

HALIFAX REGIONAL COUNCIL
January 22, 2002
6:00 P.M.

To: Mayor Kelly and Members of Halifax Regional Council

Submitted By:


Wayne Anstey, Q.C., Director of Administrative Services

Date: 14 January 2002

Subject: Councillor Walker - Appeal Process for
Winter Parking Tickets

INFORMATION REPORT

ORIGIN:

At the January 08, 2002 meeting of Halifax Regional Council, Councillor Walker moved and Councillor Sloane seconded that **a staff report be provided on setting up an appeal process for tickets issued to parked cars on streets during snow storms.**

MOTION PUT AND PASSED.

BACKGROUND

Councillor Walker noted the present system does not allow for an appeal process unless you take the ticket to court and in taking the ticket to court the amount goes from \$15.00 to \$45.00 because residents cannot get their appeal heard by the courts within the sixty days.

The Councillor requested information be provided on whether this process can be done and, if not, how can the process be changed so that can be allowed. The Councillor also asked if there was a way to change the sixty days on the tickets so the amount does not go to \$45.00 if you want to take it to court. He stated he would like to see a process put in place that would make it simpler for the residents, who do not feel justified in getting a ticket, to appeal. The Councillor requested the report include options the Municipality has or does not have with regard to changing the system.

Councillor Cooper requested Council be provided with a copy of the Policy and Procedures with regard to the issuance of tickets in order to clarify whether it gives up to date consideration of conditions and, if an implemented winter maintenance is cancelled, how soon that information is provided to the public.

DISCUSSION:

Tickets are issued in respect of winter parking and vehicles towed pursuant to Section 139 of the *Motor Vehicle Act* as follows:

Winter parking

139 (1) Notwithstanding Section 138, no person wilfully shall park or leave standing a vehicle whether attended or unattended, upon a highway or any part thereof in such manner that it might interfere with or obstruct snow removal or winter maintenance operations on the highway.

Removal of obstructing vehicle

(2) Where a vehicle is parked or left standing on a highway in such manner that it interferes with or obstructs snow removal or winter maintenance operations, the Department or a peace officer may cause the vehicle to be moved or towed to some other place.

Cost of removal

(3) Any cost incurred by the Department or a peace officer in moving or towing a vehicle under subsection (2) may be recovered from the owner of the vehicle and such debt shall constitute a lien against the vehicle. R. S., c. 293, s. 139.

A ticket issued under this Section is the same as a ticket issued in respect of any other parking infraction under the *Motor Vehicle Act* and is subject to court process. Legally, once a ticket is issued, there are only two people that can withdraw it, the officer that issued it and the prosecutor who will take it through the court process. In addition, of course, the charge in respect of which the ticket is issued may be dismissed by the judge hearing the case, after considering all of the evidence presented at trial. Since the ticket is for a provincial offense, the Municipal Council has no jurisdiction in respect of the ticket or the process under which it is prosecuted. A Committee of Council would have no jurisdiction to withdraw the ticket even if it felt it was improperly issued. The only way the process could be changed would be if the Province was prepared to amend the *Motor Vehicle Act* and the *Summary Proceedings Act* to provide for some sort of formal preliminary review process. Since the court procedures are the same throughout the whole province, the Province would have to be prepared to put the review process in place everywhere.

At the present time, the Municipality has three parking ticket review staff who answer calls from individuals who feel that tickets were issued to them for no valid reason. Those individuals hear the basis of the complaint and, if they consider that the complaint may be justified, they pass the information on to the issuing officer who may then decide to withdraw the ticket. Therefore, there is in fact an informal ticket resolution process in place at present.

In each calendar year, the peace officers and commissionaires in HRM issue approximately 200,000 parking tickets of all types. Approximately 5% of those are the subject of a complaint. Approximately 3% of the complaints received result in a ticket being withdrawn. Between September 2001 and December 21, 2001, approximately 2,300 tickets were issued pursuant to Section 139 of the *Motor Vehicle Act*. No separate statistics are kept as to the different types of parking tickets reviewed and withdrawn, but based on the foregoing averages, it can be expected that approximately 115 complaints would have been lodged and approximately 4 tickets withdrawn.

The tickets which are issued display a telephone number which the accused can call if he/she has a complaint about the ticket. If a person finds a ticket on the windshield of their vehicle, he/she may call the HRM Call Centre immediately with respect to it. Even if the ticket is removed from the vehicle by some means, a letter is received by the accused approximately two weeks after the ticket was issued. If the accused files a complaint, the accused is notified within 7 days of the decision with respect to it. Therefore this informal process is generally completed well before the expiration of the 60 days specified in the ticket. The increase in the amount payable if the ticket is not paid within 60 days is all in respect of court costs. In fact, the extra \$30.00 is not payable until the provincial court process kicks in which is usually well after the 60 day period. Therefore a person can generally make a \$15.00 voluntary payment for a considerable time after the 60 day period has ended. If a person does contest a ticket in the courts and the charges are dismissed, the accused pays nothing, neither the fine or the court costs. If the accused is found guilty, the fine remains at \$15.00 but the costs are payable as well.


There are no guidelines for issuing tickets other than Section 139 above. Under the legislation, the peace officer or commissionaire issuing the ticket in the first instance has to make the determination as to whether the conditions described in the Section exist. This is no different than a violation of any other statutory offense. The Ticket Office is advised however by the Works Office when winter weather conditions are expected and when scheduled equipment will be on the streets. This information is passed on to the police and to the commissionaires to assist them in making their decisions.

ATTACHMENTS:

None.

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Wayne Anstey, Q.C., Municipal Solicitor 490-4229.

Report approved by: 

Wayne Anstey, Director of Administrative Services 490-4229