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Item No. 15.1.11
Halifax Regional Council
July 11, 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: July 11, 2023

SUBJECT: **A By-Law Respecting Halifax Transit**

ORIGIN

Staff initiated report.

LEGISLATIVE AUTHORITY

Section 69 (1) of the *Halifax Regional Municipality Charter*:

The Municipality may provide a public transportation service by
(a) the purchase of vehicles or vessels and operation of the service;

Section 188(1)(a), (b), (c) and (e) of the *Halifax Regional Municipality Charter*:

188 (1) The Council may make by-laws, for municipal purposes, respecting

(a) the health, well being, safety and protection of persons;
(b) the safety and protection of property;
(c) persons, activities and things in, on or near a public place or place that is open to the public;

...

(e) transport and transport systems;

RECOMMENDATION

It is recommended that Halifax Regional Council adopt *By-law T-1200*, the purpose of which is to promote the safety, well-being, and comfort of passengers and employees of Halifax Transit, as set out in Attachment 1 of this report.

BACKGROUND

Currently, HRM does not have a by-law for public transit. The creation of a public transit by-law will enable clear guidelines to be established, consistency in security and safety standards, and provide a framework for monitoring and enforcing compliance. The proposed regulations governing transit use are also intended to provide important protection to transit employees' safe working conditions and add security measures in the workplace.

Halifax Transit frequently encounters recurrent challenges pertaining to safety concerns and vulnerabilities like vandalism, violence, and criminal activities. *By-law T-1200* will promote the efficient use of emergency response plans and resources, including Network Supervisors, Mobile Supervisors, Emergency Health Services (EHS), Halifax Regional Police (HRP), and Royal Canadian Mounted Police (RCMP).

DISCUSSION

Current Challenges

The Municipality does not currently have a by-law specific to public transit and Halifax Transit is challenged to have adequate safety measures and effective enforcement. From time to time, Halifax Transit requests assistance from regional policing bodies to facilitate law enforcement cooperation on aggressive behavior and maintain safety in public transit. A prominent challenge for Halifax Transit is the limited application of the *Protection of Property Act*¹ (PPA). The Act only applies to premises and cannot be used to ban a passenger from entering a transit vehicle. This currently results in banned passengers boarding transit vehicles to repeat the same violent behavior. Similarly, there is currently no regulation to impose time restrictions on passengers using transit facilities as a shelter, allowing them to stay in transit terminals for extended periods of time.

The current lack of regulation over these activities prevents Halifax Transit from responding in an adequate and timely manner to transit safety issues. The Halifax Transit by-law, being drafted with the challenges faced by employees and passengers in mind, aims to address certain behavior and enhance safety in day-to-day activities. By implementing this by-law, guidelines will be established, and an additional layer of protection will be added within the Halifax Transit system.

Transit By-law T-1200

The proposed *By-law T-1200* provides a comprehensive list of prohibited activities, thereby informing the public about appropriate behaviors and conduct while using Halifax Transit services. The by-law will apply to Halifax Transit property including transit vehicles, passenger shelters, bus stops, transit terminals and stations, Park & Ride facilities, transit depots, and transit garages.

The objective of *By-law T-1200* is to provide Halifax Transit with the ability to efficiently and effectively address misconduct issues specific to transit. The ultimate aim of the by-law is to improve the management of complex situations that may arise within the realm of Halifax Transit and to promote a positive environment for passengers and Halifax Transit employees.

The by-law focuses on four important factors:

1. Enhanced Passenger and Employee Safety
2. Preservation of Transit Property
3. Ensure Efficient Transit Operations
4. Foster a positive Passenger Experience

¹ *Protection of Property Act* [Protection of Property Act \(nslegislature.ca\)](https://www.nslegislature.ca)

The proposed by-law has regulations prohibiting activities on transit like littering and graffiti. It also prohibits individuals from acting in a manner that interferes with the boarding and disembarking of passengers. It restricts carrying dangerous items on transit and damaging transit property. The by-law allows the HRP, RCMP and a designated Peace Officer² to remove non-compliant individuals and impose prohibitions on transit use for a specified time when necessary. Violating the by-law may incur penalties and individuals who have been prohibited from transit property will have the right to appeal. The by-law outlines a code of conduct and provides consequences for unwanted behavior. In short, the proposed by-law will establish a framework for regulating and implementing appropriate procedures for the safe and orderly operation of Halifax Transit.

