

HALIFAX

P.O. Box 1749
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Item No. 11.2
Halifax Regional Council
June 20, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: June 1, 2017

SUBJECT: Noise By-Law Exemption – Halifax Jazz Festival

ORIGIN

On May 23, 2017, staff received an application for an exemption from By-Law N-200, Respecting Noise, from the JazzEast Rising Association (attached as Appendix A).

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax Regional Council approve the JazzEast Rising Association'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.

Section 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

Jazz East Rising is requesting an exemption to By-law N-200, Respecting Noise for the 2017 Halifax Jazz Festival which is being held at 1521 Lower Water Street. Sites being used are those used for past Halifax Jazz Festival events; exemptions have formerly been granted (attached as Appendix C).

The performances will begin on July 11, 2017 and take place each night with the final performance taking place on Sunday, July 16, 2017. Performances are scheduled to begin at 8:00 p.m. and conclude by 11:30 p.m. with the site being closed to the public by midnight.

Site tear down is scheduled to begin on Monday, July 17, 2017 at midnight and will include packing up of equipment and other material for storage until 2:00 a.m. on Monday, July 17, 2017. Organizers have advised that lighting and audio gear from Toronto must be sent back as soon as possible due to contractual obligations.

Part 4 of the noise by-law provides for prescribed exemptions as follows:

"4 (2) (g) noises in relation to municipal parades, street dances or other community activities until one o'clock in the forenoon"

The portions of the event for which an exemption is requested from By-Law N-200, Respecting Noise are:

Monday, July 17, 2017 - 12:00 a.m. to 2:00 a.m.

The tear down and site clean-up will resume between 7:00 a.m. to 9:00 p.m. on Monday, July 17, 2017. Site clean-up will conclude on Tuesday, July 18, 2017 and take place from 9:00 a.m. to 6:00 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 event location at 1521 Lower Water Street.

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 Halifax Jazz Festival. The risks considered rate Low.

COMMUNITY ENGAGEMENT

The Halifax Jazz Festival is an annual event. There are approximately 500 volunteers for the festival. The organization committee is expecting 6000 attendees each day.

Noise exemptions have been granted in previous years for the Halifax Jazz Festival.

There were no complaints received last year for this event.

ENVIRONMENTAL IMPLICATIONS

Event organizers have confirmed appropriate waste and recycling practices will be followed. Containers will be provided on site to facilitate proper sorting, recycling, composting and garbage collection.

ALTERNATIVES

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

ATTACHMENTS

Appendix A: May 23, 2017 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: Site map for the event

A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210 or Fax 902.490.4208.

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

Report Approved by: Original Signed
Andrea MacDonald, Acting Manager, Buildings and Compliance, 902.490.7371

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

APPENDIX A

Jazz East Rising Association
2882 Gottingen St.
Halifax, NS
B3K 3E2

May 23, 2017

Erin Dobson
Regional Coordinator Support Services, By-Law Standards
Municipal Compliance
Community and Recreation Services
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5

Dear Ms. Dobson,

This letter is our request for Noise Exemption for the 2017 Halifax Jazz Festival in relation to our several outdoor venues. Jazz East Rising Association is the producer of the Halifax Jazz Festival.

Our primary outdoor venue occupies the Salter Block parking lot at 1521 Lower Water St. in Halifax. We were granted an exemption last year. Please refer to the attached site diagram that shows a substantially un-changed layout from last year. We will be continuing our northern orientation for the stage to minimize sound for the residents of Bishops Landing. Please note that the stage will be located approximately 60 feet from the Bishop's Landing building.

We have requested a letter from the Waterfront Development Corporation management that they do not have objections to our proposed uses and schedule for the parking lot. We have sent a detailed information letter to Bishops Landing managements, as we have done so in previous years.

Our use of the parking lot begins with the Load-in of the outdoor venue commencing on Sunday, July 9 at 9:00 am and concludes with the final Load-out of equipment during the afternoon and evening of Tuesday, July 18. The following is the detailed schedule of activities by day with notes regarding they type of activity, timing, etc.

Sunday, July 9: 9:00 am to 9:00 pm, – Load-In

- Installation of perimeter fencing for site – potential for some hammering of pegs to secure fencing braces.
- Installation of stage structure, no significant noise anticipated.
- Installation of tents as per attached site diagram. Installation of tent pegs involves the use of power hammer.
- Distribution of electrical power around the site. No significant noise.
- Assembly and installation of entrance structures. Use of power tools required.
- Delivery and installation of solid waste bins.

Monday, July 10: 8:00 am to 9:00 pm – Load-In

- Delivery and installation of audio, lighting and audio equipment. Use of power tools required.
- Initial testing of sound system.
- Final fencing installation.
- Delivery and installation of portable toilets and waste-water handling equipment.
- Delivery and installation of event signage and pageantry. Use of power tools required.
- Delivery and installation of vendor equipment.
- Delivery of event operations equipment.

Tuesday, July 11: 7:00 am to midnight – Load-In

- Delivery and installation of equipment for event operations.
- Completion of vendor and sponsor display & equipment installation
- Performance at 8:00 pm - 11:30 pm
- Site closes to public on or before midnight.

Wednesday, July 12: 7:00 am to midnight

- Servicing of portable toilets before 10:00 am
- Potential solid waste tipping of garbage bins before 10:00 am.
- Site prep meetings for day's activities 10:00am - noon
- Site opens to public at 11:45 am, free concerts all afternoon
- Site closes to public 5:30 pm
- Sound checks for evening performances will be between 5:30:pm and 7:00 pm
- Servicing of portable toilets between 6:30 and 7:30 pm
- Evening performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

Thursday, July 13: 7:00 am to midnight

- Repeat of Wednesday schedule above.

Friday, July 14: 7:00 am to midnight

- Repeat of Wednesday schedule above.

Saturday, July 15: 7:00 am to midnight

- Repeat of Wednesday schedule above.

Sunday, July 16: 7:00 am to midnight

- Repeat of Wednesday schedule above.
- Onsite packing of gear and departure of several vehicles. No significant noise.

Monday, July 17: Midnight Sunday to 9:00 pm Monday Load-Out

- Packing by volunteers and technical crew of equipment and other material for storage until about 2:00 am. Departure of several vehicles from site. No significant noise.
- From 7:00 am to 9:00 pm:
 - Packing of operational gear for storage
 - Packing and removal of vendor equipment from 9:00 am onwards

Tuesday, July 18: 9:00 am to 6:00 pm

- Dismantle and removal of tents from 7:00 am onwards
- Dismantle and remove stage, lighting & audio equipment. Some power tools required.
- Dismantle of power distribution system.
- Dismantle and removal of fencing from 9:00 am onwards
- Removal of portable toilets.
- Removal of solid waste bins.
- Removal of operational gear to storage.

Additional outdoor venues:

**Hydrostone Park – In front of Hydrostone Market
July 15 & 16**

- Performances by individuals and small groups 1:00 – 6:00 pm
- Small PA system, some sound amplification.

Ferry Terminal Park, Dartmouth – Children's Peace Pavilion Stage

- Performances by individuals and small groups 10:00 am – 3:00 pm
- Small PA system, some sound amplification.

Please advise if you require any additional information regarding our application.

Regards,

**David Jones
Site and Logistics Manager**

**cc: Andrea Thomas, JazzEast Rising
Georgie Dudka, Jazz East Rising
Andrew Cox, HRM Civic Events**

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.

