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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
October 26, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



George McLellan, Chief Administrative Officer



Dan English, Deputy Chief Administrative Officer

DATE: September 30, 2004

SUBJECT: By-Law S-307 Amendments

ORIGIN

Staff.

RECOMMENDATION

It is recommended that :

1. Regional Council approve in principle By-Law S-307 (attached as Appendix A), amendments to By-Law S-300, Respecting Streets, and arrange for their formal adoption by Regional Council. The amendment is to replace the word "abutter" in sections 4, 6 and 10 with the word "owner", and to clearly articulate the property owners responsibilities with respect to these sections of the by-law.

BACKGROUND

The definition of “owner” and the wording in Sections 4, 6 and 10 of By-Law S-300 Respecting Streets do not clearly articulate the property owner’s responsibilities as they relate to the following:

1. removal of snow and ice from sidewalks abutting the property, and
2. for maintaining the area between the curb and sidewalk abutting the property free from garbage waste or debris.

DISCUSSION

In consultation with Legal Services, staff is recommending amendments to By-Law S-300 Streets, attached as Appendix A, to ensure that property owners have a clear understanding of their responsibilities to remove snow and ice from sidewalks abutting their property and to maintain the area between the curb and sidewalk abutting their property free from garbage waste or debris.

The proposed amendments provide the following points of clarification in Section 4, 6 and 10:

1. an owner can be notified of violations by posting an Order on the structure;
2. tenants of a property do not have to be identified in an Order so long as the Order is posted in a location on the property that can reasonably be expected to be seen by each tenant; and
3. an owner will absorb any costs incurred by the Municipality to remedy outstanding violations.

BUDGET IMPLICATIONS

This recommendation has no budget implications.

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

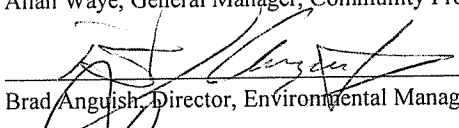
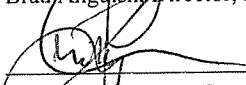
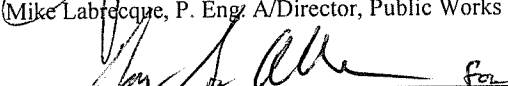
Council's options are as follows:

1. Approve the amendments attached as Appendix A, which is recommended; or
2. Not approve the amendments.

ATTACHMENTS

Appendix A - Proposed amendments to By-Law S-300 Respecting Streets

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:	Tanya Phillips, Manager By-Law Services, Community Projects, EMS	490-4491
Report Approved by:	Allan Waye, General Manager, Community Projects, EMS	490-6484
	 _____ Brad Anguish, Director, Environmental Management Services	490-4825
	 _____ Mike Labrecque, P. Eng. A/Director, Public Works & Transportation	490-4851
	 _____ Wayne Arstey, Director, Legal Services	490-4229

APPENDIX A

HALIFAX REGIONAL MUNICIPALITY BY-LAW NUMBER S-307

RESPECTING STREETS

BE IT ENACTED by the Council of Halifax Regional Municipality that By-Law S-300 Respecting Streets be amended as follows:

1. By-Law S-300 is amended by deleting the word “abutter” when used in Sections 4, 5, 6 and 10 and by substituting therefore the word “owner”.
2. The definition of “owner” is repealed and the following substituted therefore:

“owner” includes
 - (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building, and
 - (ii) in the absence of proof to the contrary, the person or persons assessed for the property;
3. Subsections 1 and 2 of Section 6 of said By-law S-300 are repealed and the following substituted therefore:
 - (1) Where the owner fails to remove snow or ice from sidewalks or structures as required by this By-law, the Engineer or a peace officer may serve an Order to Remove Snow and Ice from Sidewalks upon the owner by posting the Order in a conspicuous place upon the property.
 - (2) If the owner fails to comply with the Order to Remove Snow and Ice from Sidewalks within 24 hours of service of the Order, the Engineer or a peace officer may remove such snow and ice and may recover the cost of such work from the owner.
 - (3) The Municipality's cost in removing the snow and ice pursuant to subsection (2) shall constitute a lien against the property which shall be applied and enforced in the same manner as for rates and taxes under the Assessment Act.
4. Subsections 1, 2 and 3 of Section 10 of said By-law S-300 are repealed and the following subsections substituted therefore:
 - (1) Owners shall maintain the area between the curb and their property line free from garbage, waste or debris whether or not it is placed in containers.

(2) Where the owner fails to maintain the area between the curb and their property line as required by subsection (1) the Engineer or a peace officer may serve an Order to Remove Improperly Placed Solid Waste upon the owner by posting the Order in a conspicuous place upon the property. Such an Order shall not be given on a collection day for the property pursuant to By-Law S-600 Solid Waste Collection and Disposal by-law.

(3) If the solid waste is not removed from the sidewalk in accordance to the by-law and the 24 hour time period outlined in the Order to Remove Improperly Placed Solid Waste, the Engineer or a peace officer, may remove such garbage, waste or debris and may recover the cost of such work from the owner.

(4) The Municipality's cost in removing the garbage, waste or debris pursuant to subsection (3) shall constitute a lien against the property which shall be applied and enforced in the same manner as for rates and taxes under the Assessment Act.