


Item No. 10.1.9

Halifax Regional Council

March 27, 2012

April 17, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: March 15, 2012

SUBJECT: New Standing Committee Structure

ORIGIN

Regional Council's adoption of the new Standing Committee structure.

RECOMMENDATION

A. It is recommended that Halifax Regional Council adopt:

1. The amendments contained in Attachment "A" Appeals Committee Terms of Reference;
2. The amendments contained in Attachment "M" Administrative Order 30.

B. It is recommended that Halifax Regional Council give first reading to:

1. The amendments contained in Attachment "N" A-500 By-law to Amend By-laws; and
2. A-102 By-law Repealing and Replacing A-100 Appeals Committee By-law as set out in Attachment "B".

BACKGROUND

In 2000, Council delegated its powers in respect of licensing appeals to the Appeals Committee with the adoption of the Appeals Committee By-law, By-law A-100. Two years later, in 2002, Council delegated certain powers in respect of dangerous and unsightly premises including the hearing of appeals and the ordering of demolitions to the Dangerous and Unsightly Premises Committee with the adoption of Administrative Order Number 30 respecting Dangerous & Unsightly Premises.

On October 12, 2010, Council put in place a new Appeals Committee as a standing committee with the intention that all licence appeals and dangerous and unsightly appeals would be addressed by a single committee.

DISCUSSION

A. The Appeals Committee:

Attached is By-law A-102 repealing and replacing By-law A-100 with a new by-law to be known as A-100. In addition, amendments to Administrative Order 30 are necessary to put into effect the delegation of council's powers in respect of hearing appeals and issuing orders for dangerous and unsightly premises. Finally, new terms of reference have been created for the Appeals Committee.

B. Expanded Jurisdiction of the Appeals Committee:

In undertaking the review of the by-laws it was noted that a number of by-laws provide for an appeal to council where administratively it would be more efficient for these appeals to be heard by the Appeals Committee and these by-laws have been amended accordingly. The by-laws in question are:

1. E-200 the Encroachment By-law - Attachment "C";
2. P-600 the Municipal Parks By-law - Attachment "G"; and
3. T-600 the Tree By-law - Attachment "E".

C. Removing Dangerous and Unsightly Committee references and replacing with Appeals Committee:

In addition, as a result of the new standing committee structure, amendments are proposed to change the reference in the following by-laws from the Dangerous and Unsightly Committee to the Appeals Committee:

1. M-100 Standards for Residential Occupancies By-law - Attachment "H"; and
2. D-300 Derelict Building By-law - Attachment "D".

D. Clarifying and Defining Appeals Committee in existing By-laws:

Finally, the term Appeals Committee is used in the following by-laws without definition, therefore amendments defining the term Appeals Committee have been made in the following by-laws:

1. S-800 By-law for Temporary Signs - Attachment "I";
2. T-108 Halifax Regional Municipality Taxi and Limousine By-law - Attachment "J";
3. S-900 Controlled Access Streets By-law - Attachment "K";
4. S-300 Streets By-law - Attachment "L"; and
5. L-200 C&D Materials Recycling and Disposal License By-law - Attachment "F".

E. Removing References to the Municipal Government Act and replacing with the Charter:

The aforementioned by-laws contain references to the MGA and this is an opportunity to update the by-laws to reference the HRM Charter and thus amendments were made to effect this and have been included in the attachments.

BUDGET IMPLICATIONS

n/a

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

n/a

ALTERNATIVES

n/a

ATTACHMENTS

Attachment "A" Appeals Committee Terms of Reference;
Attachment "B" A-102 By-law Repealing and Replacing A-100 Appeals Committee By-law;
Attachment "C" E-200 the Encroachment By-law;
Attachment "D" D-300 Derelict Building By-law;
Attachment "E" T-600 the Tree By-law;
Attachment "F" L-200 C&D Materials Recycling and Disposal License By-law;
Attachment "G" P-600 the Municipal Parks By-law;

Attachment “H” M-100 Standards for Residential Occupancies By-law;
Attachment “I” S-800 By-law for Temporary Signs;
Attachment “J” T-108 Halifax Regional Municipality Taxi and Limousine By-law;
Attachment “K” S-900 Controlled Access Streets By-law;
Attachment “L” S-300 Streets By-law;
Attachment “M” Administrative Order 30; and
Attachment “N” A-500 By-law to Amend By-laws.

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: Stephan Jedynak, Solicitor, Legal Services, 490-4226

Report Approved by: _____
M. E. Donovan, QC, Director, Legal Services & Risk Management, 490-4226

Financial Approval by: _____
Greg Keefe, A/Director of Finance & Information Technology/CFO, 490-6308

Attachment “A”

Appeals Committee Terms of Reference

1. Objective

The role of the Appeals Committee is to provide a single forum for the hearing of all appeals of decisions taken by HRM staff and other duties as assigned.

