TO: CHAIR & MEMBERS
ENVIRONMENT AND TRANSPORTATION COMMITTEE

FROM: G. KOTSIFAS, P. ENG.
DIRECTOR OF BUILDING CONTROLS
AND CHIEF BUILDING OFFICIAL

SUBJECT: Conditions on a Temporary Noise Permit
Meeting on May 10, 2010

RECOMMENDATION

That, on the recommendation of the Director of Building Controls and Chief Building Official, the following update regarding temporary noise permits and conditions BE RECEIVED for information purposes.

BACKGROUND

At its meeting held August 24, 2009, the Environment and Transportation Committee received an enquiry from Councillor Caranci with respect to complaints placed on events in the downtown area. The ETC asked the Manager of By-law Enforcement to review the matter of allowing festivals in the downtown area to go beyond 11:00 p.m. and report back to ETC.

INFORMATION

What types of events are regulated by the City?

The following definitions are found in the Noise by-law:

"Community Event (Class 1)" means: the Western Fair Association's annual week-long Western Fair held at the Western Fairgrounds; the annual week-long orientation events and campus life events that are held on campus at the University of Western Ontario and affiliated colleges; and the annual week-long orientation events and campus life events that are held on campus at Fanshawe College;

"Community Event (Class 2)" means: an event open to the public, including a public fair, public exhibition, public celebration, public sporting event, public concert; or a university or college event; or a school board event. A Community Event (Class 2) does not include a Special Event or a Community Event (Class 1);

"Special Event" means a Special Event as defined in the City’s Special Events Policies and Procedures Manual, and that is recognized by the City as a special event;

The City of London’s Noise By-law exempts Community Events (Class 1) and Special Events as they must adhere to the City’s “Community Events (Class 1) Noise Policy”, and the Manager - Special Events and Community Rentals reviews all Special Events applications in accordance with Special Events Policies and Procedures Manual.
The events are only exempt if they comply with their respective policies related to noise. If they do not comply, they are not exempt from the Noise By-law.

The City of London's Noise By-law has the following conditions which relate to this enquiry:

Note Subsection 4.1 (5)

(b) The Manager of By-law Enforcement shall impose conditions on a temporary noise permit for Community Event (Class 2) with respect to:
   (i) the volume of amplified sound that may be made; and
   (ii) the times during which sounds may be made.

(c) The minimum conditions that the Manager of By-law Enforcement shall impose under subsection (5)(b) are:
   (i) the volume of amplified sound that may be made shall not exceed a sound pressure of at most 90 decibels beyond at least 30m (100 feet) from the source of the amplified sound; and
   (ii) the times during which sound may be made shall be limited to the hours of 9:00 a.m. at the earliest and to 11:00 p.m. at the latest

How are noise exemptions addressed in Ontario municipalities?

A review of ten Ontario municipalities confirmed the following:

City of Burlington, applications for exemptions are granted through Council. An 11:00 p.m. restriction is placed on the exemption. Noise levels are measured both qualitatively and quantitatively and Burlington uses the Ministry of Environment regulations to determine acceptable decibel (dba) levels.

City of Guelph, applications are made to Council for noise exemptions. Guelph has an annual Jazz Fest event downtown every year and Jazz Fest can continue to 12:00 a.m. Events which take place in the parks such as the Canada Day Celebrations must not exceed 95 (dba) and the sound level is measured 30 metres in front of the speakers.

City of Hamilton, a Special Events Committee reviews noise exemption applications. Special events requiring a noise exemption are not permitted to continue beyond 11:00 p.m. The maximum decibel level (dba) is 90, and the sound measurement is taken 10 metres from the source of the sound.

City of Kingston, noise by-law exemptions are granted through Council, and the duration of the event is at the discretion of council with no fixed time limitation. Noise is not measured using (dba) and is on complaint investigated at the point of reception.

