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Item No. 12.1.4
Transportation Standing Committee
January 21, 2016

TO: Chair and Members of Transportation Standing Committee

Original Signed

SUBMITTED BY:

Bruce Zvaniga, P.Eng., Director, Transportation & Public Works

DATE: November 26, 2015

SUBJECT: Vending By-law - Types of Goods and Permit Fee Structure

ORIGIN

Regional Council motion, September 9, 2014, Item 12.3, moved by Councillor Mosher, seconded by Councillor Walker that Halifax Regional Council request a staff report that examines possibilities for:

1. Broadening the type of goods that can be sold by street right of way vendors; and
2. Minimizing permit fees. This may require changing the funding model of the permit program.

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 including “The Council may make by-laws, for municipal purposes, respecting (a). (c) persons, activities and things in, on or near a public place or place that is open to the public.

Halifax Regional Municipality Charter, Section 191, Council may, by by-law, regulate vending on the streets of the Municipality.

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

RECOMMENDATION

It is recommended that the Transportation Standing Committee recommend to Regional Council that no amendments be made to By-law C-501 Respecting Vending on Municipal Lands as it pertains to the types of goods that may be sold on municipal lands; and that no amendments be made to Administrative Order 15 Respecting License, Permit And Processing Fees as it pertains to the licence fee structure.

BACKGROUND

On July 12, 2014, a vendor was approached by an HRM Compliance Officer while selling golf balls within the street right of way on St Margarets Bay Road. This vendor was informed that selling golf balls on HRM lands is prohibited under the provisions of the HRM By-law Respecting Vending on Municipal Lands. According to the provisions of the By-law, only certain goods - food, handcrafts, newspapers, and flowers - can be sold on HRM streets. Vendors must obtain a licence, and only sell goods at a site designated by that licence.

DISCUSSION

Broadening the Types of Goods Sold on Municipal Lands and Minimizing Licence Fees

The Vending By-law currently has provisions to allow a variety of vending activities on municipal lands; including food from food service vehicles (food trucks), stands (hot dog carts), or bicycle wagons, periodicals from newspaper boxes, and handcrafts from artisans. Vending on sidewalks is also permitted by abutting businesses.

While examining possibilities for broadening the types of goods sold by street vendors, Staff conducted a cross jurisdictional review to evaluate the current diversity of vending activities permitted under the Vending By-law as compared to similar by-laws for 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 is attached to this report.

Staff is not recommending any new categories of licences or inclusion of different goods for sale on municipal lands. As there are no recommended changes to the types of goods permitted for sale, there are no recommended changes to the current fee structure.

Appropriateness of Designated Vending Sites on St Margarets Bay Road

With the exception of bicycle wagon vendors, vending can only occur at a specific site where the vendor holds a licence. All vending sites are designated through the by-law. Notwithstanding the existing restrictions on the types of goods which may be sold on municipal lands under the current Vending By-law, Staff reviewed the appropriateness of designating roadside vending locations on St Margarets Bay Road.

Section 31 of the By-law states that no person shall vend in an obstructive manner which would include, but not be limited to constituting a hazard to traffic, life, or property. The section of St Margarets Bay Road between Northwest Arm Drive and Highway 333 – where the golf ball vending was taking place – is classified as an arterial road with a rural cross section, and posted speed limits ranging from 60km/h to 80km/h. It also has bike lanes on both sides. Vending activities that would encourage repeated access and egress by patrons in vehicles from the shoulder of a roadway with these characteristics would be considered a hazard.

In Section 37 of the By-law, there are criteria for evaluating requests for new designated vending sites for food service vehicles. Comparing the activity of selling golf balls from a vehicle at the roadside to the other vending types considered in the by-law, it is most similar to food service vehicles in that sales are completed from a vehicle to persons who walk up to that vehicle. Under that rationale, it would make sense to use the criteria set out in By-law C-501 for the evaluation of new food service vehicle sites to evaluate the appropriateness of designated vending sites for the St Margarets Bay Road. A site along this section of St Margarets Bay Road fails to meet the criteria due to the classification of the roadway and the presence of the bike lane (which is a no parking zone).

FINANCIAL IMPLICATIONS

The proposed recommendation results in no changes in the by-law or current fee structure.

The “alternatives” section of this report – although not recommended – may result in the addition of one new designated site for “artisans and craftspeople”. This may result in issuance of one net new vending licence per year to the golf ball vendor. This could represent a net revenue increase of \$250/year.

COMMUNITY ENGAGEMENT

Staff consulted with the representatives from the Business Improvement Districts in April 2015, and their general consensus was that, the most recent amendments to the C-501 By-law (September 2014) resulted in positive changes. Most were satisfied with the outcome of that process. With respect to the types of goods permitted for sale by vendors, it was noted that any changes would be applicable to the entire core area as depicted in the Schedule C of By-law C-501, not just on St Margarets Bay Road where the request originated.

ENVIRONMENTAL IMPLICATIONS

Implications not identified.

ALTERNATIVES

Council may direct staff to bring forward amendments to the Vending By-law (C-501) to create a new licence category for refurbished / recycled golf balls. Licence fees and designated sites would have to be identified for this new licence type. A vendor could identify a site on municipal lands that meet the criteria set out in Section 37 of By-law C-501 for consideration. This alternative is not recommended as the current diversity of goods permitted for sale under the existing provisions is consistent with those permitted in other jurisdictions.

ATTACHMENTS

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

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

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Attachment A – 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. Goods 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.