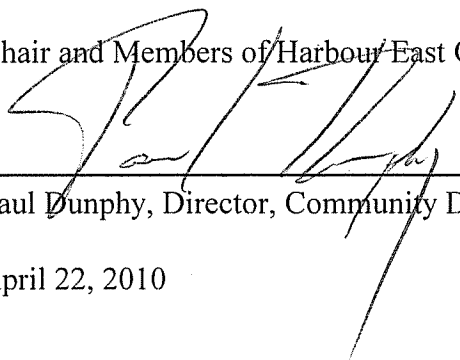


**Harbour East Community Council
May 6, 2010**

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Paul Dunphy, Director, Community Development

DATE: April 22, 2010

SUBJECT: Case 15846: Excluding Tattoo Businesses as Home Occupations

ORIGIN

- January 14, 2010 - Information report dated December 16, 2009
- November 11, 2009 - Harbour East Community Council meeting (Item 10.2)

Moved by Councillor Fisher, seconded by Councillor Karsten, that Harbour East Community Council request staff to initiate the amendment process for the Dartmouth Land Use By-law to exclude tattoo businesses as a home occupation within Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Give First Reading to the proposed amendment to the Dartmouth Land Use By-law as shown in Attachment A, and schedule a Public Hearing; and
2. Approve the proposed amendment to the Dartmouth Land Use By-law as shown in Attachment A, to exclude tattoo businesses as home occupation uses.

BACKGROUND

The Dartmouth Land Use By-law (LUB) allows for home occupations within residential dwellings throughout Dartmouth. The types of uses permitted as a home occupation is broad but there are certain uses which are excluded. On November 11, 2009, Harbour East Community Council passed a motion requesting staff to initiate the process to amend the Dartmouth LUB to exclude tattoo businesses as a permitted home occupation.

Home Occupation LUB Provisions

The Dartmouth LUB does not specify what commercial uses are permitted as a home occupation use, rather it specifies under Section 23 (k) what uses are exempted from home occupations. The types of uses exempt are:

- automotive repair shop;
- autobody repair shop;
- auto paint shop;
- machine shop;
- welding;
- restaurants;
- retail sales outlets, except articles produced by members of the immediate family in the dwelling;
- amusement arcades;
- adult entertainment uses;
- salvage yards.

The uses listed on the exclusion list are deemed to be incompatible with residential areas.

Home occupations that are permitted in a residential area are subject to certain restrictions that limit their potential impacts on neighbouring properties. The provisions applied to home occupation uses are listed in Attachment B of this report. Of the restrictions that apply to home occupations the major provisions are:

- operated by resident occupant of the dwelling;
- clearly accessory to main use of the dwelling;
- conducted within the dwelling or accessory building;
- limited to 25% of total floor area of the dwelling;
- permits no alterations to the physical character of the dwelling as a residence;
- limited to 1 sign of 2 square feet in area.

Permits and Inspections

To operate a home occupation in Dartmouth, a home owner must be issued a development permit by the Development Officer to ensure compliance with the land use provisions listed in the LUB (Attachment B). All home occupations where customers or clients go to a dwelling require an inspection and issuance of an Occupancy Permit by HRM to ensure compliance with the applicable provisions of the Building By-law.

Nova Scotia Department of Health Promotion and Protection

There are currently no provincial regulations requiring licencing or training certification in place for tattoo businesses as the Province regards them as self-regulating businesses. Under the *Health Protection Act*, the Department of Health Promotion and Protection will investigate reported complaints of unsanitary tattoo businesses.

Health Canada

The dyes or pigments used in inks for tattoos or permanent makeup are considered to be cosmetic products subject to the requirements of the *Food and Drugs Act* and *Cosmetic Regulations*. Health Canada ensures all permanent skin dyes meet the requirements of the *Food and Drugs Act* and approve such dyes for cosmetic use. The safe use of tattoo inks continues to be investigated and evaluated by Health Canada as unwary tattoo practitioners may use unapproved toxic industrial dyes in their inks.

DISCUSSION

Similar to amusement arcades, tattoo businesses are not the type of use one would expect to encounter in a residential neighbourhood. Accordingly, the proposed amendment would prohibit tattoo businesses from operating in residential areas but practitioners would still be able to work in commercial establishments located in commercial and industrial areas. Staff believe that relegating tattoo businesses to commercial areas will, besides remove non-household wastes from the urban residential context, provide more secure outdoor storage of hazardous-type waste and take advantage of more frequent waste pick-up routines.

