.1.1
Halifax Regional Council
September 18, 2018
October 16, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Jacques Dubé, Chief Administrative Officer

DATE: August 17, 2018

SUBJECT: **Proposed By-law R-108, An Amendment to By-law R-100 Respecting the Repeal of By-laws and Ordinances**

ORIGIN

Report originates as part of the By-law Review Project, which involves the review, updating and consolidation of By-laws and a 2014/15 Business Plan, Community and Recreations Services Deliverable, "Review and consolidate by-laws A-200 Automatic Machines and A-501 Licensing of Persons Monitoring Automatic Machines".

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter ("HRM Charter") subclause 188(2)(e)(i) - Without restricting the generality of subsection (1) but subject to Part VIII, the Council may, in any by-law;

(e) provide for a system of licences, permits or approvals, including any or all of

(i) establishing fees for licences, permits or approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy,

By-law R-100, the By-law and Ordinance Repeal By-law

RECOMMENDATIONS

It is recommended that Halifax Regional Council:

1. Adopt By-law R-108 as contained in Appendix A to repeal the following:
 - (a) By-law 15100 Trade and Licensing By-law (Bedford);

Recommendation continued on next page

- (b) By-law A-501 Automatic Machines, Games Tables, Vending Machines and Mechanical Rides (Dartmouth);
- (c) By-law 15 Trade and Licensing By-law (County of Halifax);
- (d) By-law A-200 Automatic Machines (HRM); and

2. Amend Administrative Order 15 as contained in Appendix C.

BACKGROUND

This report is a result of a review of By-law A-200, Respecting Automatic Machines, as part of the ongoing By-law Review Project. The work to complete this report began under Community and Recreation and continues under Planning and Development following the restructuring and realignment of department responsibilities. This report is part of the overall comprehensive review and consolidation of the Municipality's by-laws.

As a result of this review, the following by-laws have been identified as no longer required and are recommended for repeal.

By-law No. 15100, Trade and Licensing By-law (Bedford)

By-law 15100 is a 35 year old by-law enacted by Bedford Town Council in October 1983. This by-law applies to the licensing of auctioneers, peddlers, hawkers, photographers, circuses, amusement facilities, skating rinks, dance halls and nightclubs, etc. Reports relative to the document's creation and reason for the specific licenses within the legislation are no longer available.

By-law A-501, Automatic Machines, Games Table, Vending Machines and Mechanical Rides (Dartmouth)

By-law A-501 is a 28 year old by-law enacted by the City of Dartmouth in February 1990. This by-law applies to the licensing of automatic machines, gaming tables, jukeboxes and vending machines. Reports relative to the document's creation and reason for the specific licenses within the legislation are no longer available.

By-law No. 15, Trade and Licensing By-law (County)

By-law No.15 is a 46 year old by-law enacted by the Halifax County Municipality in January 1972. This by-law applies to the licensing for the removal and collection of sewage. Reports relative to the document's creation and reason for the specific licenses within the legislation are no longer available.

By-law A-200, Respecting Automatic Machines (HRM)

In March of 2004, Halifax Regional Council passed By-law A-200 Respecting Automatic Machine. This by-law is the partial consolidation of most of the aforementioned by-laws of the City of Halifax, Dartmouth, Halifax County Municipality and Town of Bedford. This by-law applies to the licensing of Automatic Machines, including amusement, bulk, laundry and vending machines.

The staff report to Regional Council, dated October 24th, 2003, recommending the adoption of HRM By-Law A-200 Respecting Automatic Machines, describes the rationale for the licensing fee. The report states, "The license fee is levied in lieu of business occupancy tax for business whose machines are not covered by their business occupancy tax (i.e. coin-operated /dryers in an apartment building, pop vending machines in a mall.)"

DISCUSSION

By-law No. 15100, Trade and Licensing By-law (Bedford)

In March 2004 with the enactment of HRM By-law A-200, the majority of By-law 15100 was repealed. The remaining items in this legislation, peddler, trader and photographer are covered under HRM Vending By-law C-501. The other items, circus, bowling alley, skating rink, dance hall, night clubs and amusement rides are covered by overlap legislations with the Province of Nova Scotia. The provincial legislation includes the Gaming Control Act, Liquor Control Act, and the Theatres and Amusements Act. The licensing fees associated with the remaining items of this by-law were never adopted in Administrative Order #15, Respecting License, Permit and Processing Fees.

