

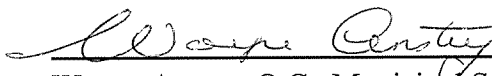


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Halifax Regional Council  
February 11, 2003

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

**SUBMITTED BY:**   
Wayne Anstey, Q.C., Municipal Solicitor

**DATE:** February 4 2003

**SUBJECT:** Councillor Uteck - Winter Parking Ban

### INFORMATION REPORT

#### ORIGIN

A Councillor Request For Information on the agenda of the February 03, 2003 meeting of Halifax Regional Council as follows:

Councillor Uteck requested a staff report from the bylaw rationalization committee regarding the winter parking ban. Councillor Uteck expressed the belief that the two by-laws, the winter parking ban and the land use by-law which prohibits the rental of parking spaces on the Peninsula are in conflict. By enforcing the ban an illegal activity, namely rental of parking spots is encouraged. Which by-law takes precedence and would the courts declare those tickets invalid if the offender could prove they could not secure parking without incurring a fee?

At the February 03, 2003 meeting of Regional Council, consideration of this matter was deferred to February 11, 2003 pending receipt of an Information Report.

### **BACKGROUND/DISCUSSION**

Since the By-law Rationalization Committee does not meet again until Friday, February 13, 2003 and since the issue raised is essentially a legal one, Legal Service has taken the liberty of responding to this question.

While there may be practical conflicts raised by the results of enforcing these two by-laws, in staff's opinion, there is no legal conflict between the by-laws themselves.

If a person cannot find a legal off-street parking spot, that does not provide a legal justification for that person parking on a street at a time when the regulations do not permit parking. By the same token, the fact that on-street parking may be limited or absolutely prohibited during certain hours does not legally permit a property owner to take advantage of the market demand and rent out spots on private property where such activity is prohibited by the land use by-law. If an individual cannot find off-street parking and there is no on-street parking available, whether because it is not permitted at a particular place or time or it is just all occupied, the only legal alternative for that individual is to find another means of transportation that does not require them to have a parking spot for a vehicle. In the core area of many large cities both on and off street parking is at a premium. This fact does not provide a legal excuse to the public flaunting the municipal regulations.

### **BUDGET IMPLICATIONS**

There are no budget implications at this time.

### **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.

### **ALTERNATIVES**

Since Council has no authority with respect to the imposition of the on-street parking ban, Council may wish to request Planning and Development to revisit the land use policy respecting rental parking on residential properties in the core areas of Halifax Regional Municipality.

### **ATTACHMENT**

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