


Item No. 9.1 (i)
Halifax Regional Council
September 20, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: August 8, 2011

SUBJECT: **Noise By-Law Exemption – Alexander Keith’s 216th Birthday Celebration – 1505 and 1521 Lower Water Street, Halifax**

ORIGIN

June 21, 2011 - Staff received an application for an exemption from By-Law N-200, Respecting Noise, by Mosaic Experiential Marketing for Alexander Keith’s 216th Birthday Celebration outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Alexander Keith’s 216th Birthday Celebration application for an exemption from the provisions of the Noise By-Law pursuant to the contents of this report and any matters raised at the hearing.

BACKGROUND

In September, 1999, HRM Council adopted By-Law N-200, Respecting Noise. The By-law states under the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood.

(3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one Neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

Section 6 of the By-Law allows for any person to send an application to Regional Council requesting an exemption from any or all provisions of the Noise By-Law for which that person may be prosecuted. The By-Law states that an applicant or any person opposed to an application may be heard at a session of Council. Notice of the Council Session is required to be mailed to assessed property owners located within 100 feet of the properties which are subject to the hearing.

In deciding whether or not to grant an exemption, Council is to give consideration to:

- the social or commercial benefit of the proposed activity to the municipality;
- the viewpoints of community residents;
- the proposed hours of operation of the proposed noise-emitting activity; and
- the proposed duration of the subject activity.

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix B.

DISCUSSION

An event is planned for Alexander Keith's 216th Birthday on October 5, 2011 from 5:00 pm to 10:00 pm.

The application for exemption from the Noise by-Law has been submitted by Sara Newman, Account Manager, Mosaic Experiential Marketing. The application details the following time frames for exemption:

Tuesday, October 4, 2011 from 7:00 am – 11:00 pm

Wednesday, October 5, 2011 from 7:00 am – 11:59 pm

Thursday, October 6, 2011 from 12:00 am – 7:00 am

The applicant is requesting an exemption to the By-Law as the set-up, celebratory event and tear down may be in violation of the following provision: Section 3, Part 1 of By-Law N-200 which states “**No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood**”.

Halifax Regional Police has no concerns regarding this application.

Notice of the Council Session at which the hearing is proposed to take place has been sent to property owners within 100 feet of the locations mentioned above.

Under subsections 6(3) and (5) of the Noise By-Law, Council may consider any matters it deems appropriate at the hearing and either reject an application or approve it with or without conditions.

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, 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

The Alexander Keith's birthday celebration is an annual event. The location of the event has been adjusted the past few years to have minimal impact on the residents in area.

ALTERNATIVES

There are a number of alternatives available to Council in considering this application:

1. Approve the application without conditions;
2. Approve the application with conditions; or
3. Reject the application in its entirety.

ATTACHMENTS

- Appendix A: June 21, 2011 application for Exemption from By-Law N-200, Respecting Noise by Mosaic Experiential Marketing for Alexander Keith's 216th Birthday Celebration
- Appendix B: Map Submitted by Mosaic Experiential Marketing
- Appendix C: Excerpt from By-Law N-200 respecting Noise re: Granting Exemptions by Council

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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: Superintendent Colleen Kelly, Halifax Regional Police

Report Approved by:

Deputy Chief A Burbridge, Halifax Regional Police

Report Approved by:

Chief Frank A. Beazley, Halifax Regional Police

Original Signed

APPENDIX A



June 21, 2011

Municipal Clerks Office

Halifax Regional Municipality

Dear Ms. MacDonald,

Alexander Keith's 216th Birthday celebrations will take place on Wednesday, October 6, 2011 at Salter Block on the Waterfront (parking lot on the corner of Salter and Lower Water Street – directly across from Cut Restaurant and beside Bishop's Landing). The location has been secured with the Waterfront Development Corporation Limited and access includes set-up and tear-down times.

