

May 8, 2024

Corporation of the Town of Amherstburg
271 Sandwich St S
Amherstburg, ON N9V 2A5

Attention: Town Council

Re: Royal Canadian Legion #157 - Noise By-law Exemption Application

I am writing to express opposition to Administration's recommendations to Council (pages 154-158) regarding the Legion noise By-law exemption application (page 159) in the published agenda package for the meeting of Monday, May 13 – further identified as Item 14.2.

The issues and suggestions for Council consideration are as follows:

- A. Administration failed to follow the *Request For Noise Exemption Policy* approved on December 11, 2023.

Two obvious nonconformances are:

- a) Failure to conduct public consultation. The Policy requires:

<p>6.2. Public Notice of Exemption</p> <p>6.2.1. Upon confirming the application's completeness, the Licensing Officer will prepare a letter for circulation to residents within 60 meters of the property for which relief is being sought identifying the nature of the request and providing opportunity for comments or concerns by a specific date.</p> <p>6.2.2. If the event would affect a large number of residents or community at large, an ad will be placed in the local paper for one week advising of the application and providing residents an opportunity to submit comments or concerns by a specific date.</p>

The supporting evidence of nonconformance includes:

1. The Legion's Noise Exemption Application is dated April 26, 2024 and the Office of the CAO Office report, recommending the exemption be granted is dated April 27, 2024.
2. The only party listed under 6 ("Consultations") in the CAO Office recommendation is the Legion.
3. There was no public notice in the May 1 issue of the River Town Times.
4. A poll of the Queen Charlotte residents confirmed none were aware of communication, or the fact this item would be on the agenda.

- b) Clause 7.3.3 of the Policy requires:

- 7.3. The **Manager, Licensing and Enforcement** has the authority and responsibility to:
- 7.3.1. Verify the completeness of the application upon receipt.
 - 7.3.2. Prepare a letter and/or advertisement to notify impacted residents of the exemption application.
 - 7.3.3. Decide whether to grant or refuse an exemption from the by-law, along with the accompanying terms and conditions for approval.

The Administration recommendation number 2 to Council states in part: “THAT a Noise Exemption for Royal Canadian Legion Branch #157 **BE APPROVED...**”. The effect is to delegate the decision on approval from the Licensing Manager to Council, which is in conflict with the roles defined in the Policy.

Suggestion to Council:

The item be tabled until Administration complies with the *Request For Noise Exemption Policy*.

- B. Administration failed to disclose the source or basis for including a reference to waiving of the application fees.

The Administration recommendation number 3 to Council recommends that the waiver of fees be received and filed. The Legion’s application does not include a request for waiver of fees and there is no other material supporting that there is a request to be received and filed. The purpose of the recommendation is not obvious since there is not a recommendation to approve the waiver of fees.

Suggestion to Council:

Administration should provide the basis for inclusion of the fee exemption reference or remove it. In the event there is consideration of granting such a waiver, the Administration recommendation should address the financial implications of making the grant to a commercial entity since other organizations and commercial entities should be aware of the opportunity.

Our Position Going Forward

Efforts to pursue a solution to excessive noise from the Legion patio entertainment were initiated in 2018. Many details can be found in the minutes of the May 27, 2019 Council meeting. The preliminary findings of a noise study commissioned by Town Administration, were presented by Colin Novak of Akostik Engineering Limited at the Council meeting of August 12, 2019. The limited information confirmed the claims were legitimate and the Legion was responsible for addressing them.

As recently as September 2023, I contacted the Legion with concerns, and the correspondence exchange was copied to CAO Critchley, Mayor Prue, and Deputy Mayor Gibb. There have been other letters to the editor of the River Town Times from other community members citing excessive noise, so the handling of this application is particularly offensive.

Because the Legion is unable or unwilling to exercise control over the sound amplification volume, we are not going to accept an exemption to Noise By-law 2001-43 that does not include a maximum, enforceable sound level. If a sound level cannot be established and applied consistently for all events in Amherstburg, we will seek to have it included in the associated By-law or Policy.

Concluding Remarks

- A. This document should not be construed to be a response to a future public notice of the application for exemption. It is expected that the response to such a notice will be more detailed and comprehensive, when there is a more appropriate and sufficient time to solicit input, conduct research, and prepare.

- B. I expect to attend the meeting next Monday to participate as required and permitted to reinforce that the time has come to achieve a satisfactory and complete resolution.

Sincerely,



David Beneteau
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