
Halifax Regional Council


June 11, 2002

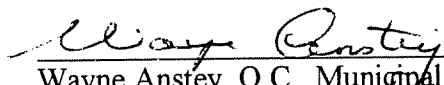
6:00 p.m.

June 18, 2002

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Wayne Anstey, Q.C., Municipal Solicitor

DATE: June 03, 2002

SUBJECT: Dangerous & Unsightly Premises

Origin:

Housekeeping amendments to confirm the powers of the Administrator and the Dangerous and Unsightly Premises Committee.

Recommendation:

It is recommended that Regional Council approve in principle Administrative Order Number 30 attached and direct staff to arrange for the introduction of the Administrative Order before Council for formal adoption.

Background:

In 1996, Regional Council delegated, pursuant to the *Halifax Regional Municipality Act*, its power respecting dangerous and unsightly properties.

That Act was replaced in 1998 by the *Municipal Government Act* which contained similar but slightly different authority respecting the delegation of powers. On November 9, 1999, Council exercised its new powers of delegation under the *Municipal Government Act*.

Discussion:

The adoption of the recommendation contained in this report will confirm the policy approved by Council in 1999 in a format consistent with the practice established by the *Municipal Government Act*.

For information purposes, the report of October 25, 1999 which formed the basis of the policy adopted by Council is attached.

Budget Implications:

None.

Multi-Year Financial Implications:

None.

Alternatives:

Council could reserve to itself any or all of the powers which are delegated by Administrative Order 30.

Attachments:

- 1) Report dated October 25, 1999.
- 2) Draft Administrative Order 30

Further information regarding the contents of this report may be obtained by contacting Barry S. Allen, Manager of Legal Services at 490-4226. For additional copies or information on the report's status, please contact the Office of the Municipal Clerk at 490-4234 or 490-4208(Fax).

ADMINISTRATIVE ORDER NUMBER 30

RESPECTING DANGEROUS & UNSIGHTLY PREMISES

BE IT ENACTED as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order Number 30, the Dangerous and Unsightly Premises Administrative Order.

Power to Administrator

2. The Council hereby delegates to the Administrator appointed pursuant to the Municipal Government Act 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 five members to be appointed annually by Council.

Repeal

4. Administrative Orders numbered 5 and 6 are repealed.

10.6.1

HALIFAX REGIONAL MUNICIPALITY

Halifax Regional Council
November 9, 1999

TO: Mayor Fitzgerald and Members of Halifax Regional Council

SUBMITTED BY: Bruce Hetherington
Councillor Bruce Hetherington
Chair, Dangerous or Unsightly Premises Committee

DATE: October 25, 1999

SUBJECT: Dangerous or Unsightly Premises - Staff and Committee Powers

ORIGIN

- Staff report dated May 16, 1999 to the Dangerous or Unsightly Premises Committee.
- Motion approved at the October 21, 1999 Dangerous or Unsightly Premises Committee meeting supporting the staff recommendation of May 16, 1999.

RECOMMENDATION

IT IS RECOMMENDED THAT Regional Council pursuant to Part XV Section 345 of the Municipal Government Act delegate authority to the Administrator, except the powers to order demolitions and hear appeals, both of which shall be delegated to the Dangerous or Unsightly Premises Committee.

BACKGROUND

On April 1, 1999 the Municipal Government Act replaced the HRM Act. The Municipal Government Act provides Council with new procedural options for dealing with dangerous or unsightly properties. These are the ability to delegate to:

- staff the authority to issue 30 day Orders requiring property owners to correct dangerous or unsightly conditions (e.g. removal of material and repair of structures) with the exception of building demolitions; and
- Community Councils the authority to deal with dangerous or unsightly premises Orders and Appeals rather than a Dangerous or Unsightly Premises Committee.

It should be noted that if the authority to issue 30 day Orders is granted to staff, the Committee or Community Council role will be to deal with *demolitions and appeals* from property owners who have been issued a 30 day cleanup/repair Order by staff.

