



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 15.2.1**  
**Halifax Regional Council**  
**January 25, 2022**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** - Original Signed-

Annie Sherry, Legislative Assistant, for Marilee Sulewski, Chair, Design Review Committee

**DATE:** January 14, 2022

**SUBJECT:** **Case 23938: Downtown Halifax Land Use By-law Amendments to Revise the Definition of Adult Entertainment Uses and Housekeeping Amendment to Map 1**

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### **ORIGIN**

January 13, 2022 meeting of the Design Review Committee, Item 9.1.2:

MOVED by Rob Leblanc, seconded by Charlotte Fouquet

THAT the Design Review Committee recommend that Halifax Regional Council:

1. Give First Reading and schedule a public hearing to consider the proposed amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of this report.
2. Adopt the proposed Amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of this report.

MOTION PUT AND PASSED.

### **LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.*

### **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Give First Reading and schedule a public hearing to consider the proposed amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of the staff report dated December 23, 2021.
2. Adopt the proposed Amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of the staff report dated December 23, 2021.

## **BACKGROUND**

At the January 13, 2022 meeting of the Design Review Committee, the Committee received a staff recommendation report dated December 23, 2021, regarding amendments to the Land Use By-law for Downtown Halifax to revise the definition of adult entertainment uses.

Further information is outlined in the staff report dated December 23, 2021.

## **DISCUSSION**

At the January 13, 2022 meeting of the Design Review Committee, the Committee discussed the proposed amendments and approved a motion recommending that Halifax Regional Council adopt the proposed By-law amendments.

Further information is outlined in the staff report dated December 23, 2021.

## **FINANCIAL IMPLICATIONS**

Financial implications are outlined in the staff report dated December 23, 2021.

## **RISK CONSIDERATION**

Risk considerations are outlined in the staff report dated December 23, 2021.

## **COMMUNITY ENGAGEMENT**

Members of the public are permitted to submit correspondence and petitions to be circulated to the Design Review Committee. The agenda, reports, and minutes of the Design Review Committee are posted on Halifax.ca.

For further information on Community Engagement as it relates to this item, refer to the staff report dated December 23, 2021.

## **ENVIRONMENTAL IMPLICATIONS**

Environmental implications are outlined in the staff report dated December 23, 2021.

## **ALTERNATIVES**

The Committee did not discuss alternatives.

## **ATTACHMENTS**

Attachment 1 – Staff recommendation report dated December 23, 2021.

A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Annie Sherry, Legislative Assistant, Office of the Municipal Clerk. 902.943.8741.

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**Attachment 1**  
**Item No. 9.1.2**  
**Design Review Committee**  
**January 13, 2022**

**TO:** Chair and Members of Design Review Committee

**SUBMITTED BY:** - Original Signed -  
Jacques Dubé, Chief Administrative Officer

**DATE:** December 23, 2021

**SUBJECT:** **Case 23938: Downtown Halifax Land Use By-law amendments to revise the definition of adult entertainment uses and housekeeping amendment to Map 1**

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**ORIGIN**

- November 23, 2021 Regional Council Item 16.2 motion put and passed:

*THAT Halifax Regional Council request a staff report regarding the options for removal or replacement of the definition of “adult bookstore” from the Downtown LUB, pending the incorporation of the Heritage Conservation District bylaws into the Regional Centre LUB.*

- Staff-initiated housekeeping amendment to the Downtown Halifax Land Use By-law to re-adopt the Downtown Halifax Zoning Map (Attachment A)

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.*

**RECOMMENDATION**

It is recommended that the Design Review Committee recommend that Halifax Regional Council:

1. Give First Reading and schedule a public hearing to consider the proposed amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of this report.
2. Adopt the proposed Amendments to the Downtown Halifax Land Use By-law as set out in Attachment A of this report.

## **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 17<sup>th</sup>, 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 2<sup>nd</sup> 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 14<sup>th</sup> Staff Report](#) and presented to Council on October 26<sup>th</sup>, 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

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Dali Salih, Planner III, Community Policy Program, Regional Planning, 902.220.9631

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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.