

BACKGROUND

In June and July of 2021, the draft Regional Centre Secondary Municipal Planning Strategy (SMPS) and Land Use By-law (LUB) (Package B) was considered by several Municipal committees that provided a number of recommendations for Regional Council's consideration. As part of this review process, at the August 17th, 2021 meeting of Regional Council, staff were directed to clarify the definition of Adult Entertainment Uses to ensure it does not unintentionally prohibit retail sales. This motion as written, only applied to the Regional Centre LUB, and not to the Downtown Halifax Plan area.

At the November 23, 2021 meeting of Regional Council, Council directed staff to explore and provide options for either the removal or replacement of the definition of "adult bookstore" from the Downtown Halifax Land Use By-law (LUB), until such time where the remaining lands under the Downtown Halifax Plan Area are incorporated within the Regional Centre Plan Area. Under the Downtown Halifax LUB, all adult entertainment uses are prohibited, including adult bookstores.

On October 26, 2021, Council adopted amendments to the Downtown Halifax Plan and LUB as a result of the Regional Centre Plan Package B adoption process. These amendments removed most of the properties from the Downtown Halifax Plan Area and placed them under the Regional Centre Plan. As part of this planning process, staff are now bringing forward a housekeeping amendment that will consolidate these removals in a revised Downtown Halifax Zoning Map (Attachment A). There are no additional properties being removed.

DISCUSSION

The proposed LUB amendments to revise the definition of adult entertainment uses to exclude standalone retail and bookstore uses and to re-adopt Map 1 are set out in Attachment A. These amendments were reviewed relative to all relevant Downtown Halifax Secondary Municipal Planning Strategy (Plan) objectives and policies and are consistent with the intent of the Plan. The following sub-sections discuss key aspects of the proposed LUB amendments.

Definition of Adult Entertainment Uses

Regional Council directed staff to explore either the removal or replacement of the current definition of Adult Bookstore from the Downtown Halifax LUB. Policy 4 of the Downtown Halifax Plan sets out the general framework for establishing zones and permitting a mix of land uses. The details relating to the types of permitted and prohibited land uses, definitions, and other regulations are contained in the LUB. The current definition of Adult Entertainment Use is general and incorporates 5 categories: massage parlour, sex-aid shop, adult bookstore, adult cabaret, and an adult theater. These categories are further defined under Clauses 2(e)(f) and (fa) of the Definitions Section in the Downtown Halifax LUB, as contained in Attachment B.

To clarify that restrictions on Adult Entertainment Uses do not apply to adult-themed retail products, staff propose to replace the current LUB definition with a revised definition and delete the definition of Adult Bookstore Use. This change brings the definitions in alignment with the recently approved Regional Centre LUB.

Housekeeping Amendment

As part of the Regional Centre Plan (Package B) planning process, staff identified a number of amendments to existing planning documents that were necessary to extract the areas to be regulated under the proposed Plan and LUB, as set out in Attachments C-G of the [June 2nd Staff Report](#). This process included amendments to the Downtown Halifax Plan and LUB to remove those areas located within the Regional Centre Plan Area, except for the Old South Suburb Heritage Conservation District, Barrington Street Heritage Conservation District, and 5 identified properties.

During the implementation of the amendments package, staff became aware of a drafting error related to the amendments to the Downtown Halifax LUB, detailed in [Attachment F](#) of the Regional Centre Plan [September 14th Staff Report](#) and presented to Council on October 26th, 2021. This error unintentionally provided conflicting direction concerning amendments to the Zoning Map for Downtown Halifax. The clear intent is to amend the Zoning Map for the remaining portion of the Downtown Halifax Plan Area. To address the risks caused by this inconsistency, this report includes a proposed amendment to re-adopt the Zoning Map, as contained in Attachment A.

Conclusion

Staff have reviewed the proposed LUB amendments in terms of all relevant policy criteria and advise that they are consistent with the intent of the Downtown Halifax Plan. Introducing a new definition for the Adult Entertainment Use and removing the definition of Adult Bookstore will permit the retail sale of adult-themed products and further align it with the Regional Centre LUB's definition. The re-adoption of the consolidated Map 1 will address risks caused by inconsistent direction contained in the previous amendments package and ensure that the Downtown Halifax LUB can be administered as intended. Therefore, staff recommend that the Design Review Committee recommend that Regional Council approve the proposed Downtown Halifax LUB amendments.