DISCUSSION

Delegation of Authority to Staff

Providing staff with the authority to issue 30 day Orders to cleanup or repair properties would be a significant improvement. Staff could be more effective and timely in correcting *all unsightly conditions* and *most dangerous conditions*. The following delays would be eliminated: time required to sign and deliver seven day Notices of the Dangerous or Unsightly Premises Committee meeting; preparation and signing of staff reports; circulation of agendas; and the delay posed by waiting for the monthly Committee meeting. Instead, *after determining there is a violation, staff would simply issue a 30 day Order* instructing the property owner to correct the situation. If the owner does not carry out the work, *after 30 days staff could immediately proceed to have the work carried out* and the costs charged against the property.

Over the past three years, staff recommendations to cleanup/repair properties have almost always been endorsed by the Committee. This experience indicates staff can be expected to exercise reasonable judgement in issuing 30 day Orders without prior review by the Committee. Property owners also have the *right to appeal the Order within seven days*, after which the Committee would hear the appeal and uphold staff's Order, amend it or overturn it. This is a reasonable process of *checks and balances ensuring property rights are not compromised* and due process is followed.

It is difficult to project how many 30 day Orders will be appealed. However, it is expected that the Committee's work will be reduced. For example, in cases where staff delivers the seven day Notice of the Dangerous or Unsightly Premises Committee meeting, approximately 20 percent of property owners comply before the meeting. The compliance rate with an Order would be expected to be higher. In the case of demolitions, staff is often successful in convincing property owners to demolish unsafe structures without requiring an Order. This would still be done whenever it is possible to achieve a timely result.

Delegation of Authority to Community Councils

- *Since not all areas of the Region are served by a Community Council, it is a given that the Dangerous or Unsightly Premises Committee will have to continue to serve those areas.*
- Bylaw Enforcement Officers are required to attend the Committee's monthly evening meeting.
- *Having Community Councils deal with dangerous or unsightly premises would require some Bylaw Enforcement Officers to attend as many as three evening meetings a month (the Committee and two Community Councils) to deal with their cases. There would be a corresponding reduction in time devoted to carrying out critical duties such as inspections and site meetings with contractors to have properties cleaned up and repaired.*
- The involvement of *Community Councils will decrease efficient use of staff resources without any corresponding increase in results* or elimination of the need for a Dangerous or Unsightly Premises Committee. It is therefore recommended that Community Councils not be given the authority to deal with dangerous or unsightly premises.

BUDGET IMPLICATIONS

The proposed course of action does not have any budget implications.

MULTI-YEAR FINANCIAL IMPLICATIONS

There are no multi-year financial implications.

YEAR 2000 IMPLICATIONS

There are no Year 2000 implications.

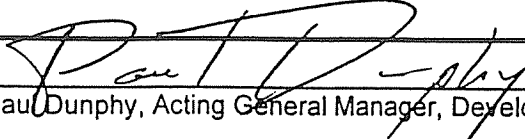
ALTERNATIVES

1. The recommended course of action is to provide staff with the authority to issue 30 day Orders to cleanup or repair dangerous or unsightly properties throughout HRM.
2. Alternatively, Council could decline to delegate authority to staff to issue 30 day Orders in all or part of HRM. This course of action is not recommended since it is expected that delegating the authority to staff will increase efficiency and effectiveness.
3. Council could delegate the authority to hear appeals and order demolitions to Community Councils. This course of action is not recommended since there would be no increased effectiveness. There would however be a reduction in staff efficiency due to the increased number of evening meetings and corresponding decrease in time available to carry out other activities. In addition, this course of action would not eliminate the need for a Dangerous or Unsightly Premises Committee because it would still be required for areas which are not served by a Community Council.

ATTACHMENTS

1. Excerpts from the Municipal Government Act

Report Prepared by:


Paul Dunphy, Acting General Manager, Development Services

Further information regarding the contents of this report may be obtained by contacting Peter James, Regional Coordinator Bylaw Enforcement at 490-5045. For additional copies or information on the report's status, please contact the Office of the Municipal Clerk at 490-4234 or 490-4208 (FAX).

