

Halifax Regional Council

June 25, 2002

July 2, 2002
July 9, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *A. Wayne*
Allan M. Wayne, General Manager, Community Projects

DATE: June 10, 2002

SUBJECT: **Municipal Authority to Address Landscaping Issues Under
Dangerous or Unsightly Premises Legislation**

INFORMATION REPORT

ORIGIN

Regional Council motion of October 17, 2000 asking staff to look at old By-Law requirements where people were required to comply with the general character of a neighbourhood in terms of landscaping. It was also requested that staff look at including in the Dangerous or Unsightly Premises legislation the ability to prevent people from allowing their properties to be neglected in terms of the general property condition.

BACKGROUND

Definition of Dangerous or Unsightly Premises

Part XV of the Municipal Government Act (MGA) provides the HRM authority to remedy conditions of properties which are deemed dangerous or unsightly. The MGA defines dangerous and unsightly as

partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing:

- i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict, vehicle, vessel, item or equipment or machinery, or bodies of these or parts thereof,
- ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material; or
- ii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person,

and includes property, a building or structure

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

Legal Services has advised that prior to a property being designated dangerous or unsightly, the property must meet the determining criteria of being partly demolished, decayed, deteriorated or in a state of disrepair. The only aspect of landscaping that can be controlled is when grass or weeds become dry and inflammable so as to be a fire hazard as deemed by the Fire and Emergency Services.

Former By-Law Requirements for Landscaping

In the former Halifax City Charter, a provision existed which stated that, "No person shall permit any grass, bush or hedge located on a property owned by that person to become unsightly in relation to neighbourhood properties." Similarly, in Dartmouth, the superceded Minimum Standard of Use and Maintenance of Property By-Law stated that, "The owner of any property in the City shall keep the grass cut." These sections of the former municipal unit by-laws were superceded by the MGA in December 1998.

DISCUSSION

Ability to Regulate Landscaping Issues

The MGA, as interpreted by Legal Services, does not provide the authority to address “landscaping” issues beyond those deemed a fire hazard or those which create a danger. HRM By-Law P-800 Respecting the Regulation of Pesticides, Herbicides, and Insecticides further regulates landscaping products that could affect public health and safety.

A quality and functional landscape means very different things for different people, landscapes range from a closely cut weed-free manicured lawns to sustainable maintained and diverse landscapes. Many homeowners are using sustainable maintenance practices that include reduced use of pesticides, more diversity and improving soils through the use of composts and other organic conditioners.

If an amendment to the MGA were pursued, standards would need to be determined as to when a property is in violation (i.e. length of grass, windfall, fallen trees, etc). Further, it appears one HRM-wide landscaping standard is not practical.

Ability of Land Use By-Laws to Regulate Landscaping

The MGA enables municipalities to regulate or require the planting or retention of vegetation for the purposes of landscaping in connection with a development under a land use by-law or development agreement. For the most part, landscaping requirements are established under HRM land use by-laws to reduce the visual effects between conflicting land uses or to break up the monotony of surface parking in higher density residential and commercial developments on the street scape.

Given the complexity and variation of natural features and subjectivity of aesthetic values, the land use by-laws do not contain specific requirements for landscape type or how the landscaping features are to be maintained. The by-laws prescribe where on the site landscaping is required and, in some instances, generally prescribe the type of required vegetation (e.g. evergreen shrubs or grass) or other landscaping treatment (e.g. hard surface material of a different texture than adjacent pavement). Staff may require the land owner to replace a landscaping feature if it is removed or destroyed. However, staff can not require the land owner to maintain vegetation in a particular state unless prescribed under the land use by-law. This is a very complex and subjective matter to enforce.

BUDGET IMPLICATIONS

None.

MULTI-YEAR FINANCIAL STRATEGY IMPACTS

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

Regional Council could decide to request an amendment to the MGA definition of Dangerous or Unsightly so that landscaping issues could be addressed.

ATTACHMENTS

None.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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