

Item No. 9.1
Halifax Regional Council
July 10, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed by

SUBMITTED BY:

Mike Labrecque, Acting Chief Administrative Officer

DATE: June 28, 2012

SUBJECT: Noise By-Law Exemption - Tall Ships

ORIGIN

June 28, 2012 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, for the Tall Ships event.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Waterfront Development Corporation Limited'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 A.

DISCUSSION

The Waterfront Development Corporation Limited is hosting the Tall Ships' event from July 19-23, 2012, inclusive. Nightly movies and live entertainment are planned to take place at Queen's Landing, 1707 Lower Water Street and Tall Ships Quay, 1223 Lower Water Street on the Halifax Waterfront. The portions of the event for which an exemption is requested from By-Law N-200 Respecting Noise are as follows:

Set-Up:

July 14 & 15 – 7:00 p.m. – until midnight

July 16 – 18 inclusive – 9:30 p.m. – until midnight

Tall Ships Quay:

July 19-23 inclusive – 9:30 p.m. until midnight

Queen's Landing:

July 19-23 inclusive – live entertainment each evening until midnight

Removal

July 23 - 9:30 p.m. – 7:00 a.m. on July 24th

The Waterfront Development Corporation Limited is requesting an exemption to the by-law as the associated noise from the event which includes movies, live entertainment and a sound system 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 event areas.

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 scheduled 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

- Appendix A: Excerpt from By-Law N-200 respecting Noise re: Granting Exemptions by Council
- Appendix B: June 28, 2012 Application for Exemption from By-Law N-200, Respecting Noise

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: Tanya Phillips, Manager By-Law Standards, 490-4491

Report Approved by: _____
Jim Donovan, Manager, Municipal Compliance, 490-6224

Report Approved by: _____
Brad Anguish, Director of Community and Recreational Services

APPENDIX A

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.



Waterfront Development

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Appendix B

June 28, 2012

Erin Dobson
Regional Coordinator, Support Services
By-Law Enforcement, Halifax Regional Police
PO Box 1749
Halifax, NS B3J 3A5

Dear Ms. Dobson:

Tall Ships Nova Scotia 2012 takes place in Halifax July 19-23, with a variety of shoreside programming, in addition to waterside program, along the waterfront in Halifax and at Alderney Landing in Dartmouth.

In our planning process we have identified that the construction, operation and removal of this venue will put us in violation of HRM By-Law Number N-200 Respecting Noise. We are requesting this letter be accepted as our formal request for an exemption to the above noted by-law for the period of July 14-July 23.

Our anticipated construction, operation and removal timeline is as follows:

Set up:

July 14-July 18 until 12:00am
Queens Landing – 1707 Lower Water Street
Foundation Place – 1549 Lower Water Street
Salter – 1521 Lower Water Street
Cunard – 1325 Lower Water Street

Operation:

- Films will take place at Tall Ships Quay July 19-23 from 9:30-midnight
- Entertainment will take place July 19-23 until midnight at Queens Landing

Removal

July 23 overnight into the morning of July 24.

We appreciate your consideration.

Sincerely,


Jennifer Angel