FINANCIAL IMPLICATIONS

The HRM costs associated with carrying-out this LUB amendment process can be accommodated with existing resources within the approved 2021-22 operating budget.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. The proposed amendments may be considered under existing Plan policies. Regional Council has the discretion to make decisions that are consistent with the Plan, and such decisions may be appealed to the N.S. Utility and Review Board.

The proposed LUB amendment to re-adopt the Downtown Halifax Zoning Map addresses risks caused by inconsistent direction provided within the amendments package approved as part of the Centre Plan Package B planning process.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. Considering the minor nature of this amendment, community engagement was achieved through providing information and seeking comments through the HRM website.

A public hearing must be held by Regional Council before they can consider approval of the proposed LUB amendments. Should Regional Council decide to proceed with a public hearing on this application, the hearing will be advertised in published newspapers, and the HRM website will also be updated to indicate notice of the public hearing.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. The Design Review Committee may choose to recommend that Regional approve the proposed LUB amendments set out in Attachment A subject to modifications. Such modifications may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. The Design Review Committee may choose to recommend that Regional Council refuse the proposed LUB amendments set out in Attachment A and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A: Proposed Amendments to the Downtown Halifax LUB
Attachment B: Excerpt of Current Definitions in Downtown Halifax LUB

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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Attachment A:
Proposed Amendments to the Downtown Halifax Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the *Land Use By-law for Downtown Halifax* is hereby amended as follows:

1. Amend the definition of “Adult Entertainment Use” under Clause 2(d) under Definitions, as shown below in ~~strikeout~~ and **bold**:
 - 2(d) Adult Entertainment Use means ~~a massage parlour, sex-aid shop, an adult bookstore, an adult cabaret, or an adult theatre.~~ **premises providing services or entertainment intended to appeal to sexual appetites, such as adult cabarets, adult theatres, and massage parlours, but excludes the standalone retailing of adult material.**

2. Delete the definition of “Adult Bookstore Use” under Clause 2(f) under Definitions, as shown below in ~~strikeout~~:
 - 2(f) ~~Adult Bookstore includes any establishment or place for the purpose of retail trade where 20% or more of the value of the total stock in trade or 20% or more of the area used for display of materials in any such establishment or place is comprised of books, magazines, or other periodicals relating to, or portrayed as relating to, sexual activities.~~

3. Amend subsection 5(20) as shown below in ~~strikeout~~:

Map 1 Zoning ~~and Schedule~~
Map 2 Precincts
Map 3 Pedestrian-Oriented Commercial Streets