2. Composition

Up to eight (8) members of Regional Council – one appointed from each Community Council and two (2) at-large appointments.

Term: 2 years

Chair & Vice-Chair: Elected from among committee members

Community Council Appointments	Members-at-large	Ex Officio
<ul style="list-style-type: none">• Marine Drive, valley & Canal Community Council Member• Harbour east Community Council Member• Chebucto Community Council Member• North West Community Council Member• Western Region Community Council Member• Peninsula Community Council Member	At-large member At-large member	Mayor

3. Duties and Responsibilities

To hear appeals as delegated to the Committee by Council and to issue demolition orders pursuant to the dangerous and unsightly provisions of the Halifax Regional Municipality Charter.

4. Administration & Procedures

The Appeals Committee shall meet no less than four (4) times annually, preferably monthly, or as determined by the Committee. The administrative and meeting procedures shall be in accordance with /administrative Order 1.

5. Staff Liaison

Management support and liaison shall be through the office of the Municipal Clerk.

6. Standing and Advisory Committees

None

Attachment “B”

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER A-102
By-law Repealing and Replacing A-100 Appeals Committee By-law**

RESPECTING THE APPEALS COMMITTEE

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the Halifax Regional Municipality Charter, SNS 2008, c.39 including Section 188(2) as follows:

1. SHORT TITLE

This By-law will be known as By-law Number A-100 and may be cited as the “Appeals Committee By-law”.

2. DEFINITIONS

In this by-law:

- (a) “**Appeals Committee**” means the committee established pursuant to this by-law;
- (b) “**Charter**” means the Halifax Regional Municipality Charter, 2008, c.39;
- (c) “**Council**” means the Halifax Regional Municipality Regional Council;
- (d) “**councillor**” means a person elected to Council.

3. APPEALS COMMITTEE

- (1) Council hereby establishes the Appeals Committee.
- (2) The Appeals Committee will consist of eight councillors, appointed by Council.
- (3) The members of the Appeals Committee will be appointed for such term as Council may direct and will hold office at the pleasure of Council.
- (4) A member of the Appeals Committee will be eligible for re-appointment.
- (5) If any member of the Appeals Committee ceases being a councillor during the member's term on the Appeals Committee, that member's appointment to the Appeals Committee is vacated as of the date that Appeals Committee member ceases being a councillor.
- (6) Should a vacancy occur on the Appeals Committee, for any reason other than the expiration of the term of a member, Council will within 30 days of notification

thereof, appoint a councillor to fill the vacancy, and the councillor so appointed will hold office for the remainder of the term of the member to whose place he or she was appointed.

- (7) The Appeals Committee will, at its first meeting of each new year, elect for the coming year, from its members, a Chairman and a Vice-Chairman who will act in the absence of the Chair.

4. JURISDICTION

- (1) The Appeals Committee will hear appeals that are directed to the Appeals Committee by the Charter, a by-law or Council policy.
- (2) The Appeals Committee will exercise the authority and discretion conferred or delegated to the Appeals Committee by the Charter, a by-law or Council policy.
- (3) Council hereby delegates to the Appeals Committee, pursuant to s. 355(2) of the Charter, Council's authority under Part XV.

5. PROCEDURE

- (1) No appeal will be taken from any decision from which exists a right of appeal, except upon written notice as prescribed in the Charter, by-law or Council policy from which the decision is being appealed.
- (2) No decision will be stayed by an appeal.
- (3) Council Administrative Order Number One, the Procedures of Council Administrative Order, applies to the Appeals Committee.
- (4) The Appeal Committee will not make any decision that could not have made pursuant to the Charter, by-law or Council policy.

6. Repeal

- (1) By-law A-100 is repealed and replaced with this By-law A-102.

Done and passed in Council this day of April, 2012.

MAYOR - Peter Kelly

MUNICIPAL CLERK - Cathy Mellett

I, Cathy Mellett, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on April XX, 2012.

Cathy Mellett, Municipal Clerk

Attachment “C”

E-200 Encroachment By-law

“**Appeals Committee**” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Appeals

8 (1) Any person who has been refused an Encroachment license by the Inspector or the Engineer may appeal such refusal.

(2) ~~Where the encroachment is located in an area of the municipality where there exists a community council, the~~ The appeal shall be to the ~~community council~~ Appeals Committee. ~~and in all other cases, the appeal shall be to the Council.~~

(3) Such appeal shall be in writing, in the form of a notice, and filed with the municipal clerk within 15 days of such refusal, and shall clearly state the grounds for such appeal.