By-law A-501, Automatic Machines, Games Table, Vending Machines and Mechanical Rides (Dartmouth)

In March 2004 with the enactment of HRM By-law A-200, the majority of By-law A-501 was repealed. The items remaining in this legislation, automatic machines, game tables, jukebox and vending machine are covered by overlapping legislation with HRM's By-law A-200. The licensing fees associated with the remaining items of this legislation were never adopted in Administrative Order #15, Respecting License, Permit and Processing Fees.

By-law No. 15, Trade and Licensing By-law (County)

The only item remaining in this legislation is the licensing for the removal and collection of sewage is covered by the Province of NS Environment Act, On-Site Sewage Disposal Systems Regulations. The licensing fee associated with the remaining item of this legislation was never adopted in Administrative Order #15, Respecting License, Permit and Processing Fees.

By-law A-200, Respecting Automatic Machines (HRM)

Halifax Regional Council passed By-law A-200 in March 2004. This by-law was the partial consolidation of previous by-laws of the City of Halifax, Dartmouth, Halifax County Municipality and Town of Bedford. In September 2006, with the approval of By-law C-500 Commerce and Vending on Municipal Lands, the licensing of newspaper boxes was removed from By-law A-200. Staff's current perspective is that By-law A-200 is no longer required due to the following:

- Automatic Machines are mostly housed on private properties within a current business establishment or residential complex;
- Automatic Machines at curbside are mostly non-existent or dispensing free materials;
- The demand and popularity of Automatic Machines has greatly declined; and
- HRM does not inspect businesses for automatic machines.

Currently, Halifax has no responsive or proactive enforcement of By-law A-200. Owner compliance with A-200 is strictly voluntary. The services Planning and Development staff provide, relative to this by-law, are exclusively administrative. Annual invoices are issued and once payment is received licenses are issued. The licensing revenue from the past two fiscal years have averaged \$154,000 per year; residential units housing licensed laundry machines accounted for approximately 60% of the revenue. The remaining 40% of the revenue is generated from the licensing of Amusement Machines, Bulk Food Machines and Snack & Beverage Machines, the majority of which are housed in commercial / business environments or residential units. The business occupancy tax has now been phased out (April 1, 2013), so there is no need for this fee from a commercial tax equity standpoint.

To provide an effective and fair process, HRM would need to develop and implement a licensing enforcement strategy. This would neither be cost effective nor practical; it would require entry onto private property for the purpose of identifying the type and number of Automatic Machines with compliance follow

up and penalty or remedy schemes. Full implementation would involve substantial resources and management.

The elimination of the licencing of Automated Machines, would not impact the 2018-19 fiscal year budget as no revenue for Automated Machines has been included in the budget.

FINANCIAL IMPLICATIONS

The repeal of By-law A-200, Respecting Automatic Machines, will reduce HRM revenues by approximately \$154,000 per year, based on the actual revenues received in recent years.

In anticipation of the repeal of By-law A-200 this year, the 2018-19 operating budget for Planning and Development – cost centre S330 - 5204 (Administration Fees) – was adjusted to reflect the proposed change.

RISK CONSIDERATION

There are no significant risks associated with the recommendation in this report. The risks considered rate low.

COMMUNITY ENGAGEMENT

Community engagement is not applicable with this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the recommendation in this report.

ALTERNATIVES

1. Regional Council could choose not to repeal any or all of the following by-laws:

By-law 15100 Trade and Licensing By-law (Bedford)

By-law A-501 Automatic Machines, Games Tables, Vending Machines and Mechanical Rides (Dartmouth)

By-law 15 Trade and Licensing By-law (County)

By-law A-200 Automatic Machines (HRM)

A decision to not repeal these by-laws is not recommended by staff, as the by-laws have either been superseded by other legislation, are obsolete, or no longer reflect the corporate priorities.

2. Regional Council could chose to direct staff to establish a proactive enforcement strategy for licensing of Automatic Machines. This is not recommended by staff.