The by-law takes into consideration factors such as passenger safety, comfort, and the smooth operation of the transit service. It will make Halifax Transit a more reliable, efficient, and comfortable mode of transportation for the communities it serves.

Out of Scope

The focus of the proposed by-law is transit property, including conventional fixed route and paratransit vehicles. The by-law is not intended to apply to ferry vessels and those areas of the ferry terminals that are federally regulated. The safety and security of the vessels and these areas of the terminals are specifically regulated under federal legislation, including the *Domestic Ferries Security Regulations*, SOR/2009-321 made pursuant to the *Marine Transportation Security Act*, S.C. 1994, c. 40. Under to this legislation the person who has command or charge of the vessel has powers related to maintaining the safety and security of the ferry, including the ability to deny passenger access.

Fare management provisions are not included in the proposed by-law. Halifax Transit fare amounts, and requirements related to paying the appropriate fare, are currently set out in *By-law U-100*, the *User Charges By-law*.

Staff intend to consider both ferry vessel operations and fare management in future phases of the Halifax Transit Safety and Security Program to determine whether additional regulations, where possible, may be warranted.

By-law Implementation Program

The by-law implementation would primarily have two approaches: voluntary compliance and enforcement. Compliance would focus on strategies like informal resolutions, warnings, public education, and dispute resolution. Enforcement would include issuing by-law offenses tickets and taking enforcement action such as ordering a person to leave transit property or prohibiting a person from entering transit property for a specified period of time as and when necessary. Depending on the situation, a mix of both approaches would be taken to de-escalate and handle the situation. It is acknowledged that prohibiting individuals from transit for a specified period of time could be a significant penalty and therefore under the by-law the peace officer is required, prior to prohibiting an individual, to give consideration to the severity of the contravention or contraventions, the circumstances surrounding the contravention or contraventions and the individual's history of previous contraventions.

The forthcoming report on the Halifax Transit Safety and Security Program will have greater detail on the next stage of the by-law enforcement program approach and methodology with timelines. The plan will also include the roles and responsibilities of the officers who will be implementing the Transit Safety and Security program and their engagement with cross-functional teams and stakeholders in the community. Current enforcement for the Halifax Transit Bylaw will reside with Halifax Regional Police and the RCMP.

² "peace officer" means a police officer, by-law enforcement officer or a special constable appointed pursuant to the *Police Act*, SNS 2004, c 31.

The by-law will become effective after it has been adopted by Council and published in accordance with the requirements of the Halifax Regional Municipality Charter. In coordination with HRP and Corporate Communications, a stakeholder communication and education campaign will be used to advise passengers, employees, and the public of the new guidelines and standards for Halifax public transit.

FINANCIAL IMPLICATIONS

No financial implications at this time.

RISK CONSIDERATION

1. Peace Officers and HRP could face enforcement challenges as they need to identify and address violations. Peace Officers and HRP need to adopt a proactive approach to de-escalate situations with non-compliant individuals.
2. As non-compliant individuals are banned from transit property, there could be increased appeals to the By-law Administrator.
3. The by-law needs to be implemented while keeping in mind public perception and customer service to the passengers. Enforcement procedure, penalties, and the appeal process need to be communicated through educational awareness campaigns.
4. Community engagement and buy-in from the community is an important piece while drafting and amending by-laws. Lack of community engagement can incur resistance from the community to follow and adhere to the by-law resulting in higher violations and lower adherence.

Risk Mitigation

In order to mitigate the risk associated with the by-law, Halifax Transit will take the following measures.

1. **Educational Awareness:**
Conducting educational campaigns and workshops to inform passengers about the by-law regulation and expected behavior using posters, social media, etc.
2. **Effective Communication:**
Communication via channels that allows passengers to seek information, report concerns, and provide feedback.
3. **Staff Training:**
Comprehensive training to staff like situational awareness, non-violent crisis intervention etc. for by-law regulations, their enforcement, conflict resolution, and de-escalating situations.
4. **Customer Service Focus and Passengers Engagement:**
Fostering a customer-centric approach among staff and encouraging them to positively engage with passengers and address their concerns.

COMMUNITY ENGAGEMENT

Given the rapid increase of security incidents in Halifax Transit and the time-sensitive nature of the report, community engagement was not completed. However, the forthcoming Halifax Transit Safety and Security Program will have an extensive community engagement strategy to share information and gather input from

passengers, employees, and communities. It is anticipated that this feedback will allow for the continuous improvement of the proposed by-law.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Regional Council may choose to:

1. Modify the proposed *By-law T-1200* set out in Attachment 1. If this alternative is chosen, specific direction regarding the requested modifications is required and may require a supplementary staff report incorporating the proposed changes.
2. Direct the CAO to delay the implementation of the Halifax Transit Bylaw, until such time that public engagement can be completed.
3. Not approve the proposed *By-law T-1200* as set out in Attachment 1.

