



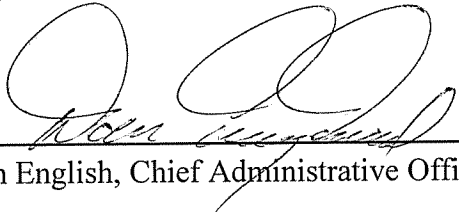
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

11.1.14

Halifax Regional Council
July 3, 2007

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer

DATE: June 27, 2007

SUBJECT: By-Law N-300, Respecting Nuisances

SUPPLEMENTARY REPORT

ORIGIN

Staff

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, Respecting License, Permit and Processing fees (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 June 26, 2007 meeting of Regional Council, Council approved in principle Part 1 - Nuisance on Streets and Part 2 - Shopping Carts of By-Law N-300, Respecting Nuisances.

Subsequently, the following Notice of Motion was read:

TAKE NOTICE that at the next regular Regional Council meeting to be held on Tuesday, June 26, 2007, I propose to move First Reading of By-Law N-300, respecting Nuisances. The purpose of which is to repeal redundant former municipal unit by-laws related to “nuisance” type issues, and adopt a new by-law that will initially address nuisances on streets and prevention of abandoned shopping carts.

DISCUSSION

Following the June 26, 2007 Regional Council meeting, staff identified and made a few minor house keeping amendments to the draft by-law. The only amendment of any significance is to subsection 8(2), which originally stated:

“Within 24 hours, the Municipality shall inform the owner that the shopping cart has been impounded by phoning the owner’s dedicated phone line.”

This section now reads:

“Within 48 hours, the Municipality shall inform the owner that the shopping cart has been impounded by phoning the owner’s dedicated phone line.”

The intention is to maintain a service delivery standard of 24 hours. However staff feel it would be more appropriate to identify a 48 hour time frame in the by-law, in the event a unique situation arises that 24 hours is insufficient for operations crews to recover an abandoned shopping cart.

BUDGET IMPLICATIONS

There are no budget implications as a result of this report.

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

1. Adopt By-Law N-300, Respecting Nuisances with a 24 hour impoundment recovery service standard in subsection 8(2), as oppose to the recommended 48 hour service delivery standard.

ATTACHMENTS

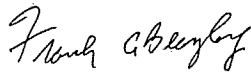
Appendix A: Proposed By-Law N-300, Respecting Nuisances

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

Report Approved by:

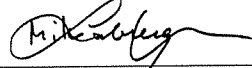


Frank Beazley, Chief of Police, Halifax Regional Police, 490-6500

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



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



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

**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 any 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, express 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;
 - (b) 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; and
 - (c) 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 (\$1,000.00) 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 of a business shall have a proactive shopping cart recovery service which shall include:

- (1) establishment of a dedicated phone line (telephone number as in subsection 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 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 48 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, Respecting License, Permit and Processing Fees 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 clause 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.
- (2) The Municipality may immediately sell or otherwise dispose of any impounded shopping cart not identified as outlined in section 6.
- (3) 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 2008

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;
By-Law N-300 of the former City of Dartmouth, the Abatement of Nuisances 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

APPENDIX B

HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 15

Respecting License, Permit and Processing Fees

BE IT ENACTED by the Council for the Halifax Regional Municipality that Administrative Order Number 15, Respecting License, Permit and Processing Fees, be amended as follows:

	<u>By-Law #</u>	<u>Short Title</u>	<u>Section</u>	<u>Fee</u>
12.	By-Law N-300	Nuisance By-law	S. 8(3)	\$50.00

Done and passed by Council this day of , 2007

MAYOR

MUNICIPAL CLERK

I, Vi Carmichael, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted bylaw was passed at a meeting of the Halifax Regional Council held on

Vi Carmichael, Municipal Clerk