



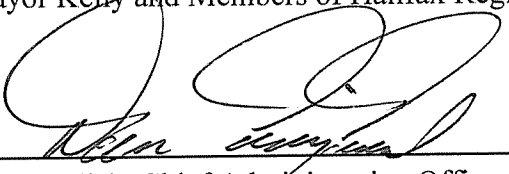
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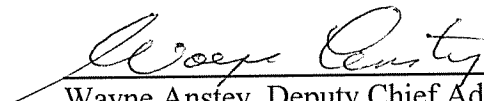
**Halifax Regional Council
June 12, 2007**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: June 4, 2007

SUBJECT: Project 00856 - Derelict Buildings

SUPPLEMENTARY REPORT

ORIGIN

At the May 1st session of Regional Council, staff presented a new Derelict Buildings By-law and Council requested a supplementary report to address the issues raised.

RECOMMENDATION

It is recommended that Regional Council approve By-law D-300 Respecting Derelict Buildings as included in Attachment A of this report.

BACKGROUND

Council raised a few questions regarding definitions and authority which staff have now addressed in this report and the amended By-law (Attachment A).

DISCUSSION

Authority to Demolish

Council noted that the draft by-law does not specifically provide the authority to demolish a building which is derelict. The authority to demolish comes from Part XV of the Municipal Government Act and it is not necessary to repeat that authority within a municipal by-law. This by-law will simply enhance the existing Dangerous or Unsightly premises program by providing administrative processes specific to Derelict Buildings.

In general, it is best not to repeat enabling provisions of the MGA within a municipal bylaw because those provisions may be amended from time to time, creating potential inconsistency and requiring subsequent amendments to the bylaw as well. This has been addressed by including a reference to Part XV of the MGA in the introduction to the by-law as follows:

“BE IT ENACTED by the Council of the Halifax Regional Municipality pursuant to section 172 and Part XV of the Municipal Government Act as follows:”

Definition of Derelict

Council expressed concern with the definition of derelict. Staff has enhanced that definition to be more in line with the definition of Dangerous or Unsightly in the MGA and now propose that it read as follows:

“Derelict Building” means a building that is unattended, neglected, poorly maintained, and unsuitable for occupancy which may include a building that:

- (i) is in a ruinous or dilapidated condition,
- (ii) the condition of which seriously depreciates the value of land or buildings in the vicinity,
- (iii) is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
- (iv) is an allurement to children who may play there to their danger,
- (v) constitutes a hazard to the health or safety of the public,
- (vi) is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained, or
- (vii) is a fire hazard to itself or to surrounding lands or buildings.

The addition of (i) thru (vii) will better identify the buildings that this Bylaw is intended to address.

BUDGET IMPLICATIONS

There are 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.


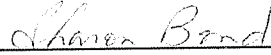

ALTERNATIVES

Council may accept the adjustments to the by-law as included or direct staff to make further adjustments.

ATTACHMENTS

Attachment A - Proposed Derelict Buildings By-law

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 and Approved by:	 _____ Ed Thornhill, Manager - Permits and Inspections, 490-4480
Report Approved by:	 _____ Sharon Bond, Acting Director, Community Development
Report Approved by:	 _____ For Catherine Sanderson, Sr. Manager, Financial Services, 490-1562

Attachment "A"

Draft Derelict Building By-law

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER D-300

RESPECTING DERELICT BUILDINGS

BE IT ENACTED by the Council for the Halifax Regional Municipality pursuant to section 172 and Part XV of the Municipal Government Act as follows:

Title

1. This by-law may be cited as By-law D-300, "Derelict Building By-law".

Definitions

2. In this By-law:
 - (a) "Administrator" means the administrator appointed pursuant to section 345(1) of the *Municipal Government Act*.
 - (b) "Council" means the Halifax Regional Council.
 - (c) "Dangerous or Unsightly Premises Committee" means a committee of Council that administers buildings deemed to be Dangerous or Unsightly under provisions as set out in the *Municipal Government Act*.
 - (d) "Derelict Building" means a building that is unattended, neglected, poorly maintained, and unsuitable for occupancy which may include a building that:
 - (i) is in a ruinous or dilapidated condition,
 - (ii) the condition of which seriously depreciates the value of land or buildings in the vicinity,
 - (iii) is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
 - (iv) is an allurements to children who may play there to their danger,
 - (v) constitutes a hazard to the health or safety of the public,
 - (vi) is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained, or
 - (vii) is a fire hazard to itself or to surrounding lands or buildings.