ATTACHMENTS

Attachment 1: Proposed *By-law T-1200*, the *Halifax Transit 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.

Report Prepared by: Philip Herritt, Director Transit Operations, Halifax Transit, 902-490-3743

**HALIFAX REGIONAL MUNICIPALITY BY-LAW NUMBER T-1200
RESPECTING HALIFAX TRANSIT**

WHEREAS the Municipality operates Halifax Transit in the municipality pursuant to section 69(1)(a) of the *Halifax Regional Municipality Charter*, 2008, c.39;

AND WHEREAS Council for the Municipality considers it necessary and desirable to promote the safety, well-being and comfort of passengers and employees of Halifax Transit;

AND WHEREAS section 188 of the *Halifax Regional Municipality Charter* permits Council to make By-laws, for municipal purposes, respecting the health, well being, safety and protection of persons; the safety and protection of property; persons, activities and things in, on or near a public place or place that is open to the public; and transport and transport systems;

BE IT ENACTED by the Council of the Halifax Regional Municipality pursuant to the *Halifax Regional Municipality Charter* as follows:

Short Title

1. This By-law shall be known as By-law T-1200, the *Halifax Transit By-law*.

Interpretation

2. In this By-law,

- (a) "By-Law Administrator" means the Executive Director of Halifax Transit, or designate;
- (b) "Halifax Transit" means the transit facilities and services provided by the Municipality;
- (c) "Municipality" means the Halifax Regional Municipality;
- (d) "peace officer" means a police officer, By-law enforcement officer or a special constable appointed pursuant to the *Police Act*, SNS 2004, c 3;
- (e) "service animal" means any animal that is a licensed service animal under A-700, the *Animal By-law* and:
 - (i) any animal individually trained to do work or perform tasks for the benefit of an individual with a disability; or
 - (ii) any animal used for search and rescue or law enforcement purposes;
- (f) "smoke" means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;
- (g) "transit property" means the real and personal property of the Municipality which is used to provide or support the provision of Halifax Transit, including:

- (i) transit vehicles;
- (ii) passenger shelters;
- (iii) bus stops;
- (iv) transit stations, terminals and hubs;
- (v) Park & Ride facilities;
- (vi) transit depots; and
- (vii) transit garages; and

(h) “transit vehicle” means a vehicle operated by Halifax Transit to transport passengers, but does not include a ferry vessel.

Application

3. This By-law applies to Halifax Transit and transit property in the municipality.

Conduct on Transit Property

4. (1) No person shall do any of the following on, or in, transit property:

(a) litter;

(b) spit, urinate or defecate outside of provided washrooms;

(c) without the prior written permission of the Municipality:

(i) sell or attempt to sell any item, goods, or services, including a newspaper, magazine, or merchandise;

(ii) perform a live musical performance;

(iii) carry a dangerous, explosive or flammable substance, material, weapon, or firearm;

(iv) operate any electronic device or musical instrument producing sound through external speakers;

(v) use or operate any of the following:

a. unicycle, bicycle, tricycle or scooter;

b. roller skates, in-line skates or roller blades;

c. a skateboard;

d. excepting a motorized mobility device, a motor vehicle, including an electrically-powered or battery-powered vehicle, e-scooter or segway;

(vi) print, write, draw, paint, scratch or etch on transit property, including the interior or exterior of a transit vehicle; or

(vii) affix any advertisements, notices, words, letters, symbols, names, pictures, geometric figures, numbers, phrases, slogans, stickers or sentences upon transit property, including the interior or exterior of a transit vehicle;

- (d) operate any electronic device producing sound, unless the sound from the device is conveyed to the person by a set of earphones or earbuds;
- (e) engage in an activity or behaviour or do anything that creates a danger to a person, including the person engaging in the activity or behaviour; or
- (f) cause damage to any transit property.

5. Every person on transit property shall obey all signage posted on transit property by the Halifax Regional Municipality.

Prohibition on interfering with boarding, disembarking or seating

6. (1) No person shall interfere with:
- (a) the boarding or disembarking of a passenger from a transit vehicle; or
 - (b) access to available seating.

