

Item No. 9.1 (iii)
Halifax Regional Council
June 26, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by _____
Mike Labrecque, Acting Chief Administrative Officer

DATE: May 28, 2012

SUBJECT: Noise By-Law Exemption, Halifax Pride

ORIGIN

May 23, 2012 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, by Halifax Pride, outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Halifax Pride's 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 public 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

Halifax Pride is hosting an event from Friday, July 27, 2012 to Saturday, July 28, 2012. A complete schedule of events is included in Appendix A. Event setup includes a temporary stage and tents. The portions of the event for which an exemption is requested from By-Law N-200 Respecting Noise are as follows:

Operation:

Friday, July 27, 2012: 9 p.m. – 1:30 a.m. (Saturday, July 28) fundraising dance
Saturday, July 28, 2012: 9 p.m. – 1:30 a.m. (Sunday, July 29) fundraising dance

Halifax Pride is requesting an exemption to the by-law as the associated noise from the event includes live band(s) and a sound system which may be in violation of the following provision of By-Law N-200, Respecting Noise: Section 3, Part 1 which states *“No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood”*

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 Garrison Grounds.

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

Halifax Regional Police has been consulted and no concerns regarding the events have been brought to our attention.

ENVIRONMENTAL IMPLICATIONS

Discussion took place with the event organizer to confirm appropriate waste and recycling practices will be provided on site.

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

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| Appendix A: | May 23, 2012 Application for Exemption from By-Law N-200, Respecting Noise |
| Appendix B: | Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council |

Brad Anguish, Director of Community and Recreational Services, 490-4933

APPENDIX A



Hi Erin,

Sorry for the lateness of this request for noise by-law exemption. Halifax Pride will need a noise by-law exemption for the following dates, times and location:

Friday July 27, 2012 – 9am until 3pm for set up of stage and tenting

Friday July 27, 2012 – 9pm until 1:30am (Saturday July 28) for a fundraising dance with DJ and Sound System

Saturday July 28, 2012 – 8am until 11am for set up of community fair booths

Saturday July 28, 2012 – 9am until 1pm for sound checks on the main stage

Saturday July 28, 2012 – 2pm until 7pm for our festival mainstage event, including live bands, a zumba instructor and a drag queen performance.

Saturday July 28, 2012 – 9pm until 1:30am (Sunday July 29) for a fundraising dance which would include a DJ and Sound System

Sunday July 29, 2012 – 9am until 1pm for cleanup of the site. Main Stage will have already been removed as well as most of the tenting at this time.

All activities will be held on the Garrison Grounds at the foot of Citadel Hill.

I hope this information is adequate for the presentation to council. If you would like me to attend the meeting or provide additional information please do not hesitate to contact me (902-223-0238 Cell) or (902-405-4869 Home) or via email kwalshhfx@yahoo.ca

Thank you for your consideration in this matter.

Sincerely,

Kathy Walsh

Halifax Pride

Site Coordinator 2012

APPENDIX B

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.