- (e) "Habitable" means a building which is in conformance with the Nova Scotia Fire Safety Act and Regulations, and in the case of a residential building, is also in compliance with By-law M100.
- (f) "Municipality" means the Halifax Regional Municipality.
- (g) "Owner" means the owner of the property as they appear on the assessment role.

Designation as a Derelict Building

- 3. When a building is deemed to be derelict, the municipality may direct the owner to remedy the condition as specified in an order.

Service of Order

- 4. The order may be served by being posted in a conspicuous place upon the property or may be served upon the owner.

Right of Appeal

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

Performance Standards

- 6. Upon issuance of an order, an owner must within one hundred and twenty (120) days :
 - (a) bring the building up to a habitable standard; or
 - (b) demolish the building.

Standards for Securing and Maintaining a Derelict Building

- 7. An order may direct the owner to secure the building to meet the following minimum standards:
 - a) panel type material not less than 3/4" must be used to secure all openings within 10' of the adjacent grade;
 - b) panels used to secure openings must be secured with not less than 2" #8 screws spaced a minimum of 16" on centre around the perimeter of the panel;
 - c) panels used to secure openings must be tightly fitted and painted or otherwise "treated" so as to prevent deterioration;

- d) the remainder of the building and property must be maintained so as not to be “dangerous or unsightly” pursuant to section 344 of the *Municipal Government Act*.

Failure to Secure a Derelict Building

- 8. Where an owner fails to secure and maintain the building in compliance with this by-law, the Municipality may enter upon the property and carry out the work necessary to ensure compliance with this by-law.
- 9. Where the Municipality carries out the work required to secure and maintain the building in compliance with this by-law, the Municipality may charge and collect the costs thereof as a first lien on the property affected.

Right of Access

- 10. In order to determine compliance with this by-law:
 - a) a municipal administrator may enter in or upon land or premises at a reasonable time without a warrant;
 - b) except in an emergency, a municipal administrator shall not enter a room or place actually being used as a dwelling without the consent of the occupier, unless the entry is made in daylight hours and written notice of the time of the entry is given to the occupier at least twenty-four hours in advance; and
 - c) where a person refuses to allow a municipal administrator to exercise, or attempts to interfere or interferes with the municipal administrator in the exercise of a power granted pursuant to this By-law, the municipal administrator may apply to a judge of the Supreme Court of Nova Scotia for an order,
 - (i) to allow the municipal administrator entry to the building, and
 - (ii) restraining a person from further interference.

Exemptions

- 11. Buildings actively used for seasonal purposes shall not be subject to the provisions of this by-law including:
 - (a) cottages and other recreational dwelling units and their accessory buildings,
 - (b) other temporary recreational facilities,
 - (c) agricultural or other resource facilities.

Compliance with Other Laws

12. Nothing contained in this by-law relieves an owner from their obligation to comply with any other Act, Regulation, or by-law.

Penalties

13. (1) Every person who contravenes any of the provisions of this By-Law, or who fails to comply with the terms or conditions of any permit issued under the authority of this By-Law is guilty of an offence and shall be liable, upon conviction, to a penalty of not less than One Thousand Dollars (\$1,000.00) and not more than Ten Thousand Dollars (\$10,000.00).
- (2) In default of the remedying of the contravention described in the Order within the one hundred and twenty (120) day time period, every day during which the violation continues, after expiration of the one hundred and twenty (120) day time period, is deemed to be a fresh offence.
- (3) In the case of a violation of this By-law of a continuing nature, in addition to any other remedy and to any other penalty imposed, Council may direct the Clerk to apply to a Judge of the Trial Division of the Supreme Court, by way of action or originating notice for an injunction ordering the person violating to cease the violation and the Judge may make any order that in the Judge's opinion the justice of the case requires.

Done passed on this day of , 2007

Mayor

Jan Gibson, Municipal Clerk