

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
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Item No. 11.1
Halifax Regional Council
May 24, 2016

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by _____
John Traves, Q.C. Acting Chief Administrative Officer

Original Signed by _____
Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: May 5, 2016

SUBJECT: Noise Exemption Request – Inn on the Lake

ORIGIN

April 5, 2016 – Staff received an application from the Innkeeper at the Inn on the Lake, for an exemption from By-Law N-200, Respecting Noise, outlined as Appendix A.

LEGISLATIVE AUTHORITY

By-Law N-200, Respecting Noise, Part 6; Grant of Exemptions by Council.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the Inn on the Lake'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 Section 3 of the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.
- (2) Without limiting the generality of subsection (1), the activities listed in Schedule “A” during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace and tranquillity 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.

Part 6 of the By-Law, “**Grant of Exemptions by Council**”, 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

The Inn on the Lake has hosted weddings and special events for over 30 years. The Innkeeper for the Inn on the Lake has advised that they are looking to expand the outside entertainment to Thursday, Friday and Saturdays from May 15th to September 30th, 2016. The events include food, bar services and light entertainment. Many of the events will also include music with amplified sound. Given the proximity to the hotel guests, the Innkeeper has advised that the entertainment will conclude by 11:00 p.m. so as not to disturb their other guests.

The events are currently hosted in the Parkland Gazebo and Lakeside Patio. The proposed expansion area for hosting events is the tennis courts adjacent to the Parkland Gazebo and the patio connected to the Encore restaurant. An aerial view of the property outlining these areas is attached as Appendix C.

The events on the tennis courts would be housed under a tent and the Innkeeper confirmed that a permit has been approved for the use of a tent (Permit # 152257). The Innkeeper also confirmed that they have a Special Premises license issued by Service Nova Scotia that allows them to serve alcohol at the events.

The Innkeeper for the Inn on the Lake is requesting a noise exemption from By-Law N-200, Respecting Noise for the period of May 15 to September 30, 2016 on Thursdays, Fridays, and Saturdays for the following times:

- Thursdays – 9:30 p.m. to 11:00 p.m.
- Fridays – 9:30 p.m. to 11:00 p.m.
- Saturdays – 7:00 p.m. to 11:00 p.m.

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 identified in Appendix C.

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.

FINANCIAL IMPLICATIONS

There are no financial implications.

RISK CONSIDERATION

There are no significant risks associated with the recommendation in this report. A request is being made for Council to approve a noise exemption request for the Inn on the Lake. The risks considered rate low.

COMMUNITY ENGAGEMENT

The Inn on the Lake has been hosting weddings and special events at this property for over 30 years. There are no residential properties within 100 feet of the Inn on the Lake site. There is no record of any previous noise complaint received for this property.

ENVIRONMENTAL IMPLICATIONS

The Innkeeper has confirmed appropriate waste and recycling practices will be followed. Containers will be provided on site to facilitate proper sorting with additional sorting taking place on site after each event.

ALTERNATIVES

1. Approve the application with conditions; or
2. Reject the application in its entirety.

ATTACHMENTS

Appendix A: April 5, 2016 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

Appendix C: Aerial view of property from Google Earth

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Tanya Phillips, Manager By-Law Standards 902.490.4491

Report Approved by: _____
Jim Donovan, Manager, Buildings & Compliance 902.476.8211

Report Approved by: _____
Bob Bjerke, Chief Planner and Director, Planning and Development, 902.490.1627

APPENDIX A

INN ON THE LAKE

Minutes from the Airport...Miles from Ordinary...

April 05, 2016

Ms. Erin Dobson
Supervisor Support Services
Planning & Development/Municipal Compliance
Halifax
PO Box 1749
Halifax NS B3J 3A5

RE: Noise Exemption

Dear Ms. Dobson

I am requesting a Noise Exemption for outside entertainment on Thursdays, Fridays and Saturdays between May 15th and September 30th. This entertainment would be originating from our patio attached to the Encore restaurant and/or the tennis courts in our parklands. Based on my review of Google Maps I do not believe either location is within 100 feet of any other resident.

For the past 30 years Inn on the Lake has been hosting weddings and special events on our restaurant patio and In the Parkland Gazebo and Lakeside Patio. These events have included food, bar services and light entertainment. This year we are planning to convert our tennis courts to wedding and special event venue. These events would be held under a tent, the size of the tent will vary between 40' x 60' and 40' x 120' depending on the number of attends and equipment requirements. Many of the events will require music and we wish to accommodate these requests within reason, however, the style and loudness of the music cannot disturb our hotel guests and the entertainment will end at 23:00.

We have made the appropriate application for a Tent Permit. The Inn has an existing Special Premises #003400 license to serve alcohol in the areas discussed. Our insurance broker; Donald K. McDermaid, FCIP, Partner, Stanhope Simpson Insurance Limited has confirmed that we carry sufficient insurance to cover these events. We will ensure that waste is properly sorted by recycling, compost and garbage. During the event receptacles for each are provided, additional sorting also occurs on site post event. I have attached an aerial photo of the property for your review.

If you have any questions or comments please contact me immediately. Please email me the date and location of the Public Hearing.

Yours Truly
Original Signed

Ron Nelson
Innkeeper
Inn on the Lake

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.

APPENDIX C