(4) ~~Council~~ The Appeals Committee shall determine such appeal at such time and place as it determines and may confirm such refusal by the Inspector or Engineer, as applicable, or direct the Inspector or Engineer, as applicable, to issue such license upon such terms and conditions that the Appeals Committee determines may be appropriate.

(5) If the ~~Council or community council~~ Appeals Committee directs the Inspector or Engineer, as applicable, to issue such license, the same shall be issued immediately.

Attachment “D”

Derelict Buildings By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality pursuant to ~~section 172 and Part XV of the Municipal Government Act~~ Halifax Regional Municipality Charter SNS 2008, c.39 including Section 188 as follows:

“**Appeals Committee**” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Right of Appeal

5. An owner may appeal the order to the ~~Dangerous or Unsightly Premises Committee~~ Appeals Committee of the Municipality within seven days after the order is served by submitting their appeal in writing to the Municipal Clerk’s Office.

Attachment “E”

Tree By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of ~~Section 118 (2) (a) of the Halifax Regional Municipality Act~~Charter, 1995/2008, R.S.N.S., Chapter 3c.39 as follows:

“Appeals Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Appeal Procedure

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Director may appeal to the ~~Council~~the Appeals Committee;

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal;

(4) The ~~Council~~Appeals Committee shall choose to:

(a) hear the appeal at a time and place as it determines, and may confirm the refusal or revocation by the Director or;

(b) direct the immediate issuance or re-issuance of the permit by the Director.

Attachment “F”

C&D Materials Recycling and Disposal License By-law

“**Appeals Committee**” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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APPEAL

7 (1) Any person whose application for a license under this By-Law has been refused, suspended or revoked by the Administrator may appeal such refusal, suspension or revocation to the Appeals Committee ~~of Regional Council~~.

(2) Such appeal shall be in writing in the form of a notice, and shall be filed with the Municipal Clerk, within fifteen (15) days of such refusal, suspension or revocation, and shall clearly state the grounds for such appeal.

(3) A copy of such notice shall be served within such time upon the Administrator.

(4) The Appeals Committee shall hear such appeal at such time and place as it determines and may confirm such refusal or revocation by the Administrator or may direct the Administrator to issue or reinstate the license.

(5) If the Appeals Committee directs the Administrator to issue or reinstate such license he or she shall immediately do so.

Attachment “G”

Municipal Parks By-law

“**Appeals Committee**” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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16A Appeal Procedure

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Director may appeal to the ~~Council~~Appeals Committee.

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal.

(4) The ~~Council~~Appeals Committee shall choose to:

(a) hear the appeal at a time and place as it determines, and may confirm the refusal or revocation by the Director or;

(b) direct the immediate issuance or re-issuance of the permit by the Director.

Attachment “H”

Standards for Residential Occupancies By-law

Pursuant to ~~Section 181 of the Municipal Government Act the Halifax Regional Municipal Charter, 2008, c.39, including Section 188~~, BE IT ENACTED by the Council of the Halifax Regional Municipality as follows.

“Appeals Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Orders by the Inspector

7. (1) If after an inspection, the Inspector is satisfied that in some respect the building does not conform to the standards prescribed in this By-law, the Inspector shall serve or cause to be served by personal delivery or certified mail to the owner(s) of the property, an Order to Comply and may at the same time provide all occupants of the building with a copy of such Order.

(2) Every Order to Comply shall contain:

(a) the standards to which the building does not comply;

(b) the date after which the building will be subject to a reinspection to ascertain compliance with the Order;

(c) the action that will be taken against the owner, should the building not comply to the prescribed standards at the time of the reinspection.

(3) Where an Order has been served upon an owner, and the owner provides the Inspector with a schedule outlining specific time frames within which the work specified in the Order will be completed, the Inspector may accept or amend the schedule at which time the schedule will become a part of the Order.

(4) An owner may appeal an Order to the ~~Dangerous or Unightly Premises Committee of the Appeals Committee, Municipality~~ within seven days after the Order is served.

(5) Where an owner fails to comply with the requirements of an Order within thirty days after service, the Inspector may enter upon the property and carry out the work specified in the Order.

(6) Where the Municipality carries out the work specified in the Order, the Municipality may charge and collect the costs thereof as a first lien on the property affected.

Licensing Requirements

31. (1) No person shall operate a rooming, boarding and lodging house in the Municipality which is not validly licensed under this By-law.

(2) No license granted under the provisions of this By-law shall be assigned or transferred by the person to whom it is issued.