ATTACHMENTS

Attachment A: Proposed By-law R-108 – Respecting the Amendments of By-law R-100

Attachment B: Showing Proposed Changes to By-law R-100

Attachment C: Amending Administrative Order

Attachment D: Showing Proposed Changes to Administrative Order 15

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

Report Prepared by: Andrea MacDonald, Manager License Standards, 902.490.7371

Report Approved by: Penny Henneberry, Manager, Buildings and Compliance, 902.579.0250

Financial Approval by: Jerry Blackwood, Acting Director of Finance and Asset Management/CFO, 902.490.6308

Report Approved by: Kelly Denty, Director of Planning and Development, 902.490.4800

Attachment B
(Showing Proposed By-law Changes)

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER R-100
BY-LAW RESPECTING THE REPEAL OF
BY-LAWS AND ORDINANCES**

BE IT ENACTED by the Council of the Halifax Regional Municipality, as follows:

Short Title

1. This By-law shall be known as By-law No. R-100 and may be cited as the “By-Law and Ordinance Repeal By-law”.

Repeal of By-Laws and Ordinances

2. The following by-laws and ordinances are repealed:

(a) Ordinance 121, the City of Halifax Retail Shop Closing Ordinance, effective January 1, 1997.

(b) Section 7.1 of By-Law 70 of the former Halifax County Municipality is repealed and the following substituted therefor

7.1 An application for a Lot Grading Permit shall be accompanied by a payment of the prescribed fee.

(c) Section 4 of By-Law 23290 of the former Town of Bedford is repealed.

(d) The Town of Bedford By-laws listed in Schedule “A” hereto annexed and any amendments thereto;

(e) The City of Dartmouth By-laws listed in Schedule “B” hereto annexed and any amendments thereto;

(f) The City of Halifax Ordinances listed in Schedule “C” hereto annexed and any amendments thereto;

(g) The Halifax County Municipality By-laws listed in Schedule “D” hereto annexed and any amendments thereto.

(h) The Halifax Regional Municipality By-laws listed in Schedule “E” hereto annexed and any amendments thereto.

(i) Subsection 1 of Section 23 of the City of Dartmouth Mobile Homes and

Mobile Home Parks By-law (M-200) is amended by

(a) adding the word “and” after the semicolon in clause (a);

(b) deleting and replacing the semicolon in clause (b) of subsection (1) with a period;

(c) deleting clause (c);

(j) Subsection (2) of Section 23 of the City of Dartmouth Mobile Homes and Mobile Homes Parks By-law is repealed.

(k) Section 24 of the City of Dartmouth Mobile Homes and Mobile Homes Parks By-law (M-200) is amended by:

(a) deleting the colon after the word “if” and adding the words “the Mobile Home Park complies with the provisions of this By-law”, and;

(b) deleting clauses (a) and (b).

2. Said By-law R-100 is further amended by adding immediately thereto the following Schedules:

3. Said By-law R-100 is further amended by adding immediately thereto the following Schedule:

Schedule E Halifax Regional Municipality

4. For further clarification, the By-laws listed in Sections 2 and 3 hereof and all other By-laws now or formerly in place respecting any Pension Plan of the former City of Dartmouth, with the exception of former Dartmouth By-Law P-600, are repealed.

Done and passed in Council this tenth day of September 1996.

SIGNED
MAYOR

SIGNED
MUNICIPAL CLERK

Schedule "A" Town of Bedford

	<u>By-law</u>	<u>Respecting</u>
1	11110	Interim Tax Billing
2	11291	Sewer System
3	11910	Deed Transfer Tax
4	21101	Rules of Order For Council
5	21102	Committee of The Whole
6	21104	Destruction of Documents
7	21201	Chief Administrative Officer
8	22502	Emergency Measures
9	24235	Compulsory Sewer Connection
10	28423	Halifax-Dartmouth Ferry
11	28431	The Establishment, Operation and Maintenance of A Regional Public Transit System
12	15104	Tax Deed Fees
13	22401	Bonfires
14		Economic Development Commission By-Law
15	15100	Trade and Licensing By-law