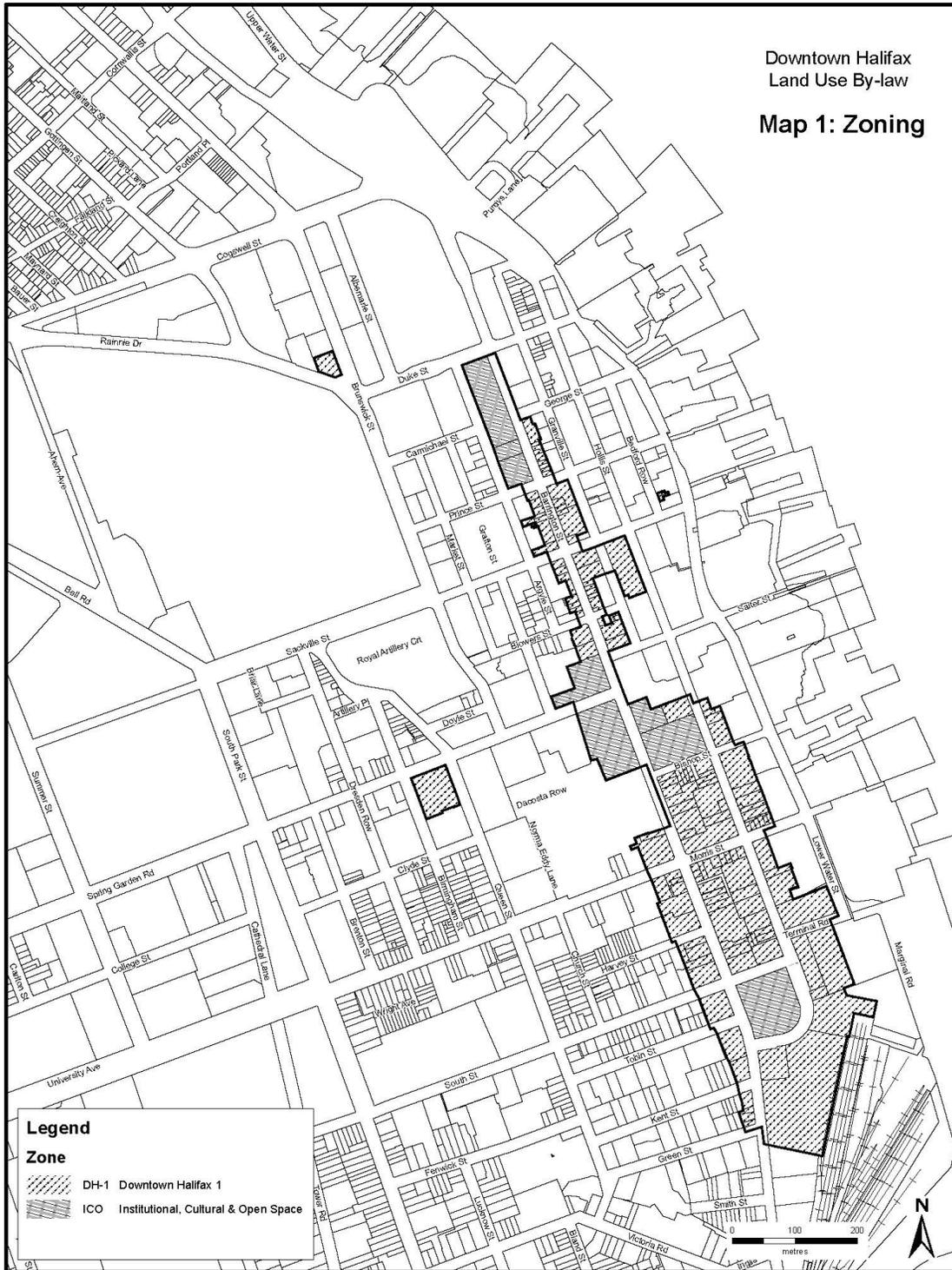
4. Adopt Map 1 – Zoning attached to this amending By-law as Schedule A.

THIS IS TO CERTIFY that the by-law of which this is a true copy
was duly passed at a duly called meeting of the Council of
Halifax Regional Municipality held on the ____ day of
_____, A.D., 20_____.

GIVEN under the hand of the Municipal Clerk and under the
Corporate Seal of the said Municipality this ____ day of
_____, A.D., 20_____.

Municipal Clerk

SCHEDULE A



Attachment B:
Excerpts of Current Definitions in Downtown Halifax LUB

(2) Definitions:

- d) *Adult Entertainment Use* means a massage parlour, sex-aid shop, an adult bookstore, an adult cabaret, or an adult theatre.
- e) *Adult Cabaret* means any premises or part thereof, whether public, semi-public, or private, wherein is provided the opportunity to feel, handle, touch, paint, be in the presence of, or be entertained by the nude body of another person, or to observe, view or photograph any such activity.
- f) *Adult Bookstore* includes any establishment or place for the purpose of retail trade where 20% or more of the value of the total stock in trade or 20% or more of the area used for display of materials in any such establishment or place is comprised of books, magazines, or other periodicals relating to, or portrayed as relating to, sexual activities.
- g) *Adult Theatre* means a use where the main activity is the showing of motion pictures depicting explicit sexual activity, graphic nudity, or graphic violence and which are either unrated or have been classified as A (Adult) by the Nova Scotia Film Classification Section of the Alcohol and Gaming Division of Service Nova Scotia and Municipal Relations.