



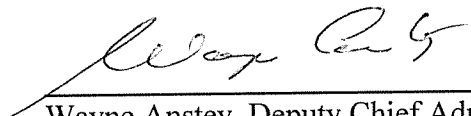
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10.1.14

Halifax Regional Council
June 26, 2007

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Dan English, Chief Administrative Officer


Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: April 13, 2007

SUBJECT: By-Law N-300, Respecting Nuisances

ORIGIN

Motion of Regional Council during the January 24, 2006 Committee of the Whole meeting to:

- Approve in principle Part 1 - Nuisance on Streets and Part 2 - Shopping Carts of By-Law N-300, Respecting Nuisances;
- Refer Part 3 - Nuisances from Smoke back to staff for a report back to Council addressing items raised during the meeting.

RECOMMENDATION

It is recommended that Regional Council:

1. Give first reading to Part 1 - Nuisance on Streets and Part 2 - Shopping Carts of By-Law N-300, Respecting Nuisances (attached as Appendix A);
2. upon adoption of the by-law approve an amendment to Administrative Order 15 (attached as Appendix B) to include the shopping cart impoundment fee; and
3. upon adoption of the by-law authorize staff to submit a request to the Province to include penalties levied under the by-law in the Summary Offence Proceedings Act.

BACKGROUND

During the discussion, staff addressed a number of questions put forward by Council. A staff report was requested on the following items:

Part 1 - Nuisance on Streets

Council wanted to know “how Police currently address games and sports on streets” and “would there be liability issues if a child is hit by a vehicle while playing on the street.”

Part 2 - Shopping Carts

Council wanted “the by-law to state that every store that uses a shopping cart must have mechanisms in place so that the carts cannot go outside the boundaries of the store.”

Part 3 - Nuisance Smoke

Council requested to refer “Part 3 - Nuisances from Smoke back to staff for a report back to Council addressing items raised during the meeting.”

DISCUSSION

Staff have reviewed the comments above and provide the following:

Part 1 - Nuisance on Streets

Council wanted to know “how Police currently address games and sports on streets.”

Police respond to complaints of this nature and discourage the participants to seize the activity. Any sports or games that are taking place on major arteries or busy streets would have to be immediately moved. At present if Police encounter games or sports on the streets through routine patrol on quiet streets, the officers would generally discuss the issue with the participants to ensure they recognize that the streets are for vehicular traffic and they are acting in a unsafe manner. Police can not encourage any games or sports on the streets or roadways.

If Police are called to a certain community to address concerns about the safety or behaviour of the participants, they would likely be told to leave the street. It may be a stretch to call participants of games or sports pedestrians, but they would be expected to follow the rules of the road.

Council wanted to know “would there be liability issues if a child is hit by a vehicle while playing on the street.”

Legal Services advises that there would be no liability issues for HRM if a by-law restricting playing on streets is not enacted. Nor would there be liability issues for HRM if a by-law restricting playing on the street was enacted.

Part 2 - Shopping Carts

Council wanted “the by-law to state that every store that uses a shopping cart must have mechanisms in place so that the carts cannot go outside the boundaries of the store.”

Staff have amended this Part of the By-Law in consultation with Legal Services to clearly identify what mechanisms are required to be in place to prevent carts from going outside the boundaries of the store.

Part 3 - Nuisance Smoke

Council requested to refer “Part 3 - Nuisances from Smoke back to staff for a report back to Council addressing items raised during the meeting.”

A separate report will be forthcoming relative to these issues.

BUDGET IMPLICATIONS

There currently no budget implications associated with the recommendations of this report. Staff will review potential budget implications pending approval of the by-law.

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

Maintaining the status quo, and not adopt By-Law N-300, Respecting Nuisances.

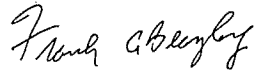
ATTACHMENTS

Appendix A: Proposed By-Law N-300, Respecting Nuisances

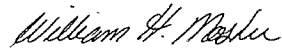
Appendix B: Amendment to Administrative Order 15, Respecting License, Permit and Processing Fees

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

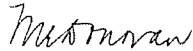
Report Prepared by: Staff Sergeant Robin McNeil, Halifax Regional Police, 490-4817



Report Approved by: Frank Beazley, Chief of Police, Halifax Regional Police, 490-6500



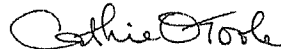
Bill Mosher, Acting Chief Director, Fire & Emergency Services, 490-4239



Mary Ellen Donovan, Director, Legal Services, 490-4226



Michael Labrecque, Director, Transportation and Public Works Services, 490-4855



Cathie O'Toole, Acting Director, Finance, 490-6308

APPENDIX A

HALIFAX REGIONAL MUNICIPALITY BYLAW N-300 RESPECTING NUISANCES

The Council of the Halifax Regional Municipality under the authority vested in it by Section 172(1)(a), (b), (c) and (d) and Section 174(f) of the *Municipal Government Act*, enacts as follows:

Short Title

1. This Bylaw may be cited as Bylaw N-300, the “Nuisance Bylaw”.

Interpretation

2. In this Bylaw
 - (a) “abandon” means to leave a shopping cart on public or private property outside the premises of the business that owns the shopping cart.
 - (b) "Council" means the Regional Council of the Municipality;
 - (c) "Inspector" means the Inspector appointed by the Chief Administrative Officer or his designate;
 - (d) “Municipality” means the Halifax Regional Municipality”;
 - (e) “owner” means a person or business who owns or provides shopping carts to its customers, or the assessed owner of the property where the business who provides shopping carts to its customers is located;
 - (f) “parking area” means a parking lot or other property provided by a business for use by a customer of the business to park a vehicle.
 - (g) “premises” means the entire area owned or otherwise utilized by a business, including any parking area. For a business that is part of a shopping centre or shopping complex, “premises” shall include all business establishments in the shopping centre or complex and all areas used by the customers of those businesses in common, including all parking areas designated for use by the customers of the shopping centre or complex.
 - (h) "public place" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, alley, park, square, lake, lake shore, municipal, provincial or federal owned lands or any other place to which the public has access to as a right or by invitation, expressed or implied;

- (i) "shopping cart" means a non motorized basket which is mounted on wheels, or a similar device, generally used by a customer of a business for the purpose of transporting goods.
- (j) "street" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in the Municipal Government Act;

PART 1 - NUISANCE ON STREETS

Street Nuisance Defined and Prohibited

3. (1) No person shall create, continue or suffer any nuisance to exist on or near a street.
- (2) For the purposes of this Part, nuisance includes
 - (a) engaging in any activity or pastime which
 - (ii) obstructs any person,
 - (ii) creates a disturbance, or
 - (iii) causes any damage to any structure, sod, plant or tree;
 - (c) interfering with, moving, damaging, or altering in any way, the operation of any barrier or fence, warning sign, signal or light placed on or near a street for purposes of closing the street or part thereof or for purposes of ensuring control of traffic or the safety of persons using the street.;
 - (d) entering, traveling, or driving, in, along or across any closed street or within the closed portion of any street without the permission of the Director of Public Works and Transportation;

Penalty

4. Every person who violates the provisions of this Part shall be liable to a penalty of not less than Fifty Dollars (\$50.00) and not exceeding One Thousand Dollars for each offence, and in default of payment thereof to imprisonment for a period not exceeding thirty days.

PART 2 - SHOPPING CARTS

Removal Or Abandonment Prohibited

5. (1) No Owner shall suffer or permit a Shopping Cart owned or used by the business to be removed from the premises of the business without providing written consent to the person removing the shopping cart.

(2) No Owner shall suffer or permit a Shopping Cart owned or used by the business to be abandoned upon any public or private property.

(3) No Owner shall knowingly have on their premises Shopping Carts identified as belonging to another business.

(4) This section shall not apply to Shopping Carts removed as authorized by the owner for the purposes of repair, maintenance or disposal.

Information Required On Shopping Carts

6. The Owner shall permanently affix to the front of each Shopping Cart a weather proof sign including the following information:

- (1) Name of Shopping Cart owner or business or both;
- (2) Valid published telephone number and address for returning Shopping Cart to owner; and
- (3) Notification that removal of a Shopping Cart from the owner's premises, unauthorized possession of a Shopping Cart and abandonment of a Shopping Cart on public or private property is not permitted.

Parameters Of Cart Recovery Service

7. The Owner shall have a proactive Shopping Cart recovery service which shall include:

- (1) Establishment of a dedicated phone line (telephone number as in Section 6(2));
- (2) Conspicuous notification on premises that the following are prohibited:
 - (i) the removal of a shopping cart from the owner's premises;
 - (ii) the unauthorized possession of a shopping cart; and
 - (iii) the abandonment of a shopping cart on public or private property.
- (3) Retrieval of the Shopping Carts by the Owner within 24 hours of receipt of notification through the dedicated phone line; and
- (4) Shopping Cart retrieval at the expense of the Owner.

Impoundment by Municipality

8. (1) Any municipal employee or agent may retrieve and impound any Shopping Cart abandoned on public property.
- (2) Within 24 hours, the Municipality shall inform the Owner that the Shopping Cart has been impounded by phoning the Owner's dedicated phone line.
- (3) An impound fee in the amount set by Administrative Order 15 shall apply to each Shopping Cart impounded pursuant to subsection (1).

Retrieval By Owner

9. The Municipality shall release impounded Shopping Carts to the Owner on the payment of the impound fee pursuant to Section 8(3).

Disposal by the Municipality

10. (1) The Municipality may sell or otherwise dispose of any impounded Shopping Carts not retrieved by the owner within 7 working days following the date of impoundment.
- (18) The Municipality may immediately sell or otherwise dispose of any impounded Shopping Cart not identified as outlined in Section 6.
- (19) All expenses incurred by the Municipality in seizing, removing, impounding, storing and disposing of the Shopping Cart may be recovered as a debt due from the Owner.

Penalty

11. Every person who violates the provisions of this Part shall be liable to a penalty of not less than One Hundred Dollars (\$100.00) dollars and not exceeding One Thousand Dollars (\$1,000.00) for each offense and in default of payment thereof to imprisonment for a period not exceeding sixty days.

Effective Date Of Part

12. This Part shall come into effect 1st day of January 2007.

REPEAL OF BY-LAWS

13. The following by-laws are repealed:

By-Law 22104 of the former Town of Bedford, the Loitering By-Law;
By-Law 22141 of the former Town of Bedford, the discharge of Firearms By-Law;
By-Law A-300 of the Former City of Dartmouth, the Air Guns and Rifles By-Law;
By-Law F-300 of the Former City of Dartmouth, the Firearms By-law;
By-Law L-400 of the former City of Dartmouth, the Littering By-Law;
By-Law L-600 of the former City of Dartmouth, the Loitering By-Law;
Ordinance 159 of the former City of Halifax, the discharge of Guns and Other Firearms;
Part VI of Ordinance 180 of the former City of Halifax, the Streets Ordinance;
Sections 4, 5, 5A and 6 of By-law 8 of the former Halifax County Municipality, the Mischiefs and Nuisance By-Law;
By-Law 39 of the former Halifax County Municipality, the Loitering By-Law,
By-Law 47 of the former Halifax County Municipality, the Dumping of Garbage and Litter By-law, and any amendments thereto

