

HALIFAX

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Item No. 14.1.15
Halifax Regional Council
July 18, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: March 31, 2017

SUBJECT: Vending on Municipal Lands By-law C-501

ORIGIN

1. February 7, 2017 motion of Regional Council:

MOVED by Councillor Walker;

THAT Halifax Regional Council request a staff report to consider amending By-law C-501 Respecting Vending on Municipal Lands to include selling clothing from a motor vehicle on HRM property; and

2. Staff, amendments to By-law C-501, Schedule B vending locations.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Section 186 – the power to “(a) license, includes the power to regulate; (b) regulate, includes the power to license; and (c) regulate, includes the power to prohibit”.

Halifax Regional Municipality Charter, Section 188 1 (c) & (f), “The Council may make by-laws, for municipal purposes, respecting, (c) persons, activities and things in, on or near a public place or place that is open to the public; (f) business, business activities and persons engaged in business;

Halifax Regional Municipal Charter, Section 191, “Without limiting the generality of Section 188 but notwithstanding the Motor Vehicle Act, the Council may, by by-law, regulate vending, any class of vending, mobile vendors and the placement of vending machines on the streets of the Municipality”.

By-law C-501, Respecting Vending on Municipal Lands.

Administrative Order #15, Respecting License, Permit and Processing Fees

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. continue to prohibit the selling of clothing on municipal land, except for the existing exception allowing the sale of artisan hand crafted clothing; and
2. adopt By-law C-502, the purpose of which is to amend By-law C-501, the *Vending on Municipal Lands By-law*, to remove the following Vending locations from Schedule B:

Schedule B (A) - Sites for Food Vending Vehicles:

Site 7 - Wright Avenue, North Side, 105 metres West of Joseph Zatzman Drive

Schedule B (B) – Sites For All Other Stands:

Site 3 - Grafton Street, East Side, 71 metres North of Spring Garden Road. Non-Food. Merchandise Only.

Site 5 - Grafton Street, East Side, 58 metres North of Spring Garden Road. Non-Food Merchandise Only.

Site 6 – South Park Street, West Side, 96 meters South of Spring Garden Road

BACKGROUND

Selling Clothing From Motor Vehicles

The Vending By-law currently has provisions for the sale of a variety of goods to be sold by vendors on municipal lands; including food from food service vehicle/cart or bicycle wagons; periodicals from newspaper boxes and Artisan handcrafts which includes handcrafted clothing. Vending on sidewalks is also permitted by abutting businesses.

A similar request of Regional Council in 2016 to look at broadening the types of goods sold by vendors resulted in staff conducting a cross-jurisdictional review of by-laws of selected cities in Canada. This comparison revealed that HRM's current by-law considers a diversity in vending activities which is consistent with many other jurisdictions. A summary of the cross-jurisdictional review as set out in Appendix D of this report.

Vending Locations

Wright Avenue (Schedule B (A) - Site 7)

The Wright Avenue location was added in 2014 to accommodate an existing food truck installation. A food truck vendor operated in this location for several years under the assumption that the parking lot area the truck was parked in was private property. It was discovered that the space was within the right of way, and the site was added to the Vending bylaw.

Grafton Street (Schedule B(B) - Sites 3 and 5)

These sites near Spring Garden Road were intended to allow for non-food merchandise only, adjacent to the now-closed Spring Garden Road Memorial Library.

South Park Street (Schedule B(B) - Site 6)

This site is located on South Park Street, 96 meter south of Spring Garden Road across of the Trillium Tower.

DISCUSSION

Selling Clothing From Motor Vehicles

In 2016 a comparison of by-laws of selected cities in Canada revealed that HRM's current by-law considers

a diversity in vending activities which is consistent with many other jurisdictions. The addition of new vending locations and the inclusion of handcrafted clothing goods to be sold on municipality lands is permitted within the current legislation.

Vendor locations and types of goods sold are designated within the by-law and are approved by Regional Council. A vendor wanting to introduce a new vending location can submit the site details for a review by Right-of-Way Services and subsequent recommendation to Regional Council. The current by-law regulations can accommodate the current motion of Regional Council if the clothing items fall within the definition of artisan handcrafted clothing.

Removal of Vending Locations from Schedule B

The Wright Avenue location has been vacant since December 31, 2015. Since adding the location to the list of acceptable sites, there have been issues with the site regarding the safe entry and exit of the parking lots, both for food vendor customer and clients of adjacent businesses. This site is also located in a gravel shoulder, and potholes /wheel ruts have become a maintenance challenge for municipal crews. Where the site was added to the list of sites in the by-law to accommodate one vendor, no vendor is currently using this location so the site can be removed without disrupting any businesses.

