



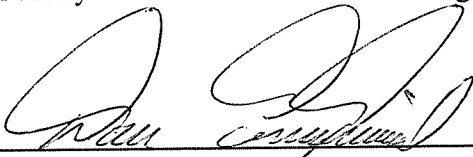
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8.1(i)

Halifax Regional Council  
October 3, 2006

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

**SUBMITTED BY:**

  
\_\_\_\_\_  
Dan English, Chief Administrative Officer

  
\_\_\_\_\_  
Geri Kaiser, Deputy Chief Administrative Officer

**DATE:** September 27, 2006

**SUBJECT:** Bylaw A-200 - Respecting Automatic Machines-Amendments

### SUPPLEMENTARY REPORT

#### ORIGIN

Report to Regional Council, September 12, 2006, Item 7.3.

#### RECOMMENDATION

It is recommended that Regional Council approve:

1. Proposed Bylaw A-201, respecting Automatic Machines and commence the process for giving first reading for the adoption of the amended ByLaw A-200.
2. Amendments to Administrative Order 15, Respecting License, Permit and Processing Fees and definitions.
3. Authorize staff to investigate the appropriateness of establishing a licensing fee for banking machines not located in commercial buildings.

**BACKGROUND**

On September 12, 2006, a MOTION was made by Councillor Sloane to MOVE First Reading of the bylaw amendments, which was approved. With First Reading staff were asked to respond to three amendment requests from Council.

**DISCUSSION**

1) Staff was directed to amend the bylaw to address the establishment of a charitable license exemption category for automatic machines owned or operated by volunteers and manned by volunteers where 100% of the funds generated are donated to a charitable organization.

In consultation with Legal Services, wording changes have been made to Section 4 of the bylaw to support Council's motion to restrict the charitable exemption to those circumstances where the machines are owned and operated by and the proceeds of operating the machines are used, in full, to support charitable organizations, not for profit societies, religious institutions or schools.

2) Staff were asked to provide a response to the question of why VLTs and gaming machines are not addressed in the bylaw.

The powers to enact a bylaw related to the licensing of automatic machines is granted to the municipality under the Municipal Government Act section 172 (1) (g). The MGA includes a definition of automatic machines that specifically excludes any machines licensed by the Province; VLTs and gaming machines are licensed by the Province.

*(e) "automatic machine" means a mechanical or electronic device that is operated by the introduction of a coin, counter or slug, and includes a vending machine but does not include automatic scales, telephone apparatus or a machine that is licensed by the Province or an agency of the Province;*

3) Staff were also directed to add a clause to the bylaw to address the situation where license holders are not up-to-date on their permits and that, in such a case, the license not be re-issued for up to one year.

Staff have reviewed the proposed amendment and ask that Council reconsider the direction in regard to adding a clause to the bylaw that would direct staff not to re-issue licenses for up to one year in a situation where a vendor was in arrears of payment.

If the intent of Council was to assure that adequate authority is contained within the bylaw to address vendors who may be in arrears of licensing fees staff have reviewed that matter, including a review with the prosecutions section of legal services. The current wording of the bylaw is consistent with standard description for offenses and penalties under HRM bylaws.

Under the current and proposed bylaw there are a number of remedies available in an occurrence of non-compliance.

The current procedure is that annual licenses are not issued by the license administrator for automatic machines unless the vendors account is paid in full.

If an annual license is not issued for any reason, including a vendor's account not being current, and machines are not removed from the properties then the machines are unlicensed and are clearly in violation of the by-law.

If machines are in violation of the bylaw there are progressive penalties available including issuance of an SOT and the court ordered penalties as outlined in the bylaw. The bylaw also provides the authority for the seizure and removal of unlicensed machines and related property liens.

In addition, Financial Services has a collections process that can be applied to any outstanding account.

It is the position of administration that these penalties, if appropriately applied, provide appropriate incentive for compliance and the administration of offenses of non-payment under the bylaw.

It is anticipated that adoption of the amended bylaw will place staff in the position to more actively enforce all the penalty provisions of the bylaw.

Inclusion of an amendment to the bylaw stating that, *should a vendor not be up-to-date in their account that, in such a case, automatic machine licenses not be re-issued for up to one year* would provide for less stringent enforcement options than exist under the current bylaw.

If, with these clarifications, it continues to be Council's desire to add a clause related specifically to non-payment of licensing fees proposed wording for the clause has been provided in Appendix C.

4. Staff were asked to provide the background research on licensing fees in other Canadian Municipalities, which is included as Appendix D of this report.

### **BUDGET IMPLICATIONS**

There are no budget implications to the proposed amendments.

### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**BYLAW RATIONALIZATION COMMITTEE**

The proposed bylaw and respective Administrative Orders were reviewed by the Bylaw Rationalization Committee on February 24, 2006. The policy lead Business Unit was modified from Financial Services to Business Planning and Information Management. The documents have also been "approved to form" by Legal Services.

**ALTERNATIVES**


1. Council can direct staff to maintain the status quo and administer the licensing of automatic machines under the current bylaw structure.