City of Mississauga, approved noise exemption applications vary depending on the circumstances. Typically approvals have been granted for 11:00 p.m. and 12:00 a.m. exemptions. The measurement of sound is qualitative only as (dba) is not used. The by-law does not apply to Mississauga's Sunset Concert Series, the Waterfront Festival, Ribfest and an additional 34 events.
City of Ottawa, noise by-law exemptions are approved by the Director of By-law Services and in agreement with the affected Ward Councillor(s). Conditions of exemptions allow events to continue to 11:00 p.m. on Sunday through Thursday and to 1:00 a.m. on Fridays, Saturdays and Sundays prior to a holiday Monday. At the point of reception the acceptable (dba) is 65.

City of Sarnia, within the noise by-law Sarnia includes within a "Schedule" Activities to which the by-law does not apply. The following events do not apply. Bayfest at Centennial Park, Canada Events as approved by Committee, Dow People Place Events as approved by Community Services, Hiawatha Horse Park & Entertainment Centre (9 events per annum), Jazz Festival at McGibbon Park, Ribfest at Centennial Park, San Rocco Festival at Centennial Park and Sarnia Greek Fest. The by-law states in this “Schedule” between 8:30 a.m. and 11:00 p.m. Sunday through Thursday and 8:30 a.m. and 12:00 a.m. Friday and Saturday. In addition where the scheduled entertainment is delayed due to inclement weather, the hours of operation may be extended by up to 1 hour.

City of Toronto, noise exemption applications are considered by the Ward Councillors. Many events are permitted noise exemptions until 12:00 a.m., 1:00 a.m., and 1:30 a.m. depending on the circumstances. The time duration of the exemption is reviewed on a case by case basis. An event such as the Cancer Ride Relay was given a 24 hour noise exemption. The Caribana event which takes place in the southwest district of downtown Toronto has been receiving reduction in the hours of operation related to noise over the past several years due to the increased residential development in the same area. The (dba) is also considered on a case by case basis and Community Council can decide on the acceptable (dba) level for an event. If an event exceeds the approved hours of operation the Toronto police put an end to the event.

City of Waterloo, applications for exemption are granted through Council. The event duration will be considered up to 1:00 a.m. but approval varies depending on the circumstance surrounding the event. Noise is not measured using (dba) and is on complaint investigated at the point of reception. The by-law does not apply to any music or other performance in Public Parks or Buildings. An additional 8 events are also excluded in this noise by-law.

City of Windsor, Temporary Noise Permit Exemptions have been granted for outdoor events. Those events must end at 11:00 p.m., and cannot exceed a (dba) of 65, which is measured at the point of reception. There is an exception however for Windsor's Festival Plaza at the river front. Events at Festival Plaza on a Friday or Saturday evening can extend to 1:00 a.m., and at a (dba) of 95 measured at 30 metres from the noise source.

CONCLUSION

It is common that municipalities review the applications on a case by case basis considering the type of noise and proximity to high density residential land uses.

Of the ten Ontario municipalities reviewed only Burlington and Hamilton did not allow outdoor events to continue beyond 11:00 p.m. Some municipalities such as Mississauga, Sarnia and Waterloo exempt specific events from their noise by-law entirely. The City of London Special Events Policies and Procedures Manual provides an exception for amplified sound to midnight for the City's New Year's Eve Event.
If ETC and then Council ultimately determine that they wish to change the 11:00 p.m. time (which could require amending the Noise By-law, the Special Events Policies and Procedures Manual or the Community Event (Class 1) Policy), then there should be Public Notice, and Public Participation Meetings with respect to this issue, to allow for public input into this matter. There was extensive public participation and input with respect to the Noise By-law and the above Policies and the 11:00 p.m. cut-off for amplified sound.

The Noise By-law does not require events to cease by 11 pm, but instead regulates noise at those events.

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<tr>
<td>H. CHAPMAN</td>
<td>O. KATOLYK</td>
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<td>COORDINATOR, MUNICIPAL LAW ENFORCEMENT SERVICES</td>
<td>MANAGER OF BY-LAW ENFORCEMENT</td>
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RECOMMENDED BY:

G. KOTSIFAS, P.ENG.
DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL

Cc: Lynn Marshall, City Solicitors Office
    Lino Prelazzi, COR Unit, LPD
    Bill Coxhead, Director - Parks & Recreation
    Krista Kerns, Manager - Special Events and Community Rentals