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Item No. 10.1
Halifax Regional Council
April 30, 2019
May 14, 2019

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Jacques Dubé, Chief Administrative Officer

DATE: February 15, 2019

SUBJECT: Flyer Delivery in HRM

ORIGIN

At the April 24, 2018 meeting of Halifax Regional Council, it was PUT and PASSED:

That Halifax Regional Council:

1. Direct staff to draft a by-law to regulate flyer delivery, including delivery standards and a requirement to not deliver flyers to properties that have a 'No Flyers' sign posted. It is further recommended that a mandatory 'opt-in' only delivery option not be part of a by-law; and
2. Direct staff to work with the flyer distributors and publishers to implement and evaluate a pilot project of flyer boxes to replace end of driveway delivery in rural areas.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, R.S.N.S., 2008, c.39,
s.188(1) The Council may make by-laws, for municipal purposes, respecting

.....
(d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances...;

.....
(f) businesses, business activities and persons engaged in business;

.....
(2) Without restricting the generality of subsection (1) but subject to Part VIII, the Council may, in any by-law
(a) regulate or prohibit;

s.335 The Council may make by-laws respecting solid waste, including, but not limited to,

.....
(b) regulating the disposal, collection and removal of solid waste...

RECOMMENDATION

It is recommended that Halifax Regional Council adopt By-Law F-400 Respecting the Distribution of Flyers, as set out in Attachment 1 of this report.

BACKGROUND

The issue of flyer delivery has been brought before Halifax Regional Council several times over the past years. Residents have raised concern that flyer packages are left in driveways instead of on doorsteps and become litter after snow removal or rain. Complaints have also been received that flyer delivery has continued following requests to halt the service.

HRM staff has previously advised Council that an outright ban on flyer delivery is not possible, as it would be deemed an infringement on the distributors' freedom of expression. The municipality does have the ability to place reasonable restrictions on the distribution of flyers and several Canadian municipalities have adopted by-laws to do so.

The goal of a flyer by-law is to address:

1. Nuisance litter caused by improper delivery methods; and
2. Delivery of unwanted flyers still being delivered to properties that requested cancellation of the service.

The Chronicle Herald is the primary distributor of door to door flyers in the municipality. Weekly sales flyers are bundled within a community newspaper and are delivered by staff contracted by the Herald.

DISCUSSION

Halifax Solid Waste staff met with the Herald in 2017 to discuss their delivery standards. The delivery standards proposed in the by-law incorporate those which were provided by the Herald, as communicated to their contracted delivery agents. These standards are also sanctioned by the Flyer Delivery Standards Association, an industry group which accredits members who demonstrate best practices.

The Herald identifies the following to their contracted carriers as the only approved delivery locations for flyers:

- Mailbox
- Mail slot
- Tube at end of driveway
- Bagged and placed neatly and carefully on doorstep, in plain view
- Community Herald flyer boxes (if applicable).

Flyer boxes/stands are currently available in some multi-unit residential buildings.

It is an offence if the standard is not followed by the distributor. The distributor is defined in this by-law as either the corporate entity or the individual, one or both can be held accountable and subject to penalty where an infraction occurs.

'NO FLYERS' Signage/Opt-out Provision

To assist in the identification of properties who do not wish to receive flyer delivery, 'NO FLYERS' stickers will be designed and printed for distribution to residents, free of charge. Stickers will be handed out at community events attended by Solid Waste, at municipal customer service centers, libraries and recreation centers. A supply can also be provided to the Councilor Support office for distribution by members of Council.

The proposed Flyer Distribution By-law contains a provision prohibiting delivery of flyers to properties that have a sign posted, however the sign does not have to be the specific sign provided by the municipality. Residents may craft their own sign, provided it is visible from the right of way, and follows the basic guidelines set in the by-law.



Figure 1 - Sample No Flyers Sign

Residents will continue to be encouraged to contact the Herald to formally opt-out of delivery, with the signage used as reinforcement. Contact information for the Herald (phone number and email address) will be included on the backing of stickers printed for distribution.

Where a resident posts a 'No Flyers' sign and delivery occurs, this constitutes an offence under this by-law.

Non-compliance results in a penalty of \$250.00 for a company and \$25.00 to an individual contractor. As with all summary offence tickets, the penalties under this by-law are further subject to court costs and victim surcharge amounts. Enforcement of this by-law will be complaint driven as is the case with by-law enforcement practices.

Flyer Box Pilot Project

Starting in summer of 2018, HRM staff began working with the Herald to identify and permit locations for a Flyer Box Pilot project. The pilot is anticipated to last 18 months. Locations had to meet criteria of a Streets and Services permit, including identification of installation methods and site maintenance (i.e. snow removal and litter clean-up). In the case of locations that did not fall on municipal property, permission was required to be obtained from the property owner.

Six test boxes, servicing 512 households have been installed. Additional locations have been identified, however, installation is pending due to weather conditions or siting delays.

1. Beachstone Drive, Spryfield (103 residences)
2. Crestfield Drive, Hammonds Plains (57 residences)
3. Brookview Drive, Cole Harbour (107 residences)
4. Deerwood Lane, Timberlea (56 residences)
5. Shore Rd, Eastern Passage (91 residences)
6. Greenridge Mobile Home Park, Eastern Passage (98 residences)

Residents affected by the change in service delivery received a letter indicating that flyers would no longer be delivered door-to-door, and advised of the new flyer pick-up locations.