This letter requests that Halifax Regional Council exempt the celebrations from the noise/light curfews for the duration of the event. Times will be:

- Tuesday, October 4 from 7:00am – 11:00pm
 - Set up
 - Sound check will take place between 7:00pm – 10:00pm
- Wednesday, October 5 from 7:00 am – 11:59pm
 - Event is being held from 5:00pm – 10:00pm
- Thursday, October 6 from 12:00am – 7:00am
 - Tear down and clean up

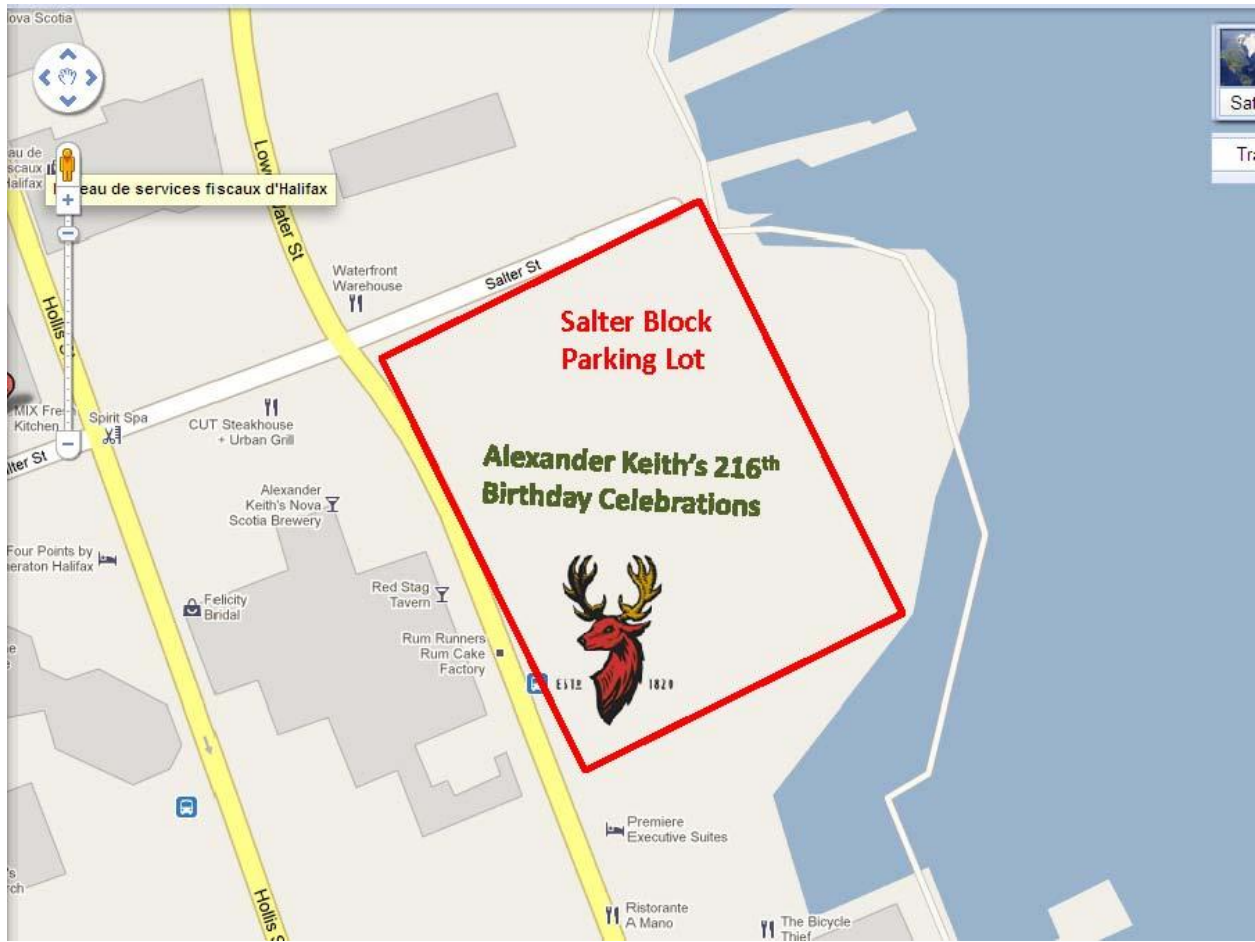
Thank you for your support of this request. If you have any further questions, please do not hesitate to contact me at 902.225.1664.

Regards

A handwritten signature in blue ink, appearing to read "Sara Newman".

Sara Newman
Account Manager – Atlantic Division
Mosaic Experiential Marketing
Phone: 902.225.1664
Email: sara.newman@mosaic.com

APPENDIX B



APPENDIX C

Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.

Grant Of Exemptions By Council

6. (1) Notwithstanding anything contained in this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.
- (2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.
- (3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.
- (4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;
- (5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.