Schedule "B" City of Dartmouth

	<u>By-law</u>	<u>Respecting</u>
1	A-100	City Administrator
2	A-200	City Administration
3	C-100	Classified Service
4	C-300	City Owned Lands
5	D-100	Deed Transfer Tax
6	D-400	Downtown Dartmouth Community Development Commission
7	E-100	Economic Development Department
8	E-200	Emergency Measures
9	F-101	Fire Department
10	F-502	Halifax-Dartmouth Ferry
11	H-200	The Establishment of A Ferry Service To McNab's Island And Lawlor's Island
12	H-300	McNab's And Lawlor's Island Parks
13	H-600	Human Resources Department
14	I-200	Dartmouth Industrial Commission
15	I-301	Interim Billing For Taxes
16	P-500	Pension Committee
17	P-800	Plumbing Licenses
18	P-1200	Dartmouth City Council Procedure By-law
19	R-100	Regional Transit
20	S-300	Shubenacadie Canal Commission
21	S-500	Sewer & Water Laterals
22	S-600	Public Sewer
23	S-700	General Sewer
24	S-1300	Street Closings
25	T-200	Tax Certificates
26	T-600	Dartmouth Tourist Commission
27	U-100	Unightly Premises
28	W-300	Wyse Road Business Improvement District Commission
29	P-404	Career Earnings Retirement Pension Plan

30	P-405	Best 5 Years Earnings Retirement Pension
31	P-406	Amendments To Pension Plan
32	P-407	Amendments To Pension Plan
33	P-409	Amendments To Pension Plan
34	P-410	Amendments To Pension Plan
35	P-300	Penalties
36	P-408	City of Dartmouth Employees' Retirement Pension Plan
37	P-408A	City of Dartmouth Employees' Retirement Pension Plan
38	P-500	City of Dartmouth Pension Committee
39	P-501	City of Dartmouth Pension Committee
40	A-400	Armorial Achievement
41	C-200	Circus Owners and Operators
42	C-400	Community Planning and Development Control
43	F-400	Flag
44	L-300	Licensing
45	P-700	Pesticides
46	T-101	To Repeal Tag Days
47	A-501	Automatic Machines, Game Tables, Vending Machines and Mechanical Rides

Schedule "C" City of Halifax

<u>Ordinance</u>	<u>Respecting</u>
1	102 The Procedures For The Passing and Repeal of Ordinances
2	103 The Rules of Order of Council
3	104 The Composition and Meetings of Council
4	105 The Establishment of Standing Committees of Council
5	110 Deed Transfer Tax
6	112 Encroachment
7	118 The Halifax Dartmouth Regional Jail
8	124 The Establishment of A Parking Authority
9	130 Electrical
10	132 Plumbing
11	133 Emergency Measures Planning
12	134 Halifax-Dartmouth Port Commission
13	138 Tax Certificates
14	148 Ferries and Public Landings
15	154 Sewage Pumping
16	171 The Establishment, Operation and Maintenance Of A Regional Public Transit and A Regional Transit Planning and Traffic Management Board
17	176 Conflict of Interest
18	181 The Establishment Of The Spring Garden Road Business Improvement District Commission
19	182 The Establishment Of The Downtown Halifax Business Improvement District Commission
20	187 The Halifax-Dartmouth Ferry
21	34 Curfew
22	37 Fire Crackers
23	55 Tag Days
24	101 Corporate Seal, Armorial Achievement and Flag

Schedule "D" Municipality of Halifax County

	<u>By-law</u>	<u>Respecting</u>	
1		02	Municipal Council
2		04	Municipal Officers
3		05	Municipal Seal
4		20	Signature of Debentures
5		21	Destruction of Certain Documents
6		22	Sewer Connector
7		26	Emergency Measures
8		33	Lawlor's and McNab's Islands Parks
9		34	Repeal of By-laws
10		43	Tax Billing
11		44	The Establishment, Operation and Maintenance of A Regional Public Transit System and A Regional Transit Planning and Traffic Management Advisory Board
12		50	Deed Transfer Tax
13		56	Chief Administrative Officer
14		57	Retail Business Uniform Closing Day
15		58	Charge for Water Service
16		60	Atlantic Winter Fair Tax Exemption
17		66	Halifax-Dartmouth Ferry Service
18		01	Interpretation
19		16	Penalties
20		17	Municipal Parking
21		32	OceanView Manor
22		54	Curfew
23		59	Cole Harbour Place Board
24		61	Sackville Community Committee
25		64	Cole Harbour/Westphal Community Committee
26		65	The Westerm Community Committee
27		15	Trade and Licensing By-law

Schedule E Halifax Regional Municipality

	<u>By-law</u>	<u>Respecting</u>
1	P-300	Dartmouth Employees' Pension Amendments
2	P-301	Dartmouth Employees' Pension Amendments
3	P-302	Dartmouth Employees' Pension Amendments
4	P-303	Dartmouth Employees' Pension Amendments
5	P-304	Dartmouth Employees' Pension Amendments
6	H-300	Halifax County Regional Rehabilitation Centre
7	S-203	Smoke Free Places
8	N-100	Noise
9	A-200	Automatic Machines

BY-LAW R-100

Amendment No. 1 (By-Law R-101) Section 2 (b) and (c)
Notice of Motion: March 30, 1999
First Reading: April 13, 1999
ANotice of Intent@ Publication: April 17, 1999
Second Reading: May 11, 1999
Approval of Minister of Housing & Municipal Affairs: N/A
Effective Date: May 15, 1999

Amendment No. 2 (By-Law R-102) Sections (d), (e), (f), (g); Schedules A, B, C & D
Notice of Motion: March 28, 2000
First Reading: April 4, 2000
ANotice of Intent@ Publication: April 8, 2000
Second Reading: April 25, 2000
Approval of Minister of Housing & Municipal Affairs: N/A
Effective Date: April 29, 2000

Amendment No. 3 (By-Law R-103) Section 2 addition of (h); Schedule AB@ (29-34);
Schedule AE@ (1-5)
Notice of Motion: June 13, 2000
First Reading: June 20, 2000
ANotice of Intent@ Publication: June 24, 2000
Second Reading: July 11, 2000
Approval of Minister of Housing & Municipal Affairs: N/A
Effective Date: August 5, 2000

Amendment No. 4 (By-Law R-104) Section 2 addition of (i); (j) & (k)
These amendments shall take effect on April 1, 2000
Notice of Motion: May 15, 2001
First Reading: May 22, 2001
ANotice of Intent@ Publication: May 26, 2001
Second Reading: June 12, 2001
Approval of Minister of Housing & Municipal Affairs: N/A
Effective Date: April 1, 2000

Amendment No. 5 (By-Law R-105) Schedule A, B, C, D and E - additions to all schedules

Notice of Motion:	March 19, 2002	
First Reading		March 26, 2002
ANotice of Intent@ Publication:		March 30, 2002
Second Reading:		April 16, 2002
Approval of Minister of Housing & Municipal Affairs:		N/A
Effective Date:		April 20, 2002

Amendment No. 6 (By-law R-107) Schedule B, D and E – additions to all

Notice of Motion:	March 4, 2014	
First Reading		March 18, 2014
ANotice of Intent@ Publication:		March 22, 2014
Second Reading:		April 15, 2014
Approval of Minister of Housing & Municipal Affairs:		N/A
Effective Date:		April 26, 2014

Attachment C
(Amending Administrative Order)

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER 15
RESPECTING LICENSE, PERMIT AND PROCESSING FEES**

BE IT ENACTED by the Council of Halifax Regional Municipality that Administrative Order 15, the *Respecting License, Permit and Processing Fees* Administrative Order is amended as follows:

1. Table 11 is amended by:
 - (a) striking the dash symbol and the words, “– October 14, 2006” after the word “Repealed” in the title line;
 - (b) Table 11 is Repealed; and
 - (c) striking the sentence “Continuous period of time for an automatic license is defined as a twelve month period starting on April 1st and ending March 31st.” immediately after Table 11 and before Table 12; and
2. Table 14 is Repealed.

Done and passed in Council the _____ day of _____ 2018.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Motion was passed at a meeting of the Halifax Regional Council held on _____, 2018.

Kevin Arjoon, Municipal Clerk

Attachment D
(Showing Proposed Changes to AO 15, Schedule A)

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 15
Respecting License, Permit And Processing Fees**

Schedule "A"

11. Repealed – October 14, 2006

By-law #	Short Title	Section	Fee
By-law A-200	Automatic Machines By-law	S. 2. 5	
	Juke Box		\$125.00
	Amusement Machine		\$125.00
	Bulk Machine		\$ 25.00
	Vending Machine		\$ 55.00
	Mechanical Ride		\$ 35.00

Continuous period of time for an automatic license is defined as a twelve month period starting on April 1st and ending March 31st.

14. Repeal

By-law #	Short Title	Section	Fee
By-law A 201	Automatic Machine Licensing By-law		
	Amusement Machine		\$35.00 annum
	Bulk Machine (Coin Mechanism)		\$10.00 annum
	Laundry Machine		\$25.00 annum
	Vending Machine License (Snack/Beverages)		\$55.00 annum
	Newspaper Boxes		\$55.00 annum