Prohibition on interference with transit vehicles

7. (1) No person shall:
- (a) interfere with or obstruct the operation of a transit vehicle; or
 - (b) intentionally delay or prevent the departure of a transit vehicle.

Conduct on transit vehicles

8. No person shall do any of the following on, or in, a transit vehicle:
- (a) cross the safety line near the front of the vehicle while the vehicle is in motion;
 - (b) enter or leave, or attempt to enter or leave, a transit vehicle while it is in motion;
 - (c) enter or leave, or attempt to enter or leave, a transit vehicle when the operator has declared it unsafe to do so;
 - (d) project anything or any part of their body through any window, closed door, or door in the process of closing;
 - (e) place their feet upon a seat or seat-back;
 - (f) unless permission to do so is first received from the operator, bring aboard an article of any kind that:
 - (i) obstructs the aisle; or
 - (ii) prevents a seat from being used by a passenger;

(g) bring on board any animal that is not secured in a cage or kennel, except a service animal; or

(h) smoke.

Use of passenger shelters and transit terminals

9. No person shall remain in a passenger shelter, transit station, or terminal for longer than is reasonably required to board a transit vehicle in order to reach their destination.

Removing Persons

10. (1) A peace officer may order a person who contravenes a provision of this By-law to leave transit property.

(2) No person who has been ordered to leave transit property under subsection (1) shall remain on transit property.

Suspension of Persons from Transit Use

11. (1) A peace officer may prohibit a person who has committed a criminal offence on transit property or has contravened this By-law from entering onto any transit property for a specified period of time not to exceed one hundred and eighty (180) days.

(2) Before acting under subsection (1), the peace officer shall give consideration to the severity of the contravention or contraventions, the circumstances surrounding the contravention or contraventions and the person's history of previous contraventions.

(3) A notice under subsection (1) shall be in writing and shall set out:

(a) the reasons for the notice;

(b) a statement that there is a right to appeal the notice, and the procedure to be followed for appealing it;

(c) the official or body to whom the appeal may be taken; and

(d) the date before which any appeal must be filed.

(4) A notice under subsection (1) shall be served on the person:

(a) by personal service; or

(b) by mailing it by registered mail or delivering it to the person's residence at the address provided by the person.

(5) A notice served by a method set out in clause 11(4)(b) is deemed to have been given on the third day after the date it was mailed or delivered.

(6) A notice under subsection (1) takes effect on the date it is served on the person.

(7) No person shall contravene a notice prohibiting entry on transit property made under this section.

Appeal

12. (1) Any person who has been prohibited from transit property pursuant to section 11 of this By-law for a period longer than twenty-four (24) hours may appeal the prohibition to the By-law Administrator.

(2) All appeals shall be in writing and filed with the By-law Administrator within three (3) calendar days of receipt of the notice of prohibition and shall clearly state the grounds of the appeal.

(3) An appeal will be heard by the By-law Administrator.

(4) After hearing the appeal, the By-law Administrator may:

(a) deny the appeal;

(b) allow the appeal and revoke the prohibition notice; or

(c) make any decision the peace officer could have made under this By-law.

(5) Where a person has filed a valid appeal under this By-law, the prohibition notice shall be held in abeyance until the By-law Administrator has rendered their decision on the appeal.

Offence and Penalty

13. (1) A person who:

(a) violates a provision of this By-law;

(b) fails to do anything required by this By-law;

(c) permits anything to be done in violation of this By-law; or

(d) obstructs or hinders any person in the performance of their duties under this By-law,

is guilty of an offence.

(2) Every person who commits an offence under this By-law shall be liable, upon summary conviction, to a penalty of not less than:

(a) for the first offence to a penalty of not less than one hundred dollars (\$100.00) and not more than ten thousand dollars (\$10,000);

(b) for the second offence to a penalty of not less than two hundred and fifty dollars (\$250.00) and not more than ten thousand dollars (\$10,000); and

(c) for the third offence or any subsequent offence to a penalty of not less than three hundred and fifty dollars (\$350.00) and not more than ten thousand dollars (\$10,000).

(3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

Done and passed in Council this ___ day of _____, 2023.

Mayor

Municipal Clerk

I, Iain MacLean, 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 _____, 2023.

Iain MacLean, Municipal Clerk

Notice of Motion:

First Reading:

Notice of Public Hearing Publication:

Second Reading:

Approval by Service Nova Scotia and Municipal Relations:

Effective Date: