



Item No. 9.1 (i)
Halifax Regional Council
August 14, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY: _____

Richard Butts, Chief Administrative Officer

Original signed by 

Brad Anguish, Acting Deputy Chief Administrative Officer

DATE: July 9, 2012

SUBJECT: Noise By-Law Exemption - Mulgrave Park Days

ORIGIN

June 21, 2012 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, from Ms. Melissa Lewin on behalf of Mulgrave Park Days outlined as Appendix A.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Mulgrave Park Days 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

Mulgrave Park days is being held from Friday, August 24, 2012 to Sunday, August 26, 2012 in the parking lot next to civic 57 Jarvis Lane, Halifax. A complete schedule of events is included in Appendix A. Event set-up includes a temporary stage and tents. It is being requested that the portions of the events for which they use the loud speaker be exempt from By-Law N-200, Respecting Noise. Those dates and times are as follows:

Operation:

Friday, August 24, 2012: 7 p.m. – 10 p.m. (Youth dance)

Saturday, August 25, 2012: 8 p.m. – 11p.m. (Concert)

Saturday, August 25, 2012: 6 p.m. – 8 p.m. (Talent show)

Mulgrave Park Days 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 location 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

Mulgrave Park Days is an annual event and Halifax Regional Police advised there were minimal noise complaints received in previous years.

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: June 21, 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

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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, 490-6324

Report Approved by: _____
Brad Anguish, Director of Community and Recreation Services, 490-4933

Original Signed

APPENDIX A

Mulgrave Park Caring and Learning Center

57 Jarvis Lane
PO Box 46015 RPO Novalea
Halifax NS.
B3K 5V8

Phone 453-5089

To whom it may concern,
Enclosed you will find the information requested regarding the Mulgrave Park Days Barbeque.
The event set up will take place Friday August 24, between noon and 2pm. The staging will remain up until Sunday August 26, tear down will occur between 3-5pm.
Schedule of events is as follows;

Friday August 24
4:00pm-6pm Barbeque
6:00pm Whisk Tournament
6:00pm Youth dance set up, starts at 7:00pm – 10pm

Saturday

2-4pm Children's activities
2-4pm Basketball tournament
2-4pm Bingo

4-6pm Barbeque and Ice cream

6-8pm Talent show, Minute to win it, Awards

8-11pm Concert

Sunday

2-4pm Gospel choir

If you would like any further information, please feel free to contact Melissa Lewin at 453-5089. Thank you for your assistance.

Best regards

Melissa Lewin
Director

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.