Approximately 6 months in to the pilot, the Herald has been able to adjust quantities of flyers for a location based on the numbers taken over the course of the week – replenishing when needed. This has an added effect of reducing paper waste. Since the flyers are protected from the elements inside the box, use of approximately 26,600 plastic bags can be avoided. In areas not currently serviced by boxes, the Herald is looking at ways to reduce plastic bag use when weather conditions do not necessitate it.

The Herald reports feedback to date has been positive. As the project progresses, surveys will be conducted by an independent contractor to further evaluate.



Figure 2 - Flyer Box

FINANCIAL IMPLICATIONS

There are no anticipated increases to by-law compliance or prosecution services at this time.

The cost of printing 'NO FLYERS' signs is \$0.28 (adhesive) and \$0.36 (removable) per sign, with an initial print of 10,000. These costs will be covered by existing Solid Waste Resources communication and education budgets. Stickers can be made available at customer service centres, libraries and recreation centres. They can further be available for distribution by Halifax Solid Waste staff at public events, and by members of Regional Council.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report.

COMMUNITY ENGAGEMENT

No community engagement was conducted in the development of the by law. The public will have an opportunity to comment on the proposed By-law through the public notification process.

ENVIRONMENTAL IMPLICATIONS

Regulating flyers can help address some of the nuisance litter issues being reported by HRM citizens.

ALTERNATIVES

Council could decide to not pass this by-law or make changes to the proposed by-law. Depending on the nature of any proposed changes, it may result in the need for a supplementary report.

ATTACHMENTS

Attachment 1 - Proposed By-law F-400, the *Flyer Distribution By-law*

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.

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**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER F-400
RESPECTING THE DISTRIBUTION OF FLYERS**

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 F-400 and may be cited as the *Flyer Distribution By-law*.

Interpretation

2. In this By-law,

(a) “distributor” means any person, which distributes, permits to be distributed or causes to be distributed any flyer which promotes activities outlined in Section 3 of this By-law;

(b) “flyer” means any non-subscription based printed or written matter, and includes a circular, leaflet, pamphlet, paper, booklet, postcard, coupon, or any other printed or otherwise reproduced matter;

(c) “municipality” means Halifax Regional Municipality;

(d) “newspaper” means any newspaper or magazine of general circulation for which the occupant has paid or requested delivery;

(e) “person” includes a business, company, organization or corporation and the heirs, executors, administrators or other legal representatives of a person;

(f) “residential property” means property or part thereof used or intended to be used for residential purposes, but does not include the portion of a hotel or motel used for the purpose of lodging for the public or an apartment hotel;

Application of By-law

3. This By-law applies to any flyer distributed within the municipality that:

(a) advertises or otherwise promotes any merchandise, product, commodity or thing;

(b) directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interests thereof; or

(c) directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission is charged for the purpose of commercial gain or profit.

General

4. (1) Any owner or occupier of a residential property may post a sign or notice stating they do not wish to receive flyers.

(2) Subject to subsection (1), an owner or occupier may:

(a) post a sign or notice provided by the municipality, or

(b) create a sign or notice to post, provided the sign or notice meets the following specifications:

(i) is a minimum 11 cm (4.5 in) wide by 12.5 cm (5 in) high,

(ii) consists of lettering that is black font on a white background, and

(iii) contains the phrase 'NO FLYERS' in a font size of at least 38 pt in a sans-serif (plain) font type such as Arial.

5. A sign or notice stating the owner or occupier does not want to receive flyers shall be posted at the entrance to the dwelling unit in a manner such that the sign or notice is visible **at the applicable locations as outlined in Section 8(1)**.

6. No distributor shall deliver or cause to be delivered a flyer at or on a residential property if a sign or notice has been posted pursuant to section 5.

7. Section 6 of this By-law shall not apply to the following:

(a) any election advertising material which is permitted to be transmitted or delivered pursuant to any applicable federal, provincial or municipal legislation or regulation;

(b) newspapers delivered to paid subscribers;

(c) community association newsletters or newspapers that do not contain flyers;

(d) information circulars produced by a federal, provincial or municipal government or an agency of such government;

(e) information circulars produced by a member of Halifax Regional Council, a member of the Nova Scotia Legislative Assembly or a member of the federal Parliament; or

(f) an apartment building containing six or more dwelling units.

8. (1) No distributor shall distribute or cause to be distributed any flyers on residential property other than:

(a) in a mail box;

(b) in a mail slot;

(c) in a tube or other receptacle designated for this purpose; or

(d) on a doorstep.

(2) No distributor shall distribute or cause to be distributed any flyers to a residential property where the flyers have not been taken in for two consecutive weeks.

Offences and Penalties

9. (1) A person who violates a provision of this By-law is guilty of an offence.

(2) A distributor that is an individual who contravenes any section of this By-law is liable, upon summary conviction, to a penalty of not less than twenty-five dollars and not more than one thousand dollars.

(3) A distributor other than an individual who contravenes any section of this By-law is liable, on summary conviction, to a penalty of not less than two hundred and fifty dollars and not more than ten thousand dollars.

Done and passed by Council this ___ day of _____, 2019

MAYOR

MUNICIPAL CLERK

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on _____, 2019

Kevin Arjoon
Municipal Clerk