**ATTACHMENTS**

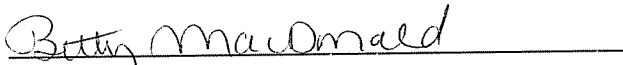
Appendix "A" - Proposed Amendments to A-200 Automatic Machine Licensing  
Appendix "B" - Administrative Order 15 Respecting License, Permit and Processing Fees  
Appendix "C" - Additional amendment  
Appendix "D" - Licensing Fees, Other Canadian Municipalities


A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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**“Appendix A”**

**HALIFAX REGIONAL MUNICIPALITY**

**BYLAW A-201**

**RESPECTING AUTOMATIC MACHINES**

**BE IT ENACTED** by the Council of the Halifax Regional Municipality that By-law A-200 Respecting Automatic Machines be amended as follows:

1. Section 2(b) of said By-law A-200 is repealed and replaced by the following section:
  - 2(b) "automatic machine" means a mechanical or electronic device that is operated by the introduction of a coin, counter, slug, paper money, debit card, credit card or other such payment device or is designed or normally intended to be so operated and includes vending machines, and amusement machines but does not include automatic scales, telephone apparatus, gas or electric meters or postage stamp vending machines, or a machine that is licensed by the Province of Nova Scotia or an agency of the Province. Each mechanical or electronic device that is operated by its own payment mechanism is an individual automatic machine regardless of how many such devices are attached to the same stand.
2. Section 2 is further amended by adding immediately after clause (b) the following clause:
  - (c) “bulk machine” means an automatic machine which dispenses an unpackaged product such as but not limited to gum ball(s) and nut(s) which is operated by the introduction of a coin, slug, paper money, debit card, credit card or other such payment device;
3. Subsection (c) of Section 2 is re-lettered Subsection (d).
4. Section 2 is further amended by adding immediately after clause (d) the following clause:
  - (e) “Laundry machine” means a washing or drying machine which is operated by the introduction of a coin, slug, paper money, debit card, credit card or other such payment device;
5. Subsections (d), (e), (f) and (g) of Section 2 are amended by re-lettering said subsections (f), (g), (h) and (i).
6. Section 2 is further amended by adding immediately after clause (i) the following clause:
  - (j) “newspaper box” means a box for the purpose of vending newspapers which is

operated by the introduction of a coin, slug, paper money, debit card, credit card or other such payment device;

7. Subsections (h) and (i) of Section 2 are amended by re-lettering said subsections (k) and (l).
8. Section 2 is further amended by adding immediately after clause (l) the following clause:
  - (m) “principal business” means a business carried on in a building or premises, the gross receipts of which represent seventy-five percent or more of the total receipts of all business carried on in the building or premises; and
9. Subsection (j) is re-lettered as Subsection (n).
10. Section 3 is repealed and replaced by the following sections:

#### **Automatic Machine License**

3. No person shall maintain any automatic machine unless the person has obtained and is in possession of a valid licence from the municipality permitting the person to maintain such automatic machine.

#### **License Exemption**

4. A licence is under this by-law shall not be required for any automatic machine when:
  - (1) the machine is situated in a building or premises where the principal business carried on in that building or premises is the sale of goods or merchandise or the dispensing of services through the operating of automatic machines, proof of which must be provided when requested by the municipality;
  - (2) the machine is a newspaper box that is licenced under By-law C-500, the Commerce and Vending on Municipal Lands By-law, or
  - (3) 100% of the proceeds of the machines are used to support:
    - a) a charitable organization registered under the *Income Tax Act (Canada)*.
    - b) a not for profit society incorporated under the *Societies Act of Nova Scotia*
    - c) a religious institution, or
    - d) a school.
11. Section 4 is re-numbered as Section 5, and the following changes are to be made:
  - (1) Subsection 2 (h) is to be added immediately following Subsection 2 (g) as follows:

- (g) in order to obtain a charitable exemption pursuant to section 4(3), the applicant shall provide the following:
  - a) written confirmation that the machines are owned and operated by the charity
  - b) confirmation of charitable status
  - c) an income statement which provides confirmation that 100% of the proceeds of the machines is used in support of operating the charity.

(2) Subsection (7) is to be added immediately following Subsection (6) as follows:

- (7) The owner of a machine operating under a “charitable” exemption shall ensure that the machine clearly indicates which charity it supports.

(3) Subsections (7), (8), and (9) are to be re-numbered Subsections (8), (9), and (10).

12. Sections 5., 6., 7., 8., 9.,10.,11., 12., and 13. are to be re-numbered Sections 6., 7., 8., 9., 10., 11., 12., 13., and 14.

## **“Appendix B”**

Amendment to Schedule “A”, Administrative Order 15, Respecting License, Permit, and Processing Fees

<b>12.</b>	<b><u>By-Law #</u></b>	<b><u>Short Title</u></b>	<b><u>Section</u></b>	<b><u>Fee</u></b>
	A-201	Respecting Automatic Machine Licensing		
		- Amusement Machine		\$35/annum
		- Bulk Machine (Coin Mechanism)		\$10/annum
		- Laundry Machine		\$25/annum
		- Vending Machine License (Snack/Beverage)		\$55/annum
		- Newspaper Boxes		\$55/annum



**“Appendix C”**

**HALIFAX REGIONAL MUNICIPALITY**

**BYLAW A-201**

**RESPECTING AUTOMATIC MACHINES**

Section 8 of said By-law A -200 be amended by adding immediately after clause (2) the following clause:

(3) Where a license holder is not up-to-date in payment of permit fees that in such a case, the license may be revoked by the license administrator and not be re-issued for a period of up to one year. Upon the license holder being notified in writing by the license administrator such holder shall forthwith cease to permit or suffer any automatic machine in respect of which the licenses where in force to be operated and such machines to be removed from the premises stated in the license.