Public Information Meeting

A Public Information Meeting (PIM) was held on February 8, 2010 with no members of the public in attendance. If Council decides to hold a Public Hearing on the proposed amendment, notices of the Hearing will be published in the newspaper in accordance with the *Halifax Regional Municipality Charter*.

Conclusion and Recommendation

Staff was requested to exclude tattoo businesses as a home occupation under the Dartmouth Land Use By-law. Tattoo businesses present a land use compatibility issue within residential areas. Excluding tattoo businesses from residential areas removes any potential impact from the urban residential context. Tattoo businesses will still be permitted to operate in commercial and industrial zones. Staff are of the opinion that excluding tattoo businesses as a home occupation will address land use compatibility concerns within residential areas.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the proposed operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the proposed 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. Council may choose to approve the amendment to the Dartmouth Land Use By-law as outlined in this report. This is the recommended course of action.
2. Council may choose not to approve the amendment to the Dartmouth Land Use By-law as outlined in this report, and in doing so, Council must provide reasons for the refusal based upon a conflict with MPS policies. This is not recommended for the reasons stated in this report.

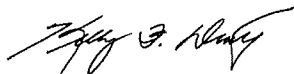
ATTACHMENTS

Attachment A	Proposed Dartmouth Land Use By-law Amendment
Attachment B	Excerpt from the Dartmouth Land Use By-law

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Darrell Joudrey, Planner 1, Planning Applications, 490-4181

Report Approved by:



Kelly Denty, Acting Manager, Planning Services, 490-6011

Attachment A: Proposed Amendment to the Dartmouth Land Use By-law

BE IT ENACTED by the Harbour East Community Council of the Halifax Regional Municipality that the Dartmouth Land Use By-law as enacted by the former City of Dartmouth on the 25th day of July 1978 and approved by the Minister of Municipal Affairs on the 15th day of September 1978 as amended, is hereby further amended as follows:

To be inserted following 23. (k) (x):

(xi) tattoo businesses

I HEREBY CERTIFY that the amendments to the Dartmouth Land Use By-law as set out above, were passed by a majority vote of the Harbour East Community Council held on the _____ day of _____, 2010.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2010.

Attachment B: Excerpt from the Dartmouth Land Use By-law

23. A home occupation shall be permitted in any dwelling in an R-1, *R-1M*, R-1A (RC-Sep 8/09;E-Nov 14/09), R-2, R-3, R-4, T and TH Zone provided: *(As amended by By-law C-694, Dec 6/91)*
- (a) it shall be conducted by the resident occupant in his or her residence;
 - (b) it shall be clearly accessory and incidental to the use of the dwelling as a residence;
 - (c) it shall be conducted within the enclosed living areas of the dwelling or accessory buildings;
 - (d) no alterations shall be made which would change the physical character of the dwelling as a residence;
 - (e) no outside storage of any kind shall be associated with the home occupation;
 - (f) there shall be no exterior evidence of the conduct of a home occupation except for a business identification plate or sign of two square feet in maximum area;
 - (g) not more than 25% of the total floor area of the dwelling shall be used for a home occupation;
 - (h) one off-street parking space, other than that required for the dwelling, shall be provided for each 200 square feet of floor space occupied by the home occupation;
 - (i) it shall not be an obnoxious use;
 - (j) *no stock in trade, except articles produced by members of the immediate family residing in the dwelling shall be displayed or sold on the property; (As amended by By-law C-421, Jan 2/81)*
 - (k) *the following are deemed not to be home occupations:*
 - (i) *automotive repair shop*
 - (ii) *autobody repair shop*
 - (iii) *auto paint shop*
 - (iv) *machine shop*
 - (v) *welding*
 - (vi) *retail sales outlets, except articles produced by members of the immediate family in the dwelling*
 - (vii) *restaurants*
 - (viii) *amusement arcades (As amended by By-law C-514, Feb 15/84)*
 - (ix) *adult entertainment uses (RC-Jan 31/06;E-Mar 16/06)*
 - (x) *salvage yards (HECC-Mar 1/07;E-Mar 17/07)*