**EXERPTS FROM
THE MUNICIPAL
GOVERNMENT ACT**

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PART XV

DANGEROUS OR UNSIGHTLY PREMISES

Requirement to Maintain Property

344 Every property in a municipality shall be maintained so as not to be dangerous or unsightly.

Authority to Delegate

- 345 (1) The council *may*, by policy, *delegate some or all of its authority* pursuant to this Part, *except the authority to order demolition, to the administrator.*
- (2) The council *may*, by policy, *delegate its authority* pursuant to this Part, *or such of its authority as is not delegated to the administrator, to a community council or to a standing committee*, for all or part of the municipality.

Order to Remedy Condition

- 346 (1) Where a property is dangerous or unsightly, the council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.
- (2) An owner may appeal an order of the administrator to the council or to the committee to which the council has delegated its authority within seven days after the order is made.
- (3) Where it is proposed to order demolition, before the order is made not less than seven days notice shall be given to the owner specifying the date, time and place of the meeting at which the order will be considered and that the owner will be given the opportunity to appear and be heard before any order is made.

- (4) The notice may be served by being posted in a conspicuous place upon the property or may be personally served upon the owner.

Order to Remedy Condition

- 347
- (1) A municipality may apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and an order specifying the work required to be done to remedy the condition by removal, demolition or repair.
 - (2) The court may order any property found to be dangerous or unsightly to be vacated until the condition is remedied.
 - (3) The court may, where any property is found to be dangerous or unsightly, order that no rent becomes due, or is payable by, any occupants until the condition is remedied.

Effect of Order

- 348
- (1) In this Section, "order" means an order made by the administrator, committee, council or court pursuant to this Part.
 - (2) An order may be served by being posted in a conspicuous place upon the property or may be personally served upon the owner.
 - (3) Where the owner fails to comply with the requirements of an order within thirty days after service, the administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order.
 - (4) After the order is served, any person who permits or causes a dangerous or unsightly condition, continues to permit or cause a dangerous or unsightly condition or who fails to comply with the terms of the order is liable, on summary conviction, to a penalty of not less than one hundred dollars and not more than five thousand dollars, and in default of payment to imprisonment for not more than three months.
 - (5) Every day during which the condition is not remedied is a separate offence.
 - (6) Where an order requires the demolition or removal of a building, the administrator may cause the occupants to be removed, using force if required, in order to effect the demolition or removal.

Order to Vacate Unsafe Property

- 349 (1) A property within a municipality that is unsafe shall be vacated forthwith upon order of the administrator.
- (2) The administrator shall post notice that the property is unsafe in a conspicuous place on the property.
- (3) The notice shall remain posted until the unsafe condition is remedied.

Immediate Action

- 350 Where public safety requires immediate action, the administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition.

Notice

- 351 Where land is sold for non-payment of taxes and the period for its redemption has not expired, proceedings may be taken in respect of the repair, removal or destruction of any structure on the land by reason of its condition, and where the purchaser of the land is:
- (a) the municipality, any notice required to be given with respect to an order for removal or destruction shall be given to the person who was entitled to receive it immediately before the day on which the land was sold; and
- (b) any person other than the municipality, the notice shall be given to both the person entitled to receive it immediately before the day on which the land was sold and the purchaser at the tax sale.

Power to Enter Land

- 352 (1) The administrator may, for the purpose of ensuring compliance with this Part, enter in or upon any land or premises at any reasonable time without a warrant.
- (2) Except in an emergency, the administrator shall not enter any 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 has been given to the occupier at least twenty-four hours in advance.

- (3) If a person refuses to allow the administrator to exercise, or attempts to interfere or interferes with the administrator in the exercise of a power pursuant to this Act, the administrator may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the administrator entry to the building and an order restraining a person from further interference.

No Action

- 353 No action shall be maintained against a municipality or against the administrator or any other employee of a municipality for anything done pursuant to this Part.