The Grafton Street locations were never used. With the closing of the library, these spaces have become less likely to receive an application for a vending license.

The South Park Street location has not had a consistent vendor since 2012. In 2016, a license was issued but the vendor later requested a refund claiming the site was not a good location and in direct competition with the food truck vendor on Martello Street. This location has also had a history of being problematic in that it does not support sufficient curbside access to install the vending equipment, the addition of a bike lane, and parking is difficult to find for the vendor and or customers. No vendor is currently using this location so the site can be removed without disrupting any business. This site is occupying what was a meter parking space and with such high demand for curbside parking spaces in this area, the space would serve a greater purpose as such.

FINANCIAL IMPLICATIONS

There are no financial implications from the recommendation on the selling of clothing from a motor vehicle.

The removal of the four vending locations from Schedule B will likely create a slight increase in municipal revenues. Although the removal of the four vending locations would suggest the municipality will forego \$1,600 per year in licensing revenue, over the past two years the revenue from these four locations has been \$0. In addition, the removal of the vending location on South Park Street will allow for additional parking meter revenue, anticipated to be approximately \$1,750 per year at this location.

RISK CONSIDERATION

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

COMMUNITY ENGAGEMENT

None.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. Council could decide to add new categories of vending licenses or inclusion of non-handcrafted clothing goods for sale on municipality lands.
2. Council could decide to not remove one or more of these locations from the bylaw.

ATTACHMENTS

Attachment A – Showing proposed changes to By-law C-501

Attachment B – Amending By-law C-502

Attachment C – Incorporating proposed changes to By-law C-501

Attachment D – Jurisdictional Scan

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Kevin Hindle, Regional Coordinator, License Standards, 902.490.2550

Report Prepared by: Jeff Nephew, P.Eng., Right of Way Engineering Assistant, 902.490.6245

**Attachment A
(Showing Proposed Changes)**

Schedule “B”

A. SITES FOR FOOD SERVICE VEHICLES

1. Spring Garden Road, North Side, 32 metres West of Grafton Street
2. Spring Garden Road, North Side, 32.5 metres East of Brunswick Street
3. Grafton Street, West Side, 25 metres North of Spring Garden Road
4. Argyle Street, East Side, 18 metres South of Carmichael Street
5. Martello Street, West Side, 28 metres South of Spring Garden Road
6. Argyle Street, East Side, 20 metres North of Carmichael Street
7. ~~Wright Avenue, North Side, 105 metres West of Joseph Zatzman Drive~~ Repealed
8. Purdys Lane, North side of the north loop of the crescent, 27 metres East of Upper Water Street
9. Waterfront Drive, East side, 35 metres North of driveway to Park Parking Lot
10. Dingle Road, in the Sir Sandford Fleming Park Parking Lot
11. Point Pleasant Park – Parking Lot at Black Rock Beach

B. SITES FOR ALL OTHER STANDS

1. Spring Garden Road, North Side, 35 metres West of Grafton Street
2. Spring Garden Road, North Side, 30.5 metres East of Brunswick Street
3. ~~Grafton Street, East Side, 71 metres North of Spring Garden Road. Non-Food Merchandise Only.~~ Repealed
4. Grafton Street, West Side, 56.5 metres North of Spring Garden Road
5. ~~Grafton Street, East Side, 58 metres North of Spring Garden Road. Non-Food Merchandise Only.~~ Repealed
6. ~~South Park Street, West Side, 96 metres South of Spring Garden Road~~ Repealed
7. Argyle Street, East Side, 30 metres South of Carmichael Street
8. Argyle Street, East Side, 60 metres South of Carmichael Street
9. George Street, South Side, 80 metres East of Lower Water Street
10. University Avenue, South Side, 43 metres West of Seymour Street
11. On the Halifax North Common, Cunard Street, South Side, 48 metres East of Princess Place
12. On the Halifax Central Common, 5816 Cogswell Street, 199 metres East of Bell Road

**Attachment B
(Amending By-law)**

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW C-502
RESPECTING THE AMENDMENT OF BY-LAW C-501
THE VENDING ON MUNICIPAL LANDS BY-LAW**

BE IT ENACTED by the Council of Halifax Regional Municipality that Schedule “B” of By-law C-501, the *Vending on Municipal Lands By-law*, is amended as follows:

1. repealing section 7 of “Sites for Food Service Vehicles”; and
2. repealing sections 3, 5 and 6 of “Sites for All Other Stands”.

Done and passed by Council this ___ day of _____, 2017

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 _____, 2017

Kevin Arjoon
Municipal Clerk

**Attachment C
(Incorporating Proposed Changes)**

Schedule “B”

A. SITES FOR FOOD SERVICE VEHICLES

1. Spring Garden Road, North Side, 32 metres West of Grafton Street
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3. Grafton Street, West Side, 25 metres North of Spring Garden Road
4. Argyle Street, East Side, 18 metres South of Carmichael Street
5. Martello Street, West Side, 28 metres South of Spring Garden Road
6. Argyle Street, East Side, 20 metres North of Carmichael Street
7. Repealed
8. Purdys Lane, North side of the north loop of the crescent, 27 metres East of Upper Water Street
9. Waterfront Drive, East side, 35 metres North of driveway to Park Parking Lot
10. Dingle Road, in the Sir Sandford Fleming Park Parking Lot
11. Point Pleasant Park – Parking Lot at Black Rock Beach

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1. Spring Garden Road, North Side, 35 metres West of Grafton Street
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4. Grafton Street, West Side, 56.5 metres North of Spring Garden Road
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6. Repealed
7. Argyle Street, East Side, 30 metres South of Carmichael Street
8. Argyle Street, East Side, 60 metres South of Carmichael Street
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11. On the Halifax North Common, Cunard Street, South Side, 48 metres East of Princess Place
12. On the Halifax Central Common, 5816 Cogswell Street, 199 metres East of Bell Road

Attachment D – Cross-Jurisdictional Summary of Vending Licencing and Restrictions

Cross-Jurisdictional Summary of Vending Licencing and Restrictions			
Municipality	Permitted or licenced vending on municipal lands		
	Is vending (other than food) permitted on Municipal lands?	If Yes, are the types of good one can sell restricted in any way?	Would current legislation permit the sale of used golf balls on municipal lands?
HALIFAX NS	Yes	Yes, Artisans may sell "handcrafts" only. A "handcraft" means a work of art or craft made by a painter, photographer, silversmith, weaver, jeweler, candle maker, leather worker or other like artisan.	No
St. John's NL	Yes	Yes. Good are permitted to be sold, by the discretion of staff and/or Council. There are also geographic restrictions.	Types of goods are allowed at Staff / Council discretion
Moncton NB	No, but vending pilots are underway		
Saint John NB	Yes	Yes, Arts and Crafts only.	No
Montreal (Ville Marie) QC	Yes, Montreal has 111 registered locations for vending. Locations are on both municipal property and on the street.	Yes. Permits are only issued to Artists and Artisans. The applicant must present to a panel which includes professional registered artisans and their work must be considered art or the product of an artisan	No. Any products that are sold must be transformed into art in some way. They may allow a piece of art that includes a golf ball but not one that is intended for re-use.
Ottawa ON	Within ByWard Market Only. The Market is governed by a group within the municipality and vending (including types of good) is subject to their approval.	Yes, Market only and subject to approval.	That would be a discretionary decision, although it is not likely this would be approved for the Market. Vending is not permitted other than at the Market.
Kingston ON	Yes	No	Yes
Toronto ON	Yes. Vendors must be mobile; they cannot have specific site.	No	Yes
Regina SK	Yes, but regulations refer to sidewalks specifically.	Yes, arts and crafts, handmade jewellery, flowers, newspapers and magazines. Anything else requires approval from Staff.	That would be a discretionary decision, although it is not likely this would be approved.
Calgary AB	No, business licenses are available but they have to be on private land (community associations, trade shows, flea markets, etc.).		
Calgary Downtown Association - Covers two outdoor malls that have their own regulations and by-laws, they are not covered under the City of Calgary.	Yes, Downtown Calgary Association only issues permits for two pedestrian friendly streets. One of the malls is a street that is pedestrian only from 6am-6pm and allows vehicles overnight while the other has a narrow lane for traffic and wide sidewalks to promote pedestrian use.	Yes, types of goods is discretionary. Undergarments, coffee mugs, t-shirts, cowboy hats, baseball hats, Canadian flags or souvenir items, shoe shines are not permitted. They also try to prevent the resale of goods purchased in high quantity, and have a preference toward high quality and unique items.	That would be a discretionary decision, although it is not likely this would be approved. If a vendor wanted to sell refurbished sports equipment and provided samples in advance they may be approved but they must maintain a high quality and would be monitored closely.
Edmonton AB	Yes	No, vendors are permitted to sell any products as long as it is legal to do so under Federal and Provincial laws.	Yes
Vancouver BC	In Vancouver, the Parks Board is a separate governing body from City Hall. They have a park vending programme that is seasonal and their board determines which vendors get permits and in which parks or beaches the vending will be permitted.	Yes. Non-food permits allow for the sale of flowers, handcrafted works, artwork, or other approved product.	No. Currently, anything mass produced or machine made is not permitted in the non-food programme. Other than flowers the non-food items must be original works.