(1) Every application for a license to operate a rooming, boarding and lodging house shall be submitted to the Inspector on the appropriate application form, together with appropriate fee, and such application shall include the following documentation and information:

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(a) name and address of the Applicant;

(b) address of the rooming, boarding and lodging house for which the licence is sought;

(c) in the event that the Applicant does not reside permanently in the Municipality, the name and signed consent of a person 19 years of age or over who will reside permanently in the Municipality as Agent of the Applicant for purposes of this By-law;

(d) maximum number of occupants and number of rooms available for such purposes;

(e) number of bathrooms in the premises;

(f) location and capacity of rooms to be used for dining purposes, and

(g) a floor plan in duplicate of such premises showing measurements and designation of each room, provided that it shall not be necessary to submit such floor plan if the application is for a renewal of a license held in the previous year for the same premises, and if such application states that there has been no change in number, location, size and use of the rooms in such premises since the time of issue of the former license.

(4) If the application complies with the provisions of this By-law and with all other relevant by-laws of the Municipality, the Inspector shall issue a licence specifying the number of rooms available and maximum number of occupants permitted.

(5) The license shall be valid for one (1) year from date of issuance.

(6) Every licence issued hereunder shall be displayed in a prominent place in the main entranceway of the premises for which it is issued.

(7) No application shall be approved and any licence already issued shall be revoked if the Inspector determines that:

(a) any material information contained in the application is false or is incomplete in any respect;

(b) the premises for which the application is filed do not comply with the provisions of this By-law;

(c) the rooming, boarding and lodging house is operated in a manner contrary to this By-law;

(d) the rooming, boarding and lodging house is in violation of any other By-law affecting such premises or is in violation of the Public Health Act or any regulation thereunder.

(8) The owner may appeal the Inspector's decision to refuse to issue a license or revocation of an existing license to the ~~License Appeals Committee of the Municipality~~ Appeals Committee, within seven days of being notified of the decision.

Attachment “I”

By-law for Temporary Signs

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BE IT ENACTED by the Council of Halifax Regional Municipality pursuant to the Halifax Regional Municipality Charter, 2008 c.39 including Section 188 Section 172 of the Municipal Government Act as follows:

“**Appeals Committee**” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Part 9 Appeal of License

- 9.1 Any applicant who has been refused a Sign license or whose license has been revoked may appeal to the ~~HRM~~ Appeals Committee, pursuant to the provisions of By-law A-100, Respecting License and Permit Appeals.

Attachment “J”

Halifax Regional Municipality Taxi and Limousine By-law

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“~~committee~~Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality by-law A-100, the Appeals Committee ~~h~~By-law.

Attachment “K”

Controlled Access Streets By-law

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality, under the authority of ~~section 309(4) of the Municipal Government Act, being Chapter 18 of the Statutes of Nova Scotia, 1998~~the Halifax Regional Municipality Charter. 2008, s.39 including Section 188 as amended, as follows:

“Appeals Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

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Revocation of Permits

12. (1) The Engineer may cancel, revoke or suspend any permit where there is a violation of this by-law, any order made pursuant to this by-law and any condition of any permit issued under the authority of this by-law.

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Engineer may appeal to the Appeals Committee.

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal.

(4) The Appeals Committee shall hear the appeal at a time and place as it determines and may confirm the refusal or revocation by the Engineer or direct the immediate issuance or re-issuance of the permit by the Engineer subject to such conditions as the Appeals Committee may determine.

Attachment “L”

Streets By-law

“Appeals Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law;

Revocation of Permits

42. (1) The Engineer may cancel, revoke or suspend any permit where there is a violation of this by-law, any order made pursuant to this by-law and any condition of any permit issued under the authority of this by-law.

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Engineer may appeal to the Appeals Committee.

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal.

(4) The Appeals Committee shall hear the appeal at a time and place as it determines and may confirm the refusal or revocation by the Engineer or direct the immediate issuance or reissuance of the permit by the Engineer subject to such conditions as the Appeals Committee may determine.

Attachment “M”

Power to Administrator

2. The Council hereby delegates to the Administrator appointed pursuant to the ~~Municipal Government Act~~Halifax Regional Municipality Charter, 2008, c.39, all of its authority pursuant to Part XV of the Act, except the authority to order demolition.

Power to Committee

~~3. (1) There is hereby established a Standing Committee of Council, to be called the Dangerous and Unsightly Premises Committee, to which Council hereby delegates its authority to order demolition and to hear appeals from orders of the administrator.
(2) The Committee shall consist of nine members to be appointed annually by Council.
(3) The quorum will be set at four (4) for the Dangerous and Unsightly